No. 24-5561, 24A274

In the Supreme Court of the United States

MARCELLUS WILLIAMS, Petitioner,

v.

STATE OF MISSOURI, Respondent.

ON PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF MISSOURI

BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI AND TO MOTION FOR STAY OF EXECUTION

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CAPITAL CASE

QUESTIONS PRESENTED

The former Governor of Missouri established a committee to assess Marcellus Williams' clemency petition, as permitted by Missouri law. That governor's successor chose to exercise his clemency authority under the Missouri Constitution a different way and thus dissolved the committee.

The questions presented are:

1. Can federal courts dictate how Missouri's governor exercises discretionary clemency power under Missouri law, given this Court's holding that "pardon and commutation decisions have not traditionally been the business of courts; as such, they are rarely, if ever, appropriate subjects for judicial review." *Ohio Adult Parole Authority v. Woodward*, 523 U.S. 272, 276 (1998) (citation omitted)?
2. Is certiorari review and a stay consistent with *Bucklew v. Precythe*, 587 U.S. 119 (2019), given that the Missouri Supreme Court issued its ruling months ago, and Williams delayed filing this petition until "just days before his scheduled execution"?

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JURISDICTIONAL STATEMENT

This Court lacks jurisdiction to review the petition for certiorari because the Missouri Supreme Court's opinion below rests on an adequate and independent state law ground, in that the decision below rested on the state court's interpretation of Missouri's constitution and Missouri statutory law. Missouri's highest court determined that, as a matter of state law, Missouri's governor had the discretionary authority to dissolve the board of inquiry that he had empaneled to assist him in the exercise of his purely discretionary clemency authority.

To grant this petition, this Court would be required to overrule Missouri's highest court's interpretation of Missouri's constitution and statutory law. In other words, to reach the alleged due process violation from the purported deprivation of a statutorily-created interest, this Court would have to overrule the Missouri Supreme Court, not only on the meaning of Missouri Revised Statute § 552.070 (2016), but on the meaning of Missouri's constitution. But as "a well-established principle of federalism[,]" these adequate and independent state-law grounds render the challenged decision, "immune from review in the federal courts." *Wainwright v. Sykes*, 433 U.S. 72, 81 (1977).

STATEMENT OF THE CASE[1]

On August 11, 1998, Marcellus Williams went to University City, Missouri where he looked for a house to break into. *State v. Williams*, 97 S.W.3d 462, 466 (Mo. 2003). Williams selected Victim's home *Id*. Williams knocked out a window pane near the door, reached in and unlocked the door. *Id*. Williams went to the second floor and heard water running from Victim taking a shower. *Id*. Williams went back downstairs to the kitchen, found a butcher knife, and waited. *Id*.

When Victim came down the stairs Williams attacked, stabbing and cutting her forty-three times, inflicting seven fatal wounds. *Id*. at 466–67. Williams put on a jacket to hide the blood on his clothing. *Id*. at 466–67. When Williams left Victim's home, he took items including a laptop computer, its carrying case, and a purse containing a ruler with the name of a local newspaper where Victim had worked and a calculator. *Id*. at 467.

Later, Williams picked up his girlfriend ("Girlfriend"), who observed that Williams was wearing a jacket in the summer over a bloody shirt and that he had scratches on his neck. *Id*. Williams put his bloody clothing in a backpack and threw it in a sewer. *Id*. A day or two later, Williams sold the laptop to G.R.

A day later, Girlfriend found Victim's state identification card and a black coin purse in the trunk of the car that Williams drove. *Id*. Williams confessed to the

[1] Williams's statement of the case fails to recount the facts of his crime and culpability as they were found by the jury, so this Court should rely on Respondent's statement instead. *See* Rule 15.2.

murder to Girlfriend and provided details. *Id*. He grabbed her by the throat and threatened to kill her, her children, and her mother if she told anyone. *Id*.

