

Statement of SOTOMAYOR, J.

SUPREME COURT OF THE UNITED STATES

No. 18–9227 (19A109)

ROBERT SPARKS *v.* LORIE DAVIS, DIRECTOR,
TEXAS DEPARTMENT OF CRIMINAL JUSTICE,
CORRECTIONAL INSTITUTIONS DIVISION

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

[September 25, 2019]

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

Statement of JUSTICE SOTOMAYOR respecting the denial of certiorari.

The allegations presented in this petition are disturbing. On the day the jury began punishment deliberations in petitioner Robert Sparks’ capital murder trial, one of the bailiffs on duty in the courtroom wore a black tie embroidered with a white syringe—a tie that he admitted he wore to express his support for the death penalty.

That an officer of the court conducted himself in such a manner is deeply troubling. Undoubtedly, such “distinctive, identifiable attire may affect a juror’s judgment.” *Estelle v. Williams*, 425 U. S. 501, 504–505 (1976). The state habeas court, however, conducted an evidentiary hearing but did not find sufficient evidence to conclude that the jury saw the tie. I therefore do not disagree with the denial of certiorari. I nevertheless hope that presiding judges aware of this kind of behavior would see fit to intervene in future cases by completely removing the offending item or court officer from the jury’s presence. Only this will ensure the “very dignity and decorum of judicial proceedings” they are

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entrusted to uphold. *Illinois v. Allen*, 397 U. S. 337, 344 (1970). The stakes—life in this case, liberty in many others—are too high to allow anything less.