

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

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Appellate Courts

STATE OF TENNESSEE v. CHRISTA GAIL PIKE

Criminal Court for Knox County
No. 58183A

No. M2020-01156-SC-DPE-DD

ORDER

On January 11, 1995, Christa Gail Pike, a student at the Job Corps Center in Knoxville, told a friend that she intended to kill fellow student Colleen Slemmer because she “just felt mean that day.” *State v. Pike*, 978 S.W.2d 904, 908 (Tenn. 1998), *cert. denied*, 526 U.S. 1147 (1999). The next day, Ms. Pike killed Ms. Slemmer by cutting her throat six times, striking her in the back with a meat cleaver, beating her, and throwing a piece of asphalt at her head. *Id.* Ms. Pike carved a pentagram into Ms. Slemmer’s forehead and chest and kept a piece of her skull as a souvenir. *Id.* In 1996, a jury convicted Ms. Pike of first-degree murder and sentenced her to death based on two aggravating circumstances. *Id.* at 913–14.¹ This Court affirmed her conviction and sentence on direct appeal. *Id.* at 914. The Court of Criminal Appeals affirmed the denial of state post-conviction relief, *Pike v. State*, No. E2009-00016-CCA-R3-PD, 2011 WL 1544207, at *1 (Tenn. Crim. App. Apr. 25, 2011), *cert. denied*, 568 U.S. 827 (2012), and the United States Court of Appeals for the Sixth Circuit affirmed the denial of federal habeas relief, *Pike v. Gross*, 936 F.3d 372, 374–75 (6th Cir. 2019), *cert. denied*, 590 U.S. 978 (2020). On September 30, 2025, this Court issued an order setting Ms. Pike’s execution for September 30, 2026. Order, *State v. Pike*, No. M2020-01156-SC-DPE-DD (Tenn. Sept. 30, 2025).

On January 6, 2026, Ms. Pike filed a complaint in Davidson County Chancery Court raising, among other claims, facial and as-applied constitutional challenges to Tennessee’s lethal injection protocol. Given Ms. Pike’s impending execution date, the chancery court transferred the case to this Court, citing Tennessee Supreme Court Rule 12(4)(E).

¹ The jury found: “(1) ‘[t]he murder was especially heinous, atrocious or cruel in that it involved torture or serious physical abuse beyond that necessary to produce death;’ and (2) ‘[t]he murder was committed for the purpose of avoiding, interfering with or preventing a lawful arrest or prosecution of the defendant or another.’” *Pike*, 978 S.W.2d at 913 (alterations in original) (quoting Tenn Code Ann. §§ 39-13-204(i)(5), (i)(6) (1997)).

Chancellor’s Order Transferring Case to the Tennessee Supreme Court, *Pike v. Skrmetti*, No. 26-0027-III (Davidson County Chancery Court, May 6, 2026). Because Rule 12(4)(E) “contains no provision for the transfer of such cases to this Court,” we concluded that the chancery court had erred in transferring the case and dismissed the transferred case “without prejudice to filing a motion that comports with Tennessee Supreme Court Rule 12(4)(E).” Order, *Pike v. Skrmetti*, No. M2026-00667-SC-UNK-CV (Tenn. May 12, 2026).

On June 12, 2026, Ms. Pike filed a “Motion and Request to Appoint a Special Master Pursuant to Tenn. Sup. Ct. R. 12(4)(E).” Ms. Pike’s motion asserted facial and as-applied challenges to Tennessee’s lethal injection protocol and requested the appointment of a special master “to develop the facts to support these claims.” Ms. Pike further argued that Rule 12(4)(E) is unconstitutional or otherwise unlawful and asked the Court to amend the rule. Although Ms. Pike did not specifically ask this Court to stay her execution, we construed her request for injunctive relief as a motion for stay of execution pursuant to Rule 12(4)(E) and appointed a special master. Upon our review of the special master’s findings of facts and conclusions of law and the parties’ briefs, we conclude that Ms. Pike failed to demonstrate a likelihood of success on the merits of her claims. Accordingly, her stay motion is denied. We also reject Ms. Pike’s challenges to Rule 12(4)(E).

I. BACKGROUND

Tennessee Supreme Court Rule 12(4)(E) provides in pertinent part that after an execution date is set, this Court will not grant a stay pending resolution of collateral litigation in state court “unless the prisoner can prove a likelihood of success on the merits in that litigation.” Tenn. Sup. Ct. R. 12(4)(E) (2025). The rule further provides that after an execution date is set, “any state court collateral litigation that would potentially affect the method or timing of execution must commence with the filing of a motion in this Court.” *Id.* “If the collateral litigation may involve fact-finding, the moving party must request the appointment of a special master, consistent with the procedures outlined in Tennessee Rule of Civil Procedure 53.” *Id.*

Because a motion filed under Rule 12(4)(E) must incorporate a motion for stay of execution, *see* Order, *Pike v. Skrmetti*, *supra*, and because Ms. Pike asked this Court to permanently enjoin state officials from carrying out her execution pursuant to the current lethal injection protocol, this Court construed Ms. Pike’s motion as a motion for stay of execution and a request to appoint a special master on the issues raised in the motion.

On July 10, 2026, this Court appointed a special master to conduct an evidentiary hearing and make findings of fact and conclusions of law on the following issues raised by Ms. Pike’s as-applied challenges to the constitutionality of Tennessee’s current single-drug pentobarbital lethal injection protocol:

(1) Given Ms. Pike’s diagnosis of thrombocytosis, whether achieving peripheral IV access pursuant to the current lethal injection protocol would make it “*sure or very likely*” that the challenged protocol will “cause [Ms. Pike] serious illness and needless suffering,” *see Baze v. Rees*, 553 U.S. 35, 50 (2008) (plurality opinion) (quoting *Helling v. McKinney*, 509 U.S. 25, 33 (1993));

(2) Given Ms. Pike’s cited history of sexual assault and asserted diagnosis of Post Traumatic Stress Disorder (“PTSD”), whether the movement of Ms. Pike to Riverbend Maximum Security Prison before the execution, where she would be observed by male prison officials for two weeks prior to the execution, would make it “*sure or very likely*” that the challenged protocol will “cause [Ms. Pike] serious illness and needless suffering,” *see id.*;

(3) Given Ms. Pike’s allegedly small and compromised veins, whether achieving peripheral IV access pursuant to the current lethal injection protocol would make it “*sure or very likely*” that the challenged protocol will “cause [Ms. Pike] serious illness and needless suffering,” *see id.*;

(4) Whether Ms. Pike’s proposed alternative methods of execution would “significantly reduce a substantial risk of severe pain,” *id.* at 52; and

(5) Whether TDOC [Tennessee Department of Correction] is required to permit or would be willing to permit Ms. Pike to have a clergy member or spiritual advisor in the execution chamber during her execution.

Order, *State v. Pike*, No. M2020-01156-SC-DPE-DD (Tenn. July 10, 2026).