Later, when incarcerated in jail on unrelated charges, Williams told a fellow inmate about the murder and provided details of the killing. *Id*. After he was released from jail, the man went to police and told them about the confession, providing details that were not known to the public. *Id*.

The police then went to Girlfriend and asked her about the murder. *Id*. Police found Victim's ruler and calculator in the car Williams drove and recovered Victim's laptop from G.R., to whom Williams had sold it. *Id*.

Williams filed an unsuccessful direct appeal in the Missouri Supreme Court. *State v. Williams*, 97 S.W.3d 463 (Mo. 2003). App. 2a. Then Williams filed an unsuccessful state post-conviction motion and an appeal of the denial of that motion. *Williams v. State*, 168 S.W.3d 433 (Mo. 2005). App. 2a. Next Williams filed a federal habeas petition, in which the appeal was decided in *Williams v. Roper*, 695 F.3d 825 (8th Cir. 2012). Williams litigated an unsuccessful state habeas corpus petition in 2015 that caused his scheduled 2015 execution date to be vacated. App. 2a. Facing a scheduled 2017 execution date, Williams filed another unsuccessful state habeas corpus action in 2017. App. 2a–3a.

But on August 22, 2017, Williams's execution was stayed when now-former Missouri Governor Eric R. Greitens issued Executive Order 17-20, staying the execution until such time as Missouri's governor could make a final determination on clemency and appointing a board of inquiry. App. 3a. The board of inquiry was

charged with collecting and considering evidence in relation to Williams's assertion of innocence.

In 2023, Missouri's current Governor, Michael L. Parson, issued Executive Order 23-06, lifting the stay and dissolving the board of inquiry. App. 4a. Williams filed a petition for declaratory judgment in the state trial court, asserting that Governor Parson could not lift the stay or dissolve the board of inquiry. App. 4a. After the trial court overruled Governor Parson's motion for judgment on the pleadings, Governor Parson sought immediate review in the Missouri Supreme Court. App. 4a. The Missouri Supreme Court issued a preliminary writ of prohibition. App. 4a.

After briefing and argument, the Missouri Supreme Court held that the text of Missouri's constitution recognizes the governor's clemency authority "encompasses three distinct actions: reprieves, commutations, and pardons." App. 6a. The court found that under its interpretation of Missouri's constitution, the former governor, in issuing Executive Order 17-20, had granted Williams a reprieve, which is a temporary respite from the execution of a sentence. App. 7a. The court found that "[a]s a temporary, discretionary respite from a sentence, a reprieve creates no rights and carries only the necessary expectation that the governor may rescind it at any time." App. 7a.

In interpreting Missouri Revised Statute § 552.070, the Missouri Supreme Court held that, in interpreting the statute by its traditional canons of statutory interpretation that avoid unreasonable and absurd results and constructions that create questions of a statute's constitutional validity, the argument that § 552.070

limits the Governor's constitutional authority to grant or withhold clemency lacked merit. App. 7a–8a. The Missouri Supreme Court found that "[§] 552.070 does not limit [the] [g]overnor's authority to rescind Executive Order 17-20 and order the execution of Williams' lawfully imposed sentence." App. 9a. The Missouri Supreme Court interpreted § 552.070 to impose only one obligation on the governor—that he "in addition to the board, is to hold any information gathered by the board in strict confidence."[2] App. 9a.

The Missouri Supreme Court went on to hold that neither § 552.070 nor the reprieve order provided a state-created right triggering due process. App. 11a–16a. In doing so, the Missouri Supreme Court considered the three opinions in *Ohio Adult Parole Authority v. Woodard*, 523 U.S. 272, 289 (1998). In *Woodard*, this Court split between two concurring opinions, each joined by four justices. *Woodard*, 523 U.S. at 275 (Rehnquist, J., concurring), 288 (O'Connor J., concurring). While the Missouri Supreme Court held that Chief Justice Rehnquist's concurring opinion controlled its decision, it stated that its conclusion—that neither Article 4, § 7 of Missouri's constitution nor § 552.070 created a protectable interest in any specific procedural rights during the state clemency process—was the same whether it treated the opinion of Chief Justice Rehnquist or the opinion of Justice O'Connor in *Woodward*

