

FILED: January 7, 2021

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 20-18
(8:98-cr-00520-PJM-2)

UNITED STATES OF AMERICA

Plaintiff - Appellant

v.

DUSTIN JOHN HIGGS

Defendant - Appellee

ORDER

Upon consideration of the government's opening brief and the defendant's response brief, the court directs the clerk to schedule this case for remote oral argument on January 27, 2021, at 11:00 a.m. The parties may file any motions pertaining to the scheduling of argument by January 8, 2021.

Entered at the direction of Judge Keenan with the concurrence of Judge Floyd.
Judge Richardson dissented from the order and filed a dissenting opinion.

For the Court

/s/ Patricia S. Connor, Clerk

RICHARDSON, Circuit Judge, dissenting:

I respectfully dissent from the order delaying this case to schedule oral argument on January 27. Argument and more time for deliberation can be helpful, particularly in weighty matters like this one. But the Executive Branch scheduled Higgs's execution for January 15. And the parties agreed to an expedited briefing schedule to permit consideration of a single question of statutory interpretation before that date. *See* Fourth Circuit I.O.P. 22.1.

Respecting the Executive's prerogative to carry out duly imposed capital sentences, the Supreme Court acts with dispatch when a district court bars a scheduled execution. *See Barr v. Hall*, No. 20A102, 2020 WL 6797719 (U.S. Nov. 19, 2020) (mem.); *Barr v. Lee*, 140 S. Ct. 2590 (2020); *Barr v. Purkey*, 140 S. Ct. 2594 (2020) (mem.); *Barr v. Purkey*, 141 S. Ct. 196 (2020) (mem.). There is no good reason why we cannot do the same. So I respectfully dissent from the decision to delay this process to hear oral argument during our previously scheduled term of court, which falls two weeks after the scheduled execution.