The special master conducted an evidentiary hearing on August 11–13, 2026, and received testimony from eleven witnesses. The special master issued its report on August 20, 2026. The report concluded that Ms. Pike had failed to prove by a preponderance of the evidence that her diagnosis of thrombocytosis, her history of sexual assault and diagnosis of Post Traumatic Stress Disorder (“PTSD”), or her small veins would make it sure or very likely that Tennessee’s lethal injection protocol would cause her serious illness and needless suffering. The report further concluded that Ms. Pike had not established by a preponderance of the evidence that her proposed alternative methods of execution—placement of a central line or hanging—would significantly reduce a substantial risk of severe pain. Finally, the special master approved the parties’ stipulated dismissal of the fifth issue concerning whether a clergy member would be allowed in the execution chamber

based on TDOC’s agreement to certain accommodations.² Ms. Pike filed objections to the report on August 27, 2026. The State filed a notice that it had no objections to the report. The parties also submitted additional briefing regarding Ms. Pike’s constitutional challenges to Rule 12(4)(E) and issues related to Ms. Pike’s challenges to the lethal injection protocol that were not referred to the special master.

II. ANALYSIS

We begin by addressing whether Ms. Pike is entitled to a stay of execution based on her constitutional challenges to Tennessee’s lethal injection protocol. To obtain a stay of execution based on pending collateral litigation in state court, an inmate must “prove a likelihood of success on the merits in that litigation.” Tenn. Sup. Ct. R. 12(4)(E); *see also State v. Irick*, 556 S.W.3d 686, 689 (Tenn. 2018). To satisfy that standard, an inmate “must show more than a mere possibility of success.” *Irick*, 556 S.W.3d at 689 (quoting *Six Clinics Holding Corp. II v. Cafcomp Sys.*, 119 F.3d 393, 402 (6th Cir. 1997)). We first consider whether Ms. Pike established a likelihood of success on the merits with respect to the as-applied challenges that were referred to the special master. We then consider whether any of Ms. Pike’s remaining facial challenges to the lethal injection protocol entitle her to a stay of execution.

We also address Ms. Pike’s constitutional challenges to Rule 12(4)(E). Ordinarily, challenges to this Court’s rules should be “made in a proper petition filed in this Court.” *State ex rel. Carden v. Fones*, 539 S.W.2d 810, 811 (Tenn. 1976). In the interest of efficiency, we construe the challenges to Rule 12(4)(E) raised in Ms. Pike’s motion as such a petition. But we reiterate that such challenges are properly instituted by filing a separate petition.

A. Method-of-Execution Challenges

“[I]t is settled that capital punishment is constitutional.” *Glossip v. Gross*, 576 U.S. 863, 869 (2015). And because capital punishment is constitutional, “there must be a [constitutional] means of carrying it out.” *Id.* (alteration in original) (quoting *Baze*, 553 U.S. at 47). “[T]he Eighth Amendment ‘does not demand the avoidance of all risk of pain in carrying out executions.’” *Bucklew v. Precythe*, 587 U.S. 119, 134 (2019) (quoting *Baze*, 553 U.S. at 47). “To the contrary, the Constitution affords a ‘measure of deference to a State’s choice of execution procedures’ and does not authorize courts to serve as ‘boards of inquiry charged with determining best practices for executions.’” *Id.* (quoting *Baze*, 553 U.S. at 51–52 & nn.2–3). “[W]hen it comes to determining whether a punishment is unconstitutionally cruel because of the pain involved, the law has always asked whether

² Given the parties’ stipulated dismissal of this claim, we do not address it.

the punishment ‘superadds’ pain well beyond what’s needed to effectuate a death sentence.” *Id.* at 136–37. “And answering that question has always involved a comparison with available alternatives, not some abstract exercise in ‘categorical’ classification.” *Id.* at 137.

To bring an Eighth Amendment method-of-execution challenge, a death-row inmate is required to: (1) establish that the method of execution “presents a risk that is ‘sure or very likely to cause serious illness and needless suffering,’ and gives rise to ‘sufficiently imminent dangers,’” *Glossip*, 576 U.S. at 877 (citation modified) (quoting *Baze*, 553 U.S. at 50); and (2) “identify an alternative [method of execution] that is ‘feasible, readily implemented, and in fact significantly reduce[s] a substantial risk of severe pain,’” *id.* (second alteration in original) (quoting *Baze*, 553 U.S. at 52). These same two prongs apply in both facial and as-applied method-of-execution challenges. *Bucklew*, 587 U.S. at 134–40. This Court applies a similar two-prong test to assess method-of-execution challenges brought under article I, sections 16 and 32 of the Tennessee Constitution. *West v. Schofield*, 519 S.W.3d 550, 567–68 (Tenn. 2017) (citing *Glossip*, 576 U.S. at 877; *Baze*, 553 U.S. at 50, 52); *State v. Brimmer*, 876 S.W.2d 75, 88 (Tenn. 1994).

A claim that a method of execution violates the Eighth Amendment “faces an exceedingly high bar.” *Barr v. Lee*, 591 U.S. 979, 980 (2020) (per curiam). To obtain a stay of execution, a “prisoner must present more than ‘competing expert testimony’ on the question whether the government’s chosen method is very likely to cause needless suffering.” *In re Fed. Bureau of Prisons’ Execution Protocol Cases*, No. 21-5004, 2021 WL 164918, at *1 (D.C. Cir. Jan. 13, 2021) (Katsas, J., concurring) (quoting *Lee*, 591 U.S. at 981)). “Last-minute stays” of executions “should be the extreme exception, not the norm.” *Lee*, 591 U.S. at 981 (quoting *Bucklew*, 587 U.S. at 150).

1. Issues Referred to the Special Master³

- a. *Given Ms. Pike’s diagnosis of thrombocytosis, whether achieving peripheral IV access pursuant to the current lethal injection protocol would make it sure or very likely that the challenged protocol will cause Ms. Pike serious illness and needless suffering.*

The medical testimony presented at the hearing established that thrombocytosis is a medical condition that causes a person to have an elevated platelet count, which in turn can cause issues with clotting, and paradoxically, bleeding in some circumstances. The medical

³ Ms. Pike objects to the special master’s rulings prohibiting pre-hearing discovery. Given the expedited nature of the hearing and its limited scope, the special master did not abuse its discretion by prohibiting discovery.

testimony also established that Ms. Pike suffers from essential thrombocytosis. The testimony conflicted, however, as to the extent the potential clotting issues might interfere with the insertion of an IV line. Neither Ms. Pike nor any medical witness testified that Ms. Pike has experienced any difficulty or serious pain in the past with vein access.

Ms. Pike presented testimony from Dr. Joel Zivot and Dr. Gail Van Norman, both experts in the field of anesthesiology. Dr. Zivot and Dr. Van Norman testified that the introduction of the IV catheter could cause the body to clot around it because the body would regard the catheter as “an invader.” Dr. Zivot explained that although thrombocytosis would not prevent intravenous access, the condition could make it “difficult to find a vein . . . that’s patent and able to accommodate an intravenous catheter,” and access “may not last long.” The special master ultimately assigned little weight to Dr. Zivot’s testimony.

