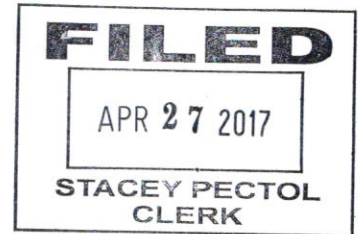


THIS IS A CAPITAL CASE. EXECUTION SCHEDULED APRIL 27, 2017

IN T **CV-17-349** COURT



KENNETH D. WILLIAMS

Movant/Appellant

v.

STATE OF ARKANSAS,

Respondent/Appellee

**MOTION FOR STAY OF EXECUTION
PENDING APPEAL OF THE CIRCUIT COURT OF LINCOLN COUNTY'S
DENIAL OF PETITION FOR WRIT OF HABEAS CORPUS**

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Pursuant to Ark. Code Ann. § 16-90-506(a) and *Singleton v. Norris*, 964 S.W.2d 366 (Ark. 1998), Kenneth Williams, by and through undersigned counsel, respectfully moves this Court to stay his scheduled execution. Appellant has filed a notice of appeal from the lower court's denial of his petition for a writ of habeas corpus.¹

INTRODUCTION

Mr. Williams is intellectually disabled. The Supreme Court of the United States has held that, at a minimum, Full Scale IQ scores of 75 and below are within the presumptive range for intellectual disability. Mr. Williams has taken six individually administered tests of global intelligence and his composite Full Scale IQ over the course of these six tests is 71.8, well within the intellectual disability range.² Mr. Williams's impairments were apparent early in his life and continued throughout the developmental period. He failed the first and third grades, and was in special education for most of his educational career until he ultimately dropped out in the ninth grade. Despite years of special education support and assistance from the more functional members of his family, he failed to progress

¹ A number of the arguments set forth in this motion have been submitted to this Court previously with the *Motion for a Stay of Execution Pending Petition for Writ of Habeas Corpus in the Circuit Court of Lincoln County*, that was filed with this Court on April 21, 2017. For the ease of the Court, Appellant has included those arguments herein so that this motion is complete.

² Mr. Williams was also administered a Comprehensive Test of Nonverbal Intelligence (CTONI), which was also within the range for intellectual disability.

academically and tested well below age-appropriate levels on achievement tests until he left school. Indeed, on the last achievement test he took, when he was 14 years old and his age-mates were in the 9th grade, he tested between the 1st and 3rd grade levels with scores spanning from the 4th percentile to beneath the 1st percentile. He had the brain functioning of an intellectually disabled person and, consistent with his dysfunctional brain, showed deficits in both receptive and expressive communication, functional academics, self-direction, social functioning, and practical living skills throughout the developmental period.

In his Corrected Petition for Writ of Habeas Corpus filed in the court below, Mr. Williams averred that he is ineligible for the death penalty under the Eighth Amendment and Arkansas state law as he is intellectually disabled and was at the time of the offense. In support of this claim, Mr. Williams proffered educational and social service records, declarations from lay witnesses with knowledge of his functioning, and the 2017 opinions of Mark Cunningham, Ph.D. (who evaluated Mr. Williams at the time of trial in 2000), Ricardo Weinstein, Ph.D. (who tested Mr. Williams in 2004, but never scored the IQ results until now), and Daniel Martell, Ph.D. (who evaluated Mr. Williams last week). These materials establish that Mr. Williams satisfies the three diagnostic prongs for intellectual disability: deficits in intellectual functioning (“prong one”), deficits in adaptive functioning (“prong two”), and onset of these deficits before the age of 18 (“prong three”).