

STEVENS, J., dissenting

SUPREME COURT OF THE UNITED STATES

No. 07–10988 (07A913)

**KEVIN GREEN v. GENE M. JOHNSON, DIRECTOR,
VIRGINIA DEPARTMENT OF CORRECTIONS**

**ON APPLICATION FOR STAY AND ON PETITION FOR WRIT OF
CERTIORARI TO THE UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

[May 27, 2008]

The application for stay of execution of sentence of death presented to THE CHIEF JUSTICE and by him referred to the Court is denied. The petition for writ of certiorari is denied.

JUSTICE STEVENS, with whom JUSTICE GINSBURG joins, dissenting.

The judgment of the Court of Appeals upholding petitioner's death sentence was filed on March 11, 2008. Although the deadline for filing a petition for certiorari will not pass until next month, Virginia plans to execute petitioner this evening. This execution date requires us either to enter a stay or to give petitioner's claim less thorough consideration than we give claims routinely filed by defendants in noncapital cases. In order to ensure petitioner the same procedural safeguards available to noncapital defendants, I would grant his application for a stay of execution. See *Emmett v. Kelly*, 552 U. S. ____ (2007) (statement respecting denial of certiorari) ("Both the interest in avoiding irreversible error in capital cases, and the interest in the efficient management of our docket, would be served by a routine practice of staying all executions scheduled in advance of the completion of our review [in the ordinary course] of the denial of a capital defendant's first application for a federal writ of habeas corpus").