The State presented testimony from Dr. Richard Mansour, an expert in the fields of hematology, medical oncology, and internal medicine. Dr. Mansour opined that Ms. Pike has low risk essential thrombocytosis based on her past platelet counts. He also testified that Ms. Pike does not appear to be at risk for excessive bleeding, as her von Willebrand protein (a specific clotting component in the blood) and function are normal. Dr. Mansour explained that interference with the von Willebrand protein and function is a rare syndrome that usually takes place when platelet counts reach 1,500,000 to 2,000,000. Though there was some proof that Ms. Pike’s platelet count had been around 1,000,000 at the time of diagnosis, subsequent platelet counts had been significantly lower. No medical proof was presented that Ms. Pike’s platelet count reached the level where interference with the von Willebrand factor would occur. Therefore, he did not believe that Ms. Pike’s elevated platelet count would interfere with the insertion of an IV line. Based on his review of Ms. Pike’s medical records, Dr. Mansour observed that twelve blood draws from Ms. Pike were successful on the first try; only one draw required two sticks. And there was no evidence that removal of the needle caused problems. It was Dr. Mansour’s opinion that Ms. Pike’s veins are accessible. The special master credited Dr. Mansour’s testimony.

Based on the evidence presented at the evidentiary hearing, the special master concluded that Ms. Pike had failed to prove by a preponderance of the evidence that her diagnosis of thrombocytosis creates a “substantial risk” that achieving peripheral IV access will cause “an objectively intolerable risk of harm.” *West*, 519 S.W.3d at 563 (quoting *Glossip*, 576 U.S. at 877). Ms. Pike’s thrombocytosis and elevated platelet counts, the special master reasoned, do not make it “sure or very likely” that she will experience abnormal clotting or excessive bleeding during IV access. *Baze*, 553 U.S. at 50. And the “mere possibilit[y]” that Ms. Pike may experience clotting due to her slightly elevated platelet count is “not sufficient to satisfy [her] burden to establish a substantial risk of severe pain.” *West*, 519 S.W.3d at 564 (citing *Baze*, 553 U.S. at 62).

Ms. Pike objects to the special master’s findings and conclusions on a couple of fronts. Ms. Pike first contends that the special master improperly limited her from introducing testimony about the general effects of pentobarbital and the potential for pentobarbital to cause flash pulmonary edema. She also faults the special master for “excluding all evidence concerning central line placement,” including evidence concerning the attempted execution of Tony Carruthers.⁴ These arguments appear to be premised on Ms. Pike’s view that the issue referred to the special master “reaches the protocol’s entire anticipated procedures relating to vein access, not merely the moment of needle insertion.” But Ms. Pike is mistaken. The narrow issue referred to the special master is whether, due to Ms. Pike’s thrombocytosis diagnosis, “*achieving peripheral IV access* pursuant to the current lethal injection protocol” would make it sure or very likely that Ms. Pike would experience severe pain and needless suffering. Order, *State v. Pike*, No. M2020-01156-SC-DPE-DD (Tenn. July 10, 2026) (emphasis added). Because evidence related to the general effects of pentobarbital and central line placement is not relevant to that narrow issue, the special master did not err by preventing Ms. Pike from introducing it. Nevertheless, the special master did allow Ms. Pike to introduce testimony about both the effects of pentobarbital and central line placement for the purpose of comparing the current protocol to her proposed alternative methods of execution.⁵

We agree with the special master’s conclusion that Ms. Pike has not established a likelihood of success on her claim that, given her thrombocytosis diagnosis, establishing peripheral IV access pursuant to the current lethal injection protocol would violate the Eighth Amendment.

⁴ The execution of Mr. Carruthers was called off when members of the execution team were unable to establish a backup IV line through either peripheral access or a central line as required by the protocol. Mr. Carruthers was granted a temporary reprieve from execution for one year. *Gov. Lee Grants Temporary Reprieve for Tony Von Carruthers* (May 21, 2026, at 13:12 CT), Off. of the Governor, <https://www.tn.gov/governor/news/2026/5/21/gov--lee-grants-temporary-reprieve-for-tony-von-carruthers.html>.

⁵ The special master’s exclusion of evidence concerning issues that arose during the attempted execution of Mr. Carruthers was not erroneous either. The only issue before the special master that required evidence regarding central line placement was whether Ms. Pike’s proposed alternative of central line placement would substantially reduce any risk of severe pain caused by peripheral line placement. Thus, the special master was correct to limit evidence on that issue to central line placement generally rather than the details of Mr. Carruthers’s attempted execution. For similar reasons, the special master did not err by denying Ms. Pike’s emergency motion to reopen the hearing.

- b. *Given Ms. Pike’s cited history of sexual assault and asserted diagnosis of PTSD, whether the movement of Ms. Pike to Riverbend Maximum Security Prison before the execution, where she would be observed by male prison officials for two weeks prior to the execution, would make it sure or very likely that the challenged protocol will cause Ms. Pike serious illness and needless suffering.*

The parties agreed at the hearing before the special master that, pursuant to the execution protocol, an inmate is transferred from their existing facility to Riverbend 48 hours before the scheduled execution, not two weeks as the referred question had suggested. The special master noted that TDOC had made accommodations for Ms. Pike’s scheduled execution and that those accommodations had further altered the referred question. Specifically, TDOC had represented that female corrections officers will transport Ms. Pike to Riverbend no earlier than 24 hours before her scheduled execution; that Ms. Pike will be the only inmate in the Capital Punishment Unit at Riverbend the entire time she is there; that TDOC “will make every effort to assign only female staff to observe Ms. Pike” while she is at Riverbend; and that a privacy screen will be available to Ms. Pike when she is using the restroom or showering.

In light of these accommodations, the special master found that Ms. Pike will not be observed by male guards at Riverbend for two weeks prior to the scheduled execution. Instead, she will be observed by female guards for less than 24 hours. Accordingly, the special master found that the factual predicates assumed in the issue raised by Ms. Pike in her motion and referred by this Court—that Ms. Pike will be transported to Riverbend Maximum Security Prison two weeks before her execution and that she will be observed by male guards during that time—are inaccurate.

Ms. Pike presented the testimony of Dr. Bethany Brand that Ms. Pike suffers from PTSD and bipolar disorder. Dr. Brand believes that it would be very psychologically harmful for Ms. Pike to be observed while she is changing her clothes, washing, or toileting, regardless of the gender of the observer. Dr. Brand also opined that moving Ms. Pike to Riverbend, even for less than 24 hours, would make her feel out of control and would be highly triggering to her. She believes that strapping Ms. Pike to a gurney or inserting an IV near her chest or groin would also be highly triggering due to her history of abuse. Dr. Brand opined that, even if the execution occurred at Ms. Pike’s current facility and she was never transferred to Riverbend, the protocol would still “constitute added and severe punishment.”

The special master found that Ms. Pike suffers from PTSD and bipolar disorder. The special master further found, however, that TDOC’s accommodations had “minimized the

potential for Ms. Pike” to experience significant triggering or anxiety. The special master discounted Ms. Brand’s testimony for a couple of reasons. First, “there d[id] not appear to be any scenario by which Dr. Brand believes Ms. Pike would avoid mental suffering, absent no execution at all.” Second, Dr. Brand had not spoken to Ms. Pike since 2023 and had indicated in her report written in 2023 that Ms. Pike had “the tools to control her emotions and deal with life’s stressors.”

The special master thus concluded that Ms. Pike had failed to prove by a preponderance of the evidence that, given her cited history of sexual assault and asserted diagnosis of PTSD, the movement of Ms. Pike from her current facility to Riverbend no more than 24 hours before her execution and her observation there by female prison officials would make it “sure or very likely” that the challenged protocol will “cause [Ms. Pike] serious illness and needless suffering.” After considering Dr. Brand’s testimony and report, the special master concluded that it was speculative whether Ms. Pike would suffer any harm from the transport and observation or whether her harm would be substantially greater than the harm posed by execution generally. We agree.

