

IN THE SUPREME COURT OF FLORIDA

PAUL BEASLEY JOHNSON, )  
 )  
 Appellant, )  
 )  
 v. ) SC08-1213  
 )  
 STATE OF FLORIDA )  
 )  
 Appellee. )  
 )  
 \_\_\_\_\_/

APPLICATION FOR STAY OF EXECUTION

COMES NOW, Paul Beasley Johnson, Appellant, and respectfully requests that this Court, grant him a stay of execution incident to his appeal. For his reasons, he states:

1. On October 7, 2009, Governor Crist signed a death warrant against Mr. Johnson. His execution is scheduled for November 4, 2009.

2. Mr. Johnson currently has pending before this Court an appeal from his Rule 3.851 motion in which he raised issues regarding lethal injection, claims based on *Banks v. Dretke* and a claim challenging the constitutionality of Florida's sentencing scheme in light of a recent American Bar Association report. This case is scheduled for oral argument on October 28, 2009.

3. In a separate pleading filed on this date, Mr. Johnson also has filed a Fla. R. Crim. P. 3.851 motion to set aside his judgment of convictions and sentences in Polk County Circuit Court in Bartow,

Florida. The motion raises issues that have just become ripe with the signing of his death warrant. In his post-conviction motion, Mr. Johnson challenges the constitutionality of the Governor's absolute discretion to sign a death warrant and thereby authorize the execution of a particular individual where under Florida law an individual under sentence of death unless the Governor has authorized the execution; the failure to appoint clemency counsel and the manner in which Mr. Johnson was denied an opportunity for a clemency proceeding after his 1988 trial and that it is unconstitutional for Mr. Johnson to be executed after 28 years on death row.

4. These issues in conjunction with the issues pending before this Court raise substantial constitutional questions that raise colorable claims that Mr. Johnson is entitled to relief. These claims should receive careful and meaningful review which under the exigencies of the pending scheduled execution will not occur without the issuance of a stay of execution.

5. Mr. Johnson also has a petition for a writ of habeas corpus pending the United States District Court in Tampa. This is the first federal habeas petition filed by Mr. Johnson and it was filed on October 19, 2009.

**WHEREFORE,** Mr. Johnson, by and through undersigned counsel respectfully submits that this Court grant a stay of execution so that his claims may be carefully and meaningfully decided.

Respectfully submitted,  
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/s/Terri L. Backhus

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that true and correct copies of the foregoing Appellant's Application for Stay of Execution have been furnished by e-mail and priority mail, postage prepaid, to opposing counsel of record on this 27th day of October, 2009.

/s/Terri L. Backhus

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