[2] Williams's statement of the case asserts that Governor Parson did not admit or deny the existence of a report by the board of inquiry. Importantly, in discussing this obligation, the Missouri Supreme Court stated, "In addition to the constitutional reservation of clemency power to the governor, Williams' declaratory judgment action and proposed discovery are at odds with the statutory confidentiality requirement, further demonstrating the likelihood of irreparable harm and necessity of a writ of prohibition." App 9a n.7.

as controlling. App. 15a, 16a n.10. The Missouri Supreme Court closed by stating, Williams's "argument distills to an act for gubernatorial mercy, not a valid argument for recognizing due process rights in [the] [g]overnor's exercise of the discretionary clemency power." App. 15a. The Supreme Court of Missouri then made its preliminary writ of prohibition permanent. App. 16a.

SUMMARY OF THE ARGUMENT

Petitioner's argument is built on attacking strawmen. The first strawman is that a Missouri statute creates a board which has the power to stay an execution indefinitely by not doing anything and that this prevents the Governor from exercising his clemency power under Missouri's constitution by rescinding a reprieve. But the Supreme Court of Missouri held that understanding of Missouri law is contrary to the statute and, more importantly, to Missouri's constitution. This Court may not overrule the Missouri Supreme Court on the interpretation of the Missouri Constitution.

The second strawman is that his case involves a split that can be resolved in this case over whether the opinion of Chief Justice Rehnquist or the opinion of Justice O'Connor controls. But the Supreme Court of Missouri held that the result is the same under either opinion. So, the resolution of that question would be an advisory opinion.

The third strawman is that the Governor revoked a grant of something other than a reprieve, which, by its nature under Missouri law, creates no expectancy of anything except that it may be rescinded at the discretion of the Governor.

REASONS FOR DENYING THE PETITION

I. This case is an exceptionally poor vehicle for addressing the questions presented.

Williams's petition presents an exceptionally poor vehicle for addressing the questions presented because it does not invoke this Court's jurisdiction and because Williams's has constructed and executed a strategy of extreme delay of bringing this petition.

A. This Court has no jurisdiction to consider this petition because Petitioner's due process argument is built on the assumption that the Missouri Supreme Court misinterpreted and misapplied the Missouri Constitution and a Missouri statute.

As discussed in the jurisdictional statement above, this Court lacks jurisdiction to review the petition for certiorari because the Missouri Supreme Court's opinion below rests on an adequate and independent state law ground, in that the decision below rested on the state court's interpretation of Missouri's constitution and Missouri statutory law. Missouri's highest court determined that, as a matter of state law, Missouri's governor had the discretionary authority to dissolve the board of inquiry that he had empaneled to assist him in the exercise of his purely discretionary clemency authority. In alleging his due process rights were violated by gubernatorial action, Williams ignores the fact that the Missouri Supreme Court held that, under Missouri's Constitution and under its interpretation of Missouri law, the statute Williams relies on did not create an entitlement to anything or prevent the governor from rescinding the discretionary reprieve at any time.

At issue in this petition, is one constitutional provision and one statute. The constitutional provision, Article 4, § 7 of Missouri's constitution states:

> The governor shall have power to grant reprieves, commutations and pardons, after conviction, for all offenses except treason and cases of impeachment, upon such conditions and with such restrictions and limitations as he may deem proper, subject to provisions of law as to the manner of applying for pardons. The power to pardon shall not include the power to parole.

While the statute, § 552.070, states:

> In the exercise of his powers under Article IV, Section 7 of the Constitution of Missouri to grant reprieves, commutations and pardons after conviction, the governor may, in his discretion, appoint a board of inquiry whose duty it shall be to gather information, whether or not admissible in a court of law, bearing upon whether or not a person condemned to death should be executed or reprieved or pardoned, or whether the person's sentence should be commuted. It is the duty of all persons and institutions to give information and assistance to the board, members of which shall serve without remuneration. Such board shall make its report and recommendations to the governor. All information gathered by the board shall be received and held by it and the governor in strict confidence.