Part of Ms. Pike’s claim is that any movement from her normal housing or observation by male guards, for any length of time, will cause significant deterioration in her mental state so as to constitute severe pain that violates the Eighth Amendment. But Dr. Brand, Ms. Pike’s own psychological expert, testified that Ms. Pike has spent the past few decades being supervised and observed by male guards at the women’s prison. Given that Ms. Pike is already being observed by male guards at her current facility, her argument that the involvement of any male guards during transport or observation would violate the Eighth Amendment is wholly without merit.

The special master further concluded that, in any event, “mental suffering” alone “is not material to the Eighth Amendment inquiry under *Baze* and *Glossip*” unless it is “accompanied by serious physical pain.” See *In re Ohio Execution Protocol Litig.*, 881 F.3d 447, 450 (6th Cir. 2018) (internal quotation marks and citations omitted). In her objections to the special master’s report, Ms. Pike cites a recent federal appellate decision positing that “[t]here may exist a form of execution that induces psychological terror or pain that is severe enough to support an Eighth Amendment claim” even in the absence of serious physician pain. *Grayson v. Comm’r, Ala. Dep’t of Corrs.*, 121 F.4th 894, 900 n.3 (11th Cir. 2024). But even assuming that psychological pain alone can support an Eighth Amendment claim, we agree with the special master that the evidence presented at the hearing does not establish that transporting Ms. Pike to Riverbend 24 hours before the scheduled execution and her observation there by female prison officials is *sure or very likely* to cause *serious pain or and needless suffering*. TDOC has sought to accommodate Ms. Pike’s medical conditions to the extent feasible by shortening the observation period

at Riverbend and employing female prison officials and privacy screens. Ms. Pike is not entitled to a stay of execution based on this claim.⁶

- c. *Given Ms. Pike's allegedly small and compromised veins, whether achieving peripheral IV access pursuant to the current lethal injection protocol would make it sure or very likely that the challenged protocol will cause Ms. Pike serious illness and needless suffering.*

According to the special master, Ms. Pike presented no proof from any medical professional that had examined her that she has small and compromised veins or that she has experienced any problems with peripheral vein IV access in the past. Ms. Pike presented testimony from Dr. Gail Van Norman, an expert in the field of anesthesiology. Dr. Van Norman had reviewed Ms. Pike's medical records but never personally examined Ms. Pike. Dr. Van Norman acknowledged that it does not appear from the medical records that Ms. Pike has experienced any trouble having her blood drawn. She further acknowledged that Ms. Pike's medical records make no mention of Ms. Pike having small veins, non-palpable veins, or non-visible veins. Dr. Van Norman speculated that Ms. Pike had small veins based on a notation in her medical records that a 23-gauge butterfly needle was used to draw blood from Ms. Pike and that access was gained through her hand.

Dr. Richard Mansour, one of the State's experts, also reviewed Ms. Pike's medical records. He observed that only one of the thirteen blood draws noted in Ms. Pike's records required more than one stick, and no problems were noted with removal of the needle. Another of the State's experts—Elizabeth Campbell, an expert in general nursing and vascular access—testified based on her review of Ms. Pike's medical records that she saw nothing indicating that Ms. Pike's veins would be difficult to access. She, too, observed that all but one of Ms. Pike's phlebotomy procedures were successful on the first attempt. Notably, the medical records also indicated that blood was drawn from the hand, the forearm, and the bend in the elbow. Ms. Campbell also testified that use of a 23-gauge needle to draw blood is common.

Based on this evidence, the special master concluded that Ms. Pike has failed to show by a preponderance of the evidence that, given her allegedly small and compromised veins, achieving peripheral IV access pursuant to the current lethal injection protocol would

⁶ To the extent that Ms. Pike's claim is premised on allegations that being strapped to a gurney during the execution process will trigger memories of her sexual assaults, she has likewise failed to establish that this aspect of the protocol would "superadd[]" pain in a manner that violates the Eighth Amendment. *Bucklew*, 587 U.S. at 136–37.

make it “sure or very likely” that the challenged protocol will “cause [Ms. Pike] serious illness and needless suffering.”⁷ We agree that Ms. Pike has not shown a likelihood of success on this claim that would entitle her to a stay of execution. The record does not establish that Ms. Pike has small veins, let alone that this condition makes it sure or very likely that establishing peripheral IV access would cause Ms. Pike serious pain or needless suffering. At best for Ms. Pike, any risk of harm posed by her allegedly small veins is speculative. But “mere possibilities or hypotheticals . . . are not sufficient to establish a substantial risk of severe pain.” Order, *State v. Hines*, No. M2025-00221-SC-DPE-DD, 2026 WL 2280854, at *5 (Tenn. Aug. 6, 2026) (per curiam).

d. Whether Ms. Pike’s proposed alternative methods of execution would significantly reduce a substantial risk of severe pain.

When a prisoner asserts that the State’s chosen method of execution cruelly “superadds” pain to the death sentence, “a prisoner must show a feasible and readily implemented alternative method of execution that would significantly reduce a substantial risk of severe pain and that the State has refused to adopt without a legitimate penological reason.” *Bucklew*, 587 U.S. at 134 (citing *Glossip*, 576 U.S. at 877; *Baze*, 553 U.S. at 52). To be a “readily implemented” alternative, the inmate’s proposal must be “sufficiently detailed to permit a finding that the State could carry it out relatively easily and reasonably quickly.” *Id.* at 141 (citations omitted). The proposed alternative need not be one “presently authorized by” state law. *Id.* at 139–40. Rather, the inmate “may point to a well-established protocol in another State as a potentially viable option.” *Id.* at 140. But it is not enough to argue for “a slightly or marginally safer alternative.” *Glossip*, 576 U.S. at 877 (quoting *Baze*, 553 U.S. at 51). The “difference [in risk] must be clear and considerable.” *Bucklew*, 587 U.S. at 143.

Ms. Pike initially raised two alternatives in her motion—hanging and use of a 23-gauge needle to establish peripheral IV access. She later withdrew the 23-gauge-needle alternative and asserted instead that TDOC could establish a central line instead of peripheral IV access. Thus, the only alternative methods before the special master were hanging and placement of a central line. Given our conclusion that Ms. Pike is unlikely to succeed on her claims that Tennessee’s lethal injection protocol is sure or very likely to cause her severe pain given her thrombocytosis, history of sexual assault and PTSD, and small veins, it is unnecessary to consider the viability of her proposed alternative methods of execution. But even if we were wrong on that score, Ms. Pike still could not prevail on

⁷ Ms. Pike objects to the special master’s reliance on the uneventful blood draws to support a conclusion that IV access would likewise be uncomplicated. However, Ms. Pike presented no evidence to suggest that her medical conditions have caused any issues in the past with gaining peripheral vein IV access.

these challenges because her proposed alternatives would not significantly reduce any risk of severe pain.

