

SUPREME COURT OF THE UNITED STATES

No. 93-8542 (A-817)

WILLIAM HENRY HANCE v. WALTER
ZANT, WARDEN
ON APPLICATION FOR STAY AND PETITION FOR WRIT
OF CERTIORARI

[March 31, 1994]

The application for stay of execution of sentence of death presented to JUSTICE KENNEDY and by him referred to the Court is denied. The petition for writ of certiorari is denied. The order heretofore entered by JUSTICE KENNEDY is vacated.

JUSTICE BLACKMUN, dissenting.

Even if I had not reached the conclusion that the death penalty cannot be imposed fairly within the constraints of our Constitution, see my dissent in *Callins v. Collins*, 510 U. S. ___, ___ (1994), I could not support its imposition in this case. There is substantial evidence that William Henry Hance is mentally retarded as well as mentally ill. There is reason to believe that his trial and sentencing proceedings were infected with racial prejudice. One of his sentencers has come forward to say that she did not vote for the death penalty because of his mental impairments. And Mr. Hance has raised a colorable claim that the trial court's refusal to answer his jurors' questions about sentencing options should be held and considered in light of the forthcoming decision in *Simmons v. South Carolina*, No. 92-9059, pending before this Court. Accordingly, I would grant the application for a stay, grant the petition for writ of certiorari and vacate the death sentence in this case.

JUSTICE STEVENS and JUSTICE GINSBURG would grant the application for stay of execution.