The Missouri Supreme Court held that the text of Article 4, § 7 of Missouri's constitution recognizes the governor's clemency authority "encompasses three distinct actions: reprieves, commutations, and pardons." App. 6a. The court found that under its interpretation of Missouri's constitution, the governor had granted Williams a reprieve, which is a temporary respite from the execution of a sentence. App. 7a. The court found that "[a]s a temporary, discretionary respite from a sentence, a reprieve creates no rights and carries only the necessary expectation that the governor may rescind it at any time." App. 7a. In other words, the Missouri

Supreme Court held that because Executive Order 17-20 was a reprieve, the governor was, as a matter of state constitutional law, free to rescind it at any time. App. 7a.

In interpreting § 552.070, the Missouri Supreme Court held that, in interpreting the statute by its traditional canons of statutory interpretation that avoid unreasonable and absurd results and constructions that create questions of a statute's constitutional validity, the argument that § 552.070 limits the Governor's constitutional authority to grant or withhold clemency lacked merit. App. 7a–8a. The Missouri Supreme Court found "[§] 552.070 does not limit [the] [g]overnor's authority to rescind Executive Order 17-20 and order the execution of Williams' lawfully imposed sentence." App. 9a. The Missouri Supreme Court interpreted § 552.070 to impose only one obligation on the governor—that he "in addition to the board, is to hold any information gathered by the board in strict confidence."[3] App. 9a.

The Missouri Supreme Court went on to hold that neither § 552.070 nor the reprieve order provided a state-created right triggering due process. App. 11a–16a. In doing so, the Missouri Supreme Court considered the three opinions in *Woodard*. In *Woodard*, this Court split between two concurring opinions, each joined by four justices. *Woodard*, 523 U.S. at 275 (Rehnquist, J., concurring), 288 (O'Connor J., concurring). While the Missouri Supreme Court held that Chief Justice Rehnquist's

[3] Williams's statement of the case asserts that Governor Parson did not admit or deny the existence of a report by the board of inquiry. Importantly, in discussing this obligation, the Missouri Supreme Court stated, "In addition to the constitutional reservation of clemency power to the governor, Williams' declaratory judgment action and proposed discovery are at odds with the statutory confidentiality requirement, further demonstrating the likelihood of irreparable harm and necessity of a writ of prohibition." App 9a n.7.

concurring opinion controlled its decision, it stated that its conclusion—that neither Article 4, § 7 of Missouri's constitution nor § 552.070 created a protectable interest in any specific procedural rights during the state clemency process—was the same whether it treated the opinion of Chief Justice Rehnquist or the opinion of Justice O'Connor in *Woodward* as controlling. App. 15a, 16a n.10. But no matter the ultimate resolution of which *Woodard* opinion controls, that question is merely academic to this case because the Missouri Supreme Court's decision rests on its interpretation of state law.

"The adequate and independent state grounds doctrine is the product of two fundamental features of [this Court's] jurisdiction." *Cruz v. Arizona*, 598 U.S. 17, 32 (2023) (Barrett, J, dissenting). "First, this Court is powerless to revise a state court's interpretation of its own law." *Id.* Thus, this Court "cannot disturb state-court rulings on state-law questions that are independent of federal law." *Id.* "Second, Article III empowers federal courts to render judgments, not advisory opinions." *Id.* Both features are relevant here.