Central line. The medical testimony presented at the hearing established that central line access is accomplished through IV placement in the veins in the pelvis, belly, heart, chest, groin, or neck. Because these veins are located more deeply in the body, a longer catheter is used to access those veins. Additionally, because these veins are usually much larger, they are not difficult to access. Improper central line placements, however, can result in serious complications. Although improper IV placement in a peripheral vein will usually not put the person's life in danger, improper placement of a central line may do so. For example, improper central line placement could cause the rupture of a main vein or a collapsed lung. Based on this evidence that central line placement can cause complications that do not exist with peripheral access, the special master concluded that Ms. Pike had failed to prove by a preponderance of the evidence central line placement would "significantly reduce a substantial risk of severe pain." We agree with this conclusion. Because the record shows that placement of a central line would present serious risks that are not present with peripheral IV access, Ms. Pike cannot show that this alternative would reduce the risk of pain at all, much less that it would *significantly reduce* the risk. See *Glossip*, 576 U.S. at 877 (explaining that an inmate must prove something more than a "slightly or marginally safer alternative" (quoting *Baze*, 553 U.S. at 51)).

The special master also rejected this proposed alternative because it is not a distinct method of execution such as hanging or use of a firing squad. The special master observed that neither the United States Supreme Court nor this Court has held that carrying out a prescribed method of execution "with slightly different equipment or procedures" can suffice as an alternative method of execution. We agree with this conclusion as well. Allowing a plaintiff to satisfy the alternative-method requirement by pointing to minor variations in the existing protocol would make courts "boards of inquiry charged with determining 'best practices' for executions." *Bucklew*, 587 U.S. 119, 120 (quoting *Baze*, 553 U.S. at 51–52). But the Constitution does not permit this sort of judicial intrusion into a "State's choice of execution procedures." *Id.*

Hanging. Ms. Pike presented testimony from Dr. Scott Goldstein, an expert in the field of emergency medicine. Dr. Goldstein testified that death by hanging can occur in one of two ways: instantaneous transection of the spinal cord or strangulation. In his report, Dr. Goldstein stated that "[h]anging involves substantial variability in outcome depending on the mechanics of the procedure. The variability is based on body habitus, weight, drop length and technique. Any variation of these can lead to strangulation instead of hanging." Dr. Goldstein opined that, if done properly, hanging causes instantaneous death. He also opined that both hanging and lethal injection are suitable methods of capital punishment but that "both carry risks of unintended complications that may result in prolonged dying

and potential suffering, if done incorrectly.” Ms. Pike did not offer any detailed evidence regarding hanging protocols in other states or countries. Indeed, no state currently authorizes hanging as an approved method of execution. Dr. Goldstein testified that, if spinal cord transection is *not* achieved and strangulation occurs instead, that death would be more painful. He further testified that, in the event of strangulation, an individual would lose consciousness in 10 to 20 seconds and die in approximately one minute.

The State’s expert on hanging, Dr. Karen Kelly, agreed that hanging causes death quickly, if not instantaneously, when the spinal cord is transected. But she also agreed that hanging resulting in strangulation “would be a significantly painful and anxious way to die.” She testified that hangings do not always result in transection of the spinal cord. Rather, “the results and outcomes [of hanging] are variable and may lead to pain and suffering by strangulation/asphyxia.”

Because determining whether a method of execution has “superadded” pain in violation of the Eighth Amendment requires a comparison of the proposed alternative to the existing method of execution, *see Bucklew*, 587 U.S. at 136, evidence was also adduced regarding the risk of pain from the administration of pentobarbital. Ms. Pike contends that lethal injection by pentobarbital creates “superadded” pain because the drug causes pulmonary edema—the accumulation of blood and other fluids in the lungs—that can make a person feel as if they are drowning. Ms. Pike’s expert, Dr. Zivot, testified about the risk of pulmonary edema posed by pentobarbital. Dr. Zivot testified that the pulmonary edema happens “almost instantly” and occurs in 65 to 70% of inmates executed using pentobarbital. Dr. Zivot opined that given Ms. Pike’s increased tendency to bleed given her thrombocytosis diagnosis, she could potentially face more serious pulmonary edema than someone without thrombocytosis. Given *Bucklew*’s instruction that the relevant question in a method-of-execution challenge is “how long [the inmate] will be capable of feeling pain,” 587 U.S. at 147, the special master questioned Dr. Zivot regarding how long an inmate would remain conscious after being administered pentobarbital. Dr. Zivot surmised that an inmate could be conscious for minutes but also stated that “[n]o one knows the duration.”

The State presented testimony from Dr. Joseph Antognini, an expert in the fields of general medicine and anesthesiology. Dr. Antognini testified that an individual may experience mild pain at the injection site when pentobarbital is administered but that the individual will be unconscious before any pulmonary edema causes pain. He testified that a person administered pentobarbital will generally become unconscious within 20 to 30 seconds. The special master specifically credited Dr. Antognini’s opinion.

Based on all of this testimony, the special master found that hanging would cause far greater pain than lethal injection. The special master discredited Dr. Goldstein’s

testimony that an individual would become unconscious in 10 to 20 seconds if hanging resulted in strangulation due to his inability to support that assertion in the materials he reviewed as well as his lack of experience with judicial—as opposed to self-inflicted—hanging. But the special master also found that, even assuming that unconsciousness would occur within 10 to 20 seconds during strangulation, Ms. Pike had failed to establish that hanging would substantially reduce the risk of severe pain as compared to a single-drug pentobarbital protocol. The special master found it unlikely that any hanging protocol could eliminate the risk of strangulation.⁸

Given the conflicting evidence regarding whether and for how long pentobarbital will cause severe pain and how that risk of pain compares to that caused by hanging, we agree with the special master that Ms. Pike has failed to prove that hanging will significantly reduce any risk of severe physical pain as compared to the single-drug pentobarbital protocol. *See, e.g., In re Fed. Bureau of Prisons' Execution Protocol Cases*, 2021 WL 164918, at *1 (Katsas, J., concurring) (requiring “more than ‘competing expert testimony’” to establish an Eighth Amendment violation (quoting *Lee*, 591 U.S. at 981)).⁹

Because Ms. Pike did not offer a specific hanging protocol for comparison, the special master found it difficult to determine what psychological harm, if any, hanging would cause Ms. Pike and how that harm would compare to that potentially caused by lethal injection. The special master “assume[d] that under any hanging protocol it would be necessary to forcibly remove Ms. Pike from her cell, restrain her, force her to the execution chamber, force her up to the gallows, and restrain her movement.” Based on this assumption, the special master concluded that any hanging protocol would be at least as stressful as lethal injection. Assuming, *arguendo*, that psychological harm alone could suffice to establish an Eighth Amendment claim, we agree that Ms. Pike has not established an alternative method of execution that would substantially reduce the risk of such pain.

⁸ The special master also concluded that hanging was not a feasible alternative that could be readily implemented because TDOC did not have “anyone on staff with experience in carrying out judicial hangings” or “the equipment to carry out a judicial hanging.” Given our conclusion that Ms. Pike failed to show that hanging would substantially reduce the risk of severe pain, we need not address this alternative holding.

⁹ Ms. Pike objects to the special master’s credibility determinations regarding Dr. Goldstein and Dr. Zivot. We see no reason to overrule those determinations. But even accepting both experts’ testimony as credible, at best for Ms. Pike the record presents conflicting testimony on “scientific controversies beyond” the expertise of courts. *In re Fed. Bureau of Prisons' Execution Protocol Cases*, 2021 WL 164918, at *1 (Katsas, J., concurring) (quoting *Glossip*, 576 U.S. at 882). The evidence therefore cannot surmount the “exceedingly high” bar for an Eighth Amendment claim. *Lee*, 591 U.S. at 980.

