

Opinion in Chambers

RODRIGUEZ *v.* TEXASON APPLICATION FOR STAY OF EXECUTION OF SENTENCE
OF DEATH

No. 95-5650 (A-202). Decided August 31, 1995

An application for a stay of execution pending disposition of a petition for writ of certiorari seeking direct review of the Texas Court of Criminal Appeals' judgment is denied, without prejudice to its renewal at a later date. There being no reason to believe that the certiorari petition will not be disposed of well before the scheduled execution date, that date is not likely to interfere with the petition's orderly processing. See *Cole v. Texas*, 499 U. S. 1301.

JUSTICE SCALIA, Circuit Justice.

I have before me an application for a stay of execution pending disposition of a petition for writ of certiorari to the Court of Criminal Appeals of Texas. Petitioner seeks direct review of that court's judgment, entered May 17, 1995, affirming his conviction and death sentence. The petition was timely filed on August 15, 1995, and petitioner's application states that he is scheduled to be executed on November 8, 1995.

I have said that "I will . . . in every capital case on direct review, grant a stay of execution pending disposition by this Court of the petition for certiorari." *Cole v. Texas*, 499 U. S. 1301 (1991). I have also made clear, however, that the purpose of such a stay is to prevent the execution date from "interfer[ing] with the orderly processing of a petition on direct review by this Court." *Ibid.* In the present case, and at the present time, there is no reason to believe such interference will occur. A petition for certiorari filed in this Court on August 15 will ordinarily be disposed of well before November 8.

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Staying the hand of state justice is no small matter, and should not be considered when no need exists. Accordingly, the application for stay is denied, without prejudice to its renewal at a later date.