While the Missouri Supreme Court did apply this Court's due process precedent, it did so against the backdrop of Missouri state law. And its decision now rests on its determination that, as a matter of state law, Missouri's constitution and statutes do not specify any process, create any right, or limit the Missouri governor's authority to consider requests for clemency. And in Missouri, clemency "is 'a mere matter of grace' that the governor can exercise 'upon such conditions and with such restrictions and limitations as he may think proper.'" *State ex rel. Lute v. Mo. Bd. of*

Prob. & Parole, 218 S.W.3d 431, 435 (Mo. 2007) (quoting *Ex Parte Reno*, 66 Mo. 266, 269, 273 (Mo. 1877)). This exclusive authority is deeply rooted in Missouri's sovereignty, existing since Missouri's statehood. App. 6a n.5. ("Since statehood, the Missouri Constitution has vested the governor with exclusive authority to grant or withhold clemency.").

Therefore, in order to reach the alleged due process violation from the purported deprivation of a statutorily-created interest, this Court would have to overrule the Missouri Supreme Court, not only on the meaning § 552.070, but on the meaning of Missouri's constitution. It should not. *See Murdock v. Memphis*, 87 U.S. 590 (1875).

In addition, any opinion finding Justice O'Connor's opinion is actually controlling would be advisory, as the Missouri Supreme Court also considered the test announced in that opinion in granting Governor Parson's petition for a permanent writ of prohibition. Further, because the highest state court already found that neither § 552.070 nor Article 4, § 7 of Missouri's constitution required any specific procedure on behalf of the governor during clemency consideration, Williams cannot show how an opinion from this Court stating Justice O'Connor's opinion in *Woodard* controlled would have any effect on the issues below.

Put simply, the decision below rests on adequate and independent state law grounds, and as "a well-established principle of federalism[,]" these adequate and independent state-law grounds render the decision, "immune from review in the federal courts." *Wainwright v. Sykes*, 433 U.S. 72, 81 (1977); *accord Lee v. Kemna*,

534 U.S. 362, 375 (2002); *Coleman v. Thompson*, 501 U.S. 722, 729 (1991). This Court should deny the petition for certiorari.

B. Williams unreasonably delayed in bringing this petition.

"Both the State and the victims of crime have an important interest in the timely enforcement of a sentence." *Bucklew v. Precythe*, 587 U.S. 119, 149 (2019) (quoting *Hill v. McDonough*, 547 U.S. 573, 584 (2006)). "Those interests have been frustrated in this case." *Id.* Williams committed his crimes more than two decades ago. *Williams I*, 97 S.W.3d at 466. He has exhausted nearly every state and federal avenue for review, some more than once. And each and every time, Williams's claims have been found to be meritless. In short, Williams "has managed to secure delay through lawsuit after lawsuit." *Bucklew*, 1587 U.S. at 149.

Now, at the eleventh hour, Williams has filed this petition seeking certiorari and an equitable, emergency stay. But Williams's attempts to manufacture an emergency through dilatory tactics cautions against this Court granting certiorari to review his questions presented. Indeed, the Missouri Supreme Court issued the challenged decision making its preliminary writ of prohibition permanent on June 4, 2024. Williams filed a motion for rehearing in the Missouri Supreme Court, which was denied on July 12, 2024.

At that time, Williams had at least one month's notice of the Missouri Supreme Court order and warrant setting his execution date as September 24, 2024. Nevertheless, Williams delayed for sixty-eight days before filing this petition, consuming nearly all of the seventy-four total days between the challenged decision

and his execution. This delay is unreasonable, and "[t]he people of Missouri, the surviving victims of [Williams's] crimes, and others like them deserve better." *Id.* This Court should deny the petition for a writ of certiorari to prevent Williams from benefitting from a strategy centered on unwarranted an unjust delay.

II. The decision of the Missouri Supreme Court is consistent with all salient aspects of *Woodard*, and it does not contribute to any alleged split among lower courts.

Petitioner alleges that the decision of the Missouri Supreme Court is part of a split over whether the opinion of Chief Justice Rehnquist or Justice O'Connor is the controlling opinion in *Woodard*. Pet. Br. 6–17. Below, the Missouri Supreme Court held that Chief Justice Rehnquist's opinion constituted the controlling opinion of the Court because "it is the position taken by those Justices who concurred in the judgment on the narrowest grounds." Pet. App. 14a. Later, the Missouri Supreme Court issued an alternative holding, writing that "Applying Justice O'Connor's 'minimal' due process standard does not change the conclusion" that there was no due process violation. Pet. App. 16a n. 11.