2. Issues Not Referred to the Special Master

Ms. Pike raised three facial challenges to the current lethal injection protocol that were not referred to the Special Master.

- a. *Whether the current protocol is unconstitutional because it does not provide for medical care or resuscitation of an inmate in the event of a failed execution, in violation of the Eighth Amendment to the United States Constitution and Article I, sections 8, 13, and 32 of the Tennessee Constitution.*

Ms. Pike is unlikely to succeed on her claim that a lack of a resuscitation provision in the lethal injection protocol violates the Eighth Amendment or sections 8, 13, or 32 of Article I of the Tennessee Constitution. “[T]he State is under no obligation to attempt revival” after an execution attempt. *West*, 519 S.W.3d at 567. It follows, therefore, that the State has no duty to provide for such efforts in its execution protocol. Moreover, Ms. Pike’s argument that she may survive the execution are too speculative to show a likelihood of success on the merits. “Pentobarbital . . . [h]as been used to carry out over 100 executions, without incident,” *Lee*, 591 U.S. at 980, and such speculative theories do not warrant Eighth Amendment relief. *See Bucklew*, 587 U.S. at 134, 151.

- b. *Whether the imposition of a 14-day isolation period prior to the date of execution is arbitrary and capricious in violation of the First and Fourteenth Amendments to the United States Constitution and Article I, section 19 of the Tennessee Constitution.*

Ms. Pike is also unlikely to succeed on her claim that the protocol’s provision for a 14-day isolation period prior to execution amounts to cruel and unusual punishment. In considering a conditions-of-confinement claim, a court must first determine whether the “alleged wrongdoing was objectively harmful enough to establish a constitutional violation” and then determine whether prison officials acted with “a sufficiently culpable state of mind.” *Hudson v. McMillian*, 503 U.S. 1, 8 (1992) (internal quotation marks and citation omitted). The first part of this test requires an objective showing of an “extreme deprivation[]” that denies the inmate “the minimal civilized measure of life’s necessities.” *Id.* at 9. The second, or subjective, part requires an inmate to show that the State acted with deliberate indifference to her health or safety. *Wilson v. Seiter*, 501 U.S. 294, 302–03 (1991).

Ms. Pike cannot show that she will be deprived of basic necessities such as “reasonably adequate food, clothing, shelter, sanitation, recreation, and medical care.” *Vick*

v. Core Civic, 329 F. Supp. 3d 426, 451 (M.D. Tenn. 2018). The protocol provides that during the two weeks before her execution, Ms. Pike will receive standard meals “consistent with the unit feeding schedule.” The protocol also provides that she will receive a new mattress, bedding, towels, and linens; can shower and have personal hygiene items; will have one hour of outdoor recreation five days a week; and will receive daily clinical services to address her medical needs. These conditions of confinement have been upheld as constitutional. *See Vick*, 329 F. Supp. 3d at 452 (citation omitted).

Ms. Pike’s segregation from the general population does not amount to cruel and unusual punishment. Though she will not be housed with other inmates, the protocol provides that Ms. Pike will be permitted routine use of the telephone during these two weeks. She will also be permitted visitors upon written request and approval by the Warden. According to the accommodations made by TDOC, Ms. Pike will also be allowed contact with her spiritual advisor in the twelve hours before her execution and will have the spiritual advisor with her in the execution chamber. Accordingly, Ms. Pike cannot show that she is likely to succeed on the merits of an Eighth Amendment claim based on her short-term segregation.

c. Whether the current protocol violates an inmate’s right to petition for redress in violation of the First, Fifth, Eighth, and Fourteenth Amendments to the United States Constitution and Article I, sections 8, 13, 17, 19, and 32 of the Tennessee Constitution.

Ms. Pike contends that counsel’s inability to have “immediate access” to a phone on the day of her execution violates the First, Fifth, Eighth, and Fourteenth Amendments to the United States Constitution and sections 8, 13, 17, 19, and 32 of Article I of the Tennessee Constitution. Ms. Pike asserts that, during the attempted execution of Tony Carruthers, Mr. Carruthers’s counsel “was not permitted to access the telephone in the execution chamber,” the “telephone in the media room,” or counsel’s cell phone. She maintains that counsel instead had to use a phone outside the execution chamber. While the execution protocol requires state officials to confirm that the phones in the execution chamber are operational, it is silent as to whether counsel will be allowed to access those phones or any other phones. The State points out that Mr. Carruthers’s counsel “made phone calls during his attempted execution” and that his attorneys “filed an emergency motion in this Court in the middle of the execution attempt.” Although we are troubled by the State’s failure to provide any assurance that Ms. Pike’s counsel will have access to a phone within viewing distance of her client, we cannot conclude from the record before us that Ms. Pike is likely to succeed on her constitutional claims. *See West v. Schofield*, 460 S.W.3d 113, 131 (Tenn. 2015) (“[P]ublic officials in Tennessee are presumed to discharge their duties in good faith and in accordance with the law.”). To prove her right-of-access

claim, Ms. Pike must show that denying her lawyer *immediate* access to a phone “actually prevents [her] from accessing the courts and that [s]he will specifically be prevented from bringing a colorable or viable underlying Eighth Amendment claim.” *Arthur v. Comm’r, Ala. Dep’t of Corrs.*, 680 Fed. App’x 894, 909 (11th Cir. 2017). Ms. Pike does not contend that she will be denied access to a phone altogether or that she will lack any means of contacting co-counsel or the courts during the execution. Nor has she shown that she is likely to suffer an Eighth Amendment violation that would necessitate access to the courts. She is therefore not entitled to relief on this claim.

B. Rule 12(4)(E) Challenge

Ms. Pike raises several constitutional challenges to Tennessee Supreme Court Rule 12(4)(E), which provides in pertinent part:

After a date of execution is set, any state court collateral litigation that would potentially affect the method or timing of execution must commence with the filing of a motion in this Court. Any response to the motion must be filed within five (5) days of the motion, unless a different response time is ordered by the Court. If the collateral litigation may involve fact-finding, the moving party must request the appointment of a special master, consistent with the procedures outlined in Tennessee Rule of Civil Procedure 53. Any response in opposition to the motion for a special master must be filed within five (5) days of the motion, unless a different response time is ordered by the Court. If the Court grants the motion for a special master, the Court may appoint a special master, consistent with the procedures outlined in Rule 53. Any objection to the findings of the special master shall be by motion filed in this Court not later than five (5) days after being served with notice of the filing of the report, unless a different response time is ordered by the Court.

After a date of execution is set, the Court will not grant a stay or delay of an execution date pending resolution of collateral litigation in federal court. Likewise, the Court will not grant a stay or delay of an execution date pending resolution of collateral litigation in state court unless the prisoner can prove a likelihood of success on the merits in that litigation.

Tenn. Sup. Ct. R. 12(4)(E).

Ms. Pike first argues that Rule 12(4)(E) violates Article VI, section 2, of the Tennessee Constitution because, in her view, it confers original jurisdiction on this Court. *See* Tenn. Const. art. VI, § 2. Article VI, section 2 provides that “[t]he jurisdiction of [the Supreme Court] shall be appellate only, under such restrictions and regulations as may

from time to time be prescribed by law; but it may possess such other jurisdiction as now conferred by law on the present Supreme Court.” *Id.* According to Ms. Pike, Rule 12(4)(E) violates Article VI, section 2, because the procedures it establishes for state collateral proceedings once an execution date is set allow this Court to exercise original—rather than appellate—jurisdiction.

