

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

Edward Harold Schad, Petitioner,

vs.

Charles L. Ryan, Director, Arizona Department of Corrections,
and Ron Credio, Warden, Arizona State Prison Complex—Eyman Unit,
Respondents.

ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

*****CAPITAL CASE*****
EXECUTION SCHEDULED FOR OCTOBER 9, 2013 AT 10:00 AM (MST)

MOTION FOR STAY OF EXECUTION

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Edward Schad moves this Court for a stay of execution so that this Court may consider his Petition for Writ of Certiorari.

In support of his motion, Schad relies on his contemporaneously filed Petition for Writ of Certiorari. Schad's petition establishes his likelihood of success on the merits. Moreover, Schad presents issues which are debatable amongst jurists of reason and deserve encouragement to proceed further. *Barefoot v. Estelle*, 463 U.S. 880 (1983). Without a stay, Schad will be irreparably harmed because he will be executed without any court ever adjudicating his plainly meritorious claim of constitutionally ineffective assistance of trial counsel for failure to present evidence of his adult mental illness which explains and mitigates his criminal conduct. Schad's interest outweighs the State's interest where no victim has ever supported a capital sentence and where Rule 60(b) exists as an exception to finality. Finally, the public interest is in favor of vindicating Schad's constitutional rights and not executing a man on the basis of an unreliable conviction.

CONCLUSION

For the preceding reasons, and those stated in his Petition for Writ of Certiorari, this Court should issue a stay of execution to permit consideration of Schad's petition.

Respectfully submitted this 8th day of October, 2013.

Kelley J. Henry*
Supervisory AFPD – Capital Habeas

Denise I. Young

/s/ Kelley J. Henry
** Counsel of Record*