In order to avoid this conclusion, Williams attempts to manufacture *another* circuit split, by alleging that different courts have interpreted Justice O'Connor's opinion in different ways. Pet. Br. 14–17. But Petitioner fails to mention that the Missouri Supreme Court, interpreting Missouri state law, held that § 552.070 did not implicate any existing right which would, in turn, trigger the Due Process Clause. Pet. App. 12a, 15a. Indeed, Williams has the ability to petition the Missouri Governor for clemency, and the opinion below in no way burdens that ability. Pet. App. 16a

n.11. Petitioner has submitted a clemency application to Missouri's Governor, his counsel have met with Missouri's Governor, and Missouri's Governor is considering that application. *See, e.g.,* Jim Salter, *Court appeals, clemency petition seek to halt execution of Missouri man who claims innocence,* Associated Press (3:17 p.m. Sept. 17, 2024), https://apnews.com/article/marcellus-williams-execution-missouri-046592c06e06728ff9ff3a3268b6c25b ("A spokesman for Parson said in an email Tuesday that attorneys for the governor's office have met with Williams' legal team, and Parson will announce a decision later, typically at least a day before the scheduled execution."). When a state court interprets the meaning of state law, that does not present a federal question for this Court to decide. *See, e.g., Missouri ex rel. Southern R. Co. v. Mayfield*, 340 U.S. 1, 4 (1950).

At bottom, Williams's claims of a circuit split are irrelevant to this case because the Missouri Supreme Court analyzed Williams claim under *both* Justice O'Connor's opinion and Chief Justice Rehnquist's opinion. Moreover, Williams's other alleged circuit split is equally irrelevant because the Missouri Supreme Court, analyzing Missouri state law, found that § 552.070 did not create any right implicating the Due Process Clause.

Petitioner advances a final argument: that this case would present a good vehicle to "clarify the proper approach under *Marks*" *v. United States*, 430 U.S. 188 (1977). Pet. Br. 18–19. But in light of petitioner's decision to seek certiorari just days before his scheduled execution, months after the Missouri Supreme Court issued its decision, this is a poor vehicle for consideration of any such question.

In any event, petitioner fails to explain why the *Marks* rule should be "clarified" and instead merely argues that other courts have not applied *Marks* in the way that Petitioner would prefer. Pet. Br. 18–19. Of course, this Court is not in the business of mere error correction. *See, e.g., Price v. Dunn*, 139 S. Ct. 1533, 1539 (2019) (Opinion of Thomas, J.). And, as explained above, this case is an exceptionally poor vehicle to consider *Marks* because the Missouri Supreme Court's analysis includes reviewing the claim under *both* Justice O'Connor's opinion and Chief Justice Rehnquist's opinion and *also* finds that, as a matter of state law, § 552.070 did not create any right implicating the Due Process Clause because Petitioner could still (and did) petition the governor for clemency.

III. This is not a case about the revocation of clemency.

Petitioner alleges that this is a case about the revocation of clemency and that such a revocation creates heightened rights. Pet. Br. 19–25. But this is not a case about a revocation because, as the Missouri Supreme Court explained, "Executive Order 17-20 was a reprieve . . . ." Pet. App. 7a. The Missouri Supreme Court reached this conclusion by applying the facts of the case to state law, specifically, the Missouri Constitution. Pet. App. 5a–6a. The Missouri Supreme Court held that under the Missouri Constitution, the Governor had granted a reprieve, which is a temporary respite from sentence, that a reprieve creates no rights, and that a reprieve carries the expectation that the Governor may rescind it at any time. Pet. App. 7a.