Ms. Pike is mistaken. As we recently explained, Rule 12(4)(E) “neither created a new procedural avenue” for litigating execution challenges “nor granted this Court original jurisdiction” to entertain any such claims. Order, *State v. Carruthers*, No. W1997-00097-SC-DDT-DD (Tenn. Apr. 30, 2026). Rule 12(4)(E) applies narrowly to “state court collateral litigation that would potentially affect the method or timing of execution” after this Court has set a date of execution. Tenn. Sup. Ct. R. 12(4)(E). It requires that such litigation “commence with the filing of a motion in this Court” so that this Court can determine whether to “grant a stay or delay of [the] execution date pending resolution of [that] collateral litigation.” *Id.* And “[i]f the collateral litigation may involve fact-finding,” it allows this Court to appoint a special master to assist with that determination, which requires consideration of the prisoner’s likelihood of success on the merits. *Id.*

The procedure established by Rule 12(4)(E) falls squarely within the jurisdiction conferred by Article VI, section 2. It is “well settled” that this jurisdiction includes the authority “to adopt all the rules and orders necessary and proper for carrying out and enforcing our judgments.” *Newman v. Justices of Scott Cnty.*, 48 Tenn. (1 Heisk.) 787, 790 (1870); *see also State ex rel. Stall v. City of Knoxville*, 365 S.W.2d 433, 436 (Tenn. 1963) (“[T]here can be no doubt about the power and authority of this Court to take such action as it deems proper and appropriate to enforce its decrees and orders and to issue all necessary process to prevent interference therewith.”); *Chaffin v. Robinson*, 213 S.W.2d 32, 33 (Tenn. 1948) (“These powers of the court are exercised only in aid of its appellate powers.” (quoting *State ex rel. Conner v. Hebert*, 154 S.W. 957, 962 (Tenn. 1913))); *State ex rel. Kain v. Hall*, 65 Tenn. (6 Baxt.) 3, 7 (1873) (confirming that this Court possesses jurisdiction “auxiliary to its appellate power . . . as inherent and necessary to the exercise of its functions as a court of appellate jurisdiction”); Tenn. Code Ann. § 16-1-102 (2021) (“[E]very court has the power to . . . “[c]ompel obedience to its judgments, orders, and process” and “[c]ontrol its process and orders”). Moreover, “where it becomes necessary, in the exercise of [our] jurisdiction, to the proper enforcement of the orders, judgments or decrees of the Court, that facts should be ascertained,” we also have the power “to have such facts ascertained.” *Newman*, 48 Tenn. (1 Heisk.) at 791.

Orders setting execution dates “are solely within the purview of this Court.” *Black v. Strada*, 721 S.W.3d 223, 228 (Tenn. 2025). As the authorities discussed above make clear, we have jurisdiction to “adopt all the rules and orders necessary and proper” for ensuring that our order of execution is enforced. *Newman*, 48 Tenn. (1 Heisk.) at 790.

Because “state court collateral litigation that would potentially affect the method or timing of execution,” Tenn. Sup. Ct. R. 12(4)(E), could prevent enforcement of our order of execution, Rule 12(4)(E) easily fits within this jurisdiction. Moreover, we have repeatedly held in similar method-of-execution challenges that a trial court lacks jurisdiction to stay, modify, or condition an order of execution from this Court. *Black*, 721 S.W.3d at 228 (citing *Coe v. Sundquist*, No. M2000-00897-SC-R9-CV, 2000 WL 36776154, at *1 (Tenn. Apr. 19, 2000) (holding in a method-of-execution challenge that “the order of the trial court enjoining and restraining the execution, which effectively amounted to a stay of the execution scheduled by this Court’s order . . . exceeded the jurisdiction of the trial court”)). Rule 12(4)(E) simply ensures that “[a]ny modification of an execution order of this Court” comes from this Court—the only court with jurisdiction to stay or modify its own judgment or order. *Black*, 721 S.W. at 228. We therefore reject Ms. Pike’s challenge premised on Article VI, section 2.

Ms. Pike asserts two other challenges to Rule 12(4)(E) that are premised on her erroneous view that the rule permits this Court to exercise original jurisdiction over state collateral claims. First, she argues that Rule 12(4)(E) unlawfully amends Tennessee Rule of Civil Procedure 3 because it “creates a new and exclusive mechanism to ‘commence an action.’” *See* Tenn. R. Civ. P. 3 (providing that civil actions “are commenced by filing a complaint with the clerk of the court”). Second, she argues that Rule 12(4)(E) unlawfully “eliminates a prisoner’s substantive right to challenge a method execution in the court of this state” by granting this Court original jurisdiction over collateral litigation. *See* Tenn. Code Ann. § 16-3-403 (2021) (“The rules prescribed by the supreme court pursuant to § 16-3-402 shall not abridge, enlarge or modify any substantive right, and shall be consistent with the constitutions of the United States and Tennessee.”). Because these arguments are premised on Ms. Pike’s erroneous assertion that Rule 12(4)(E) grants this Court original jurisdiction, they likewise fail.

Ms. Pike next contends that Rule 12(4)(E) is not effective because the General Assembly has not approved it. *See* Tenn. Code Ann. § 16-3-404 (2021) (providing that this Court’s rules “shall not take effect . . . until they have been approved by resolutions of both the house of representatives and the senate”). But section 16-3-404 has long been understood to require approval only of general rules of practice and procedure—i.e., the Rules of Civil Procedure, the Rules of Appellate Procedure, the Rules of Criminal Procedure, the Rules of Evidence, and the Rules of Juvenile Practice and Procedure—not the Rules of the Tennessee Supreme Court which govern practice before this Court. *See, e.g.,* S. Res. No. 78, 107th Gen. Assembly, Reg. Sess. (Tenn. 2012) (approving amendments to the Tennessee Rules of Civil Procedure); S. Res. No. 79, 107th Gen. Assembly, Reg. Sess. (Tenn. 2012) (approving amendments to the Tennessee Rules of Criminal Procedure); S. Res. No. 80, 107th Gen. Assembly, Reg. Sess. (Tenn. 2012) (approving amendments to the Tennessee Rules of Appellate Procedure); S. Res. No. 81,

107th Gen. Assembly, Reg. Sess. (Tenn. 2012) (approving amendments to the Tennessee Rules of Evidence); S. Res. No. 82, 107th Gen. Assembly, Reg. Sess. (Tenn. 2012) (approving amendments to the Tennessee Rules of Juvenile Procedure). The Tennessee Supreme Court Rules are not general rules of practice and procedure and therefore do not require legislative approval. Ms. Pike’s argument misses the mark.

Ms. Pike further argues that Rule 12(4)(E) is unconstitutionally vague in violation of the due process guarantees of the Tennessee and United States Constitutions. Specifically, she claims:

Rule 12(4)(E) is vague as to when it applies and when it does not; what effect it has on the statute of limitations, if any, for challenging a method of execution; whether it only applies to claims that may affect the timing and method of execution, or whether it applies to all claims a petitioner may raise when challenging a method of execution; whether the motion initiates a civil action; whether it can be filed at any point prior to an execution; or whether this Court can deny the motion outright even though it raises colorable claims of constitutional violations.

