



SUPREME COURT OF GEORGIA
Case No. S00E1994

Atlanta August 22, 2000

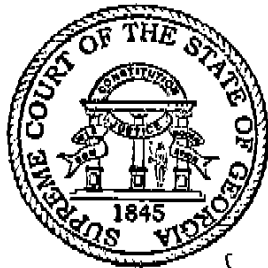
The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

ALEXANDER E. WILLIAMS, IV v. FREDERICK J. HEAD, WARDEN

Having considered the motion for stay of execution filed by Alexander Edmund Williams, the motion is hereby granted.

All the Justices concur, except Hunstein and Hines, JJ., who concur specially, and Carley and Thompson, JJ., who dissent.



SUPREME COURT OF THE STATE OF GEORGIA
Clerk's Office, Atlanta

I hereby certify that the above is a true extract from the minutes of the Supreme Court of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Lynn M. Strickland

, Chief Deputy Clerk

S00E1994. WILLIAMS v. HEAD, WARDEN.

Hines, J., concurring specially.

In the case of Davis v. Turpin, Warden, S00A0993, a majority of this Court has voted to consider whether execution by electrocution constitutes cruel and unusual punishment under the state or federal constitutions. Because that case is pending before this Court, I vote to grant a stay of execution in the present case.

I am authorized to state that Justice Hunstein joins in this special concurrence.

S00E1994. WILLIAMS v. HEAD.

CARLEY, Justice, dissenting.

I cannot agree to or concur in the decision of the majority of this Court to grant a stay of execution in this case. The petitioner raped and murdered the 16-year-old victim on March 4, 1986, and, after conviction, and imposition of the death penalty by a jury, he was sentenced on August 29, 1986. All aspects of this case have been reviewed and re-reviewed thoroughly and completely by the Georgia trial court, the Georgia habeas court, this Court, the United States District Court, the United States Court of Appeals for the Eleventh Circuit, and the United States Supreme Court. Williams v. State, 258 Ga. 281 (1988), cert. denied, 492 U.S. 925 (1989), reh. denied, 492 U.S. 938 (1989); state habeas relief denied on April, 18, 1991, application for certificate of probable cause denied by this Court on June 20, 1991, reh. denied by this Court on July 9, 1991, cert. denied, 502 U.S.

1103 (1992), reh. denied, 503 U.S. 999 (1992); federal habeas relief denied on September 2, 1994, remanded, Williams v. Turpin, 87 F3d 1204 (11th Cir. 1996) (published opinion), reh. denied, 1996 U.S. App. Lexis 21587 (11th Cir. 1996), relief again denied on remand on August 12, 1997, appeal after remand, Williams v. Head, 185 F3d 1223 (11th Cir. 1999) (published opinion), reh. denied on August 12, 1999, cert. denied, 120 SC 2696, 147 LE2d 967 (2000). In these reviews, every viable argument or contention by petitioner has been analyzed and either rejected on its merits or found to be procedurally defaulted under clearly established legal principles which are fair and just and replete with due process. There is no basis for further delay.

I respect and admire the sincerity of the position of my esteemed colleague Justice Hines who feels constrained to join the majority's decision to stay this execution solely because, on February 24, 2000, a majority of this Court granted a Certificate of Probable Cause in Davis v. Thomas, S98R0480. See also Davis v. State, 263 Ga. 5 (426 SE2d 844) (1993), and Davis v. Thomas, 266 Ga. 835 (471 SE2d 202) (1996). However, I submit that such constraint is misplaced and unjustified because the appeal resulting from this Court's grant of the Certificate of Probable Cause in Davis must be dismissed, at least as to the issue concerning whether death by electrocution is cruel and unusual punishment. That is so

because, as to Mr. Davis, that issue was procedurally defaulted since it was not raised at the earliest opportunity. Black v. Hardin, 255 Ga. 239 (1985). Moreover, and perhaps more importantly, subsequent to the grant of the Certificate of Probable Cause in Davis, this Court has twice explicitly determined that death by electrocution is not cruel and unusual punishment. Gissendaner v. State, ___ Ga. ___ (15) (Case No. S00P0289, decided July 5, 2000) (Benham, C.J., and Sears, J., dissenting). Morrow v. State, ___ Ga. ___ (17) (Case No. S00P0112, decided June 12, 2000) (Sears, J., dissenting).

There being absolutely no basis for staying the execution for the purpose of awaiting the resolution of the electrocution issue in Davis, my oath of office as a Supreme Court Justice requires that I respectfully dissent to the grant of the stay.

I am authorized to state that Justice Thompson joins in this dissent.