Because the Missouri Supreme Court's decision turns on an interpretation of the Missouri Constitution, it does not present a federal question for this Court's

certiorari review. *Coleman v. Thompson*, 501 U.S. 722, 729 (1991). In *Coleman*, this Court explained that it will not "review a question of federal law decided by a state court if the decision of that court rests on a state law ground that is independent of the federal question and adequate to support the judgment."

This Court should deny the petition for the writ of certiorari.

REASONS FOR DENYING THE APPLICATION FOR STAY OF EXECUTION

"[A] stay of execution is an equitable remedy. It is not available as a matter of right, and equity must be sensitive to the State's strong interest in enforcing its criminal judgments without undue interference from the federal courts." *Hill v. McDonough*, 547 U.S. 573, 584 (2006). A request for a stay of execution must meet the standard required for all other stay applications. *Id.* "Under that standard, a court considers four factors: '(1) whether the stay applicant has made a strong showing that he is likely to succeed on the merits; (2) whether the applicant will be irreparably injured absent a stay; (3) whether issuance of the stay will substantially injure the other parties interested in the proceeding; and (4) where the public interest lies.'" *Nken v. Holder*, 556 U.S. 418, 425–26 (2009) (quoting *Hilton v. Braunskill*, 481 U.S. 770, 776 (1987)).

"Given the State's significant interest in enforcing its criminal judgments, there is a strong equitable presumption against the grant of a stay where a claim could have been brought at such a time as to allow consideration of the merits without requiring entry of a stay." *Nelson v. Campbell*, 541 U.S. 637, 650 (2004); *see also, e.g.*, *Gomez v. U.S. Dist. Ct. for N. Dist. of Cal.*, 503 U.S. 653, 654 (1992) (per curiam)

(holding that the "last-minute nature of an application" may be grounds for denial of a stay). Indeed, "an inmate is not entitled to a stay of execution as a matter of course." *Hill*, 547 U.S. at 583–84. This is because "both the State and crime victims have an important interest in the timely enforcement of a sentence." *Id.* at 584. Belated motions for stay are not favored because they offend the State's and the victims' rights to final disposition of criminal judgments. *Bucklew*, 587 U.S. at 149.

Here, Petitioner has not demonstrated any probability that this Court will grant a writ of certiorari, let alone a fair prospect that he would win on the merits. This Court has no jurisdiction in the case, as it would have to overrule the Missouri Supreme Court on the interpretation of the Missouri Constitution, which this Court cannot do. *Coleman*, 501 U.S. at 729.

Here, the alleged point of a stay would be to allow Williams to litigate alleged meritorious challenges to his judgment of conviction and sentence. The alleged harm from denying a stay would be that Williams could not litigate those allegedly meritorious claims. But, as discussed above, Williams has no meritorious claims. The only effect of a stay would be further delay in case that has already been delayed many years through Williams' litigation of meritless claims. It is not irreparable harm by any reasonable definition that Williams is not allowed to delay the execution of his sentence by continuously presenting meritless claims.

In contrast, the State of Missouri, crime victims, for whom the case goes on for decades without resolution, and the criminal justice system are all harmed by endless litigation of meritless claims. *See Bucklew v. Precythe*, 587 U.S. 119, 149–50 (2019)

(noting that the State and crime victims have an important interest in timely enforcement of a sentence and that the people of Missouri and crime victims deserve better than the excessive delays that now routinely occur before the enforcement of a death sentence); *see also Wainwright v. Sykes*, 433 U.S. 72, 90 (1977) (noting the criminal trial should be the main event in a criminal case rather than a tryout on the road for later litigation). This is especially true when, as here, the vast majority of a petitioner's meritless claims have already been rejected by this Court before the current litigation.

This real and concreate harm far outweighs any alleged injury to Williams from not being allowed to delay execution of his sentence through meritless litigation. This Court should deny the application for stay of execution.

CONCLUSION

This Court should deny the petition for a writ of certiorari. This Court should also deny the application for a stay of execution.

Respectfully submitted,

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