Rule 12(4)(E) is also vague as to the specific sequence a challenge must take. It provides no standard of review, no process for how the case should proceed, no allocation of burden of proof, or what factors a petitioner must satisfy to have the motion granted or a Special Master appointed. That type of arbitrariness is unconstitutional.

A law will be deemed void for vagueness if it “fails either to give a person of ordinary intelligence a reasonable opportunity to know what conduct is prohibited or to provide sufficient standards for enforcement.” *Moncier v. Bd. of Prof’l Resp.*, 406 S.W.3d 139, 152 (Tenn. 2013); *see State v. Crank*, 468 S.W.3d 15, 22 (Tenn. 2015) (“It is a basic principle of due process that an enactment is void for vagueness if its prohibitions are not clearly defined.”) (quoting *State v. Pickett*, 211 S.W.3d 696, 704 (Tenn. 2007)). The void-for-vagueness doctrine “rests on the twin constitutional pillars of due process and separation of powers.” *United States v. Davis*, 588 U.S. 445, 451 (2019). Due process requires that laws “give people of ‘common intelligence’ fair notice of what the law demands of them.” *Id.* (quoting *Connally v. General Constr. Co.*, 269 U.S. 385, 391 (1926)); *Crank*, 468 S.W.3d at 22–23 (“The primary purpose of the vagueness doctrine is to ensure that our statutes provide fair warning as to the nature of forbidden conduct so that individuals are not ‘held criminally responsible for conduct which [they] could not reasonably understand to be proscribed’” (quoting *United States v. Harriss*, 347 U.S. 612, 617 (1954))). And separation-of-powers principles require that the legislature—not the judicial or executive branches—make conduct a crime. *Davis*, 588 U.S. at 451.

It is doubtful that Rule 12(4)(E)—a court rule establishing the procedure for adjudicating a motion for a stay of execution—implicates the void-for-vagueness doctrine at all. Applying the doctrine to Rule 12(4)(E) does not further the fair-warning purpose of the doctrine because Rule 12(4)(E) does not prohibit any substantive conduct. Nor does applying the doctrine here further separation-of-powers principles. The interpretation and enforcement of Rule 12(4)(E)—a rule of procedure established by this Court to govern procedures in this Court—presents no risk of judicial intrusion on legislative authority. We have previously questioned whether procedural Rules of the Tennessee Supreme Court implicate the vagueness doctrine. *See Moncier*, 406 S.W.3d at 152 (holding that “even if the void-for-vagueness doctrine is implicated in these circumstances,” former Tennessee Supreme Court Rule 9, section 24.3, which governed the assessment of costs in attorney disciplinary proceedings, was not unconstitutionally vague). Ms. Pike’s vagueness challenge therefore fails out of the gate.

Even assuming that Rule 12(4)(E) is subject to a vagueness challenge, it easily passes muster. “A law is not void for vagueness if an ‘ordinary person exercising ordinary common sense’ can sufficiently understand the law and comply with [it].” *Moncier*, 406 S.W.3d at 152 (quoting *Arnett v. Kennedy*, 416 U.S. 134, 159 (1974)). Rule 12(4)(E) sets out a straightforward procedure for an inmate wishing to seek a stay of execution based on pending state collateral claims. To the extent Rule 12(4)(E) leaves some questions unanswered, that does not mean it is unconstitutionally vague. *See Crank*, 468 S.W.3d at 23 (explaining that “criminal statutes do not have to meet the unattainable standard of ‘absolute precision’” (quoting *State v. McDonald*, 534 S.W.2d 650, 651 (Tenn. 1976))). Any uncertainty at the edges can be resolved through judicial application of the rule and further amendments.

Finally, Ms. Pike argues that Rule 12(4)(E) is an unconstitutional taking in violation of Article I, sections 8 and 17 of the Tennessee Constitution; the Due Process Clause of the Fourteenth Amendment to the United States Constitution; and the Takings Clause of the Fifth Amendment to the United States Constitution. According to Ms. Pike, Rule 12(4)(E) “extinguishes an already-vested cause of action expressly provided by state and federal statute, the Tennessee Rules of Civil Procedure, and the Tennessee and United States Constitutions by forcing [her] to comply with an opaque and vague process to vindicate her fundamental rights.”

The Takings Clause of the Fifth Amendment to the United States Constitution and Article I, section 21 of the Tennessee Constitution prohibit the government from taking private property for public use without just compensation. U.S. Const. amend. V. (“[N]or shall private property be taken for public use, without just compensation.”); Tenn. Const. art. I, § 21 (“That no man’s particular services shall be demanded, or property taken, or applied to public use, without the consent of his representatives, or without just

compensation being made therefor.”); *see Phillips v. Montgomery Cnty.*, 442 S.W.3d 233, 238–39 (Tenn. 2014) (stating that the Takings Clause of the United States Constitution applies to the States through the Fourteenth Amendment).

To prevail on her takings claim, Ms. Pike must first establish that her “already vested cause of action” constitutes “property” under Tennessee law. *See Phillips v. Wash. Legal Found.*, 524 U.S. 156, 164 (1998) (“Because the Constitution protects rather than creates property interest, the existence of a property interest is determined by reference to ‘existing rules or understandings that stem from an independent source such as state law.’” (quoting *Bd. of Regents of State Colls. v. Roth*, 408 U.S. 564, 577 (1972))). She then must establish that Rule 12(4)(E) somehow “takes” that property for public purposes without just compensation. Even assuming that her state collateral claims constitute “property,” she cannot show that Rule 12(4)(E) “takes” that property. Rule 12(4)(E) does not eliminate state collateral claims; it merely provides a procedure for this Court to determine whether a stay of execution is warranted so that the claims may be fully adjudicated on the merits. That is not an unconstitutional taking. In any event, the remedy for any unconstitutional taking would not be a repeal or amendment of the rule, which is the relief Ms. Pike seeks. *See First Eng. Evangelical Lutheran Church v. Cnty. of Los Angeles*, 482 U.S. 304, 314–15 (1987). So even if this claim had merit, it would provide no basis for amending the rule.

In sum, we reject Ms. Pike’s challenges to Rule 12(4)(E) and deny her request to reconsider or amend the rule.

III. CONCLUSION

For all these reasons, the Court concludes that Ms. Pike is unlikely to succeed on her facial or as-applied challenges to the lethal injection protocol. We therefore deny her motion for a stay of execution. We also reject Ms. Pike’s challenges to Rule 12(4)(E) and deny her request that we amend the rule.

This order is not subject to rehearing under Rule 39 of the Tennessee Rules of Appellate Procedure, and the Clerk is directed to certify this order as final and to immediately issue the mandate.

As provided by this Court’s order of September 30, 2025, the Warden of the Riverbend Maximum Security Institution, or his designee, shall carry out the execution of Christa Gail Pike in accordance with Tennessee law on the 30th day of September, 2026, unless a stay is entered by this Court or by a federal court. Counsel for Christa Gail Pike shall provide to the Office of the Appellate Court Clerk in Nashville a copy of any order of stay. The Clerk shall expeditiously furnish a copy of any stay order to the Warden of the Riverbend Maximum Security Institution. This order is designated for publication pursuant

to Rule 4 of the Rules of the Tennessee Supreme Court.

PER CURIAM

KYLE A. HIXSON, J., not participating.