No. 24A890

In the

Supreme Court of the United States

EDWARD THOMAS JAMES,

Petitioner,

v.

STATE OF FLORIDA,

Respondent.

ON PETITION FOR A WRIT OF CERTIORARI
TO THE SUPREME COURT OF FLORIDA

RESPONSE TO APPLICATION FOR STAY OF EXECUTION

On March 17, 2025, James, represented by state postconviction counsel Dawn Macready and the Capital Collateral Regional Counsel ("CCRC"), filed in this Court, a petition for writ of certiorari seeking review of a decision from the Florida Supreme Court in this active death warrant case. The petition raises two issues: (1) whether a state law that prohibits Florida courts from considering evolving standards of decency may preclude Mr. James from filing a claim that his execution would violate the Eighth Amendment because his death sentences were non-unanimous; and (2) whether the Florida Courts' failure to reconsider Mr. James' timeline ruling and the competency of his 2003 waiver treated Mr. James differently from other similar individuals and denied him his rights under the Sixth, Eighth, and Fourteenth Amendments. He also filed an

application for a stay of execution based on that petition. This Court, however, should simply deny the petition and then deny the stay.

Stays of Execution

Stays of executions are not granted as "a matter of course." *Hill v. McDonough*, 547 U.S. 573, 583-84 (2006). A stay of execution is "an equitable remedy" and "equity must be sensitive to the State's strong interest in enforcing its criminal judgments without undue interference from the federal courts." *Id.* at 584. 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). Equity must also consider "an inmate's attempt at manipulation." *Gomez v. U.S. Dist. Ct. for N. Dist. of Cal.*, 503 U.S. 653, 654 (1992).

"Both the State and the victims of crime have an important interest in the timely enforcement of a sentence." *Calderon v. Thompson*, 523 U.S. 538, 556 (1998). This Court has highlighted the State's and the victims' interests in the timely enforcement of the death sentence. *Bucklew v. Precythe*, 587 U.S. 119, 149-151 (2019). The people of Florida, as well as surviving victims and their families, "deserve better" than the "excessive" delays that now typically occur in capital cases. *Id.* at 149. The Court has stated that courts should "police carefully" against last-minute claims being used "as tools to interpose unjustified delay" in executions. *Id*. at 150. This Court has also stated that last-minute stays of execution should be the "extreme exception, not the norm." *Id.*

To be granted a stay of execution, James must establish three factors: (1) a reasonable probability that the Court would vote to grant certiorari; (2) a significant

possibility of reversal if review was granted; and (3) a likelihood of irreparable injury to the applicant in the absence of a stay. *Barefoot v. Estelle*, 463 U.S. 880, 895 (1983). James must establish all three factors.

Probability of This Court Granting Certiorari

As to the first factor, there is little chance that four justices of this Court would vote to grant certiorari review on the issues raised here. In state court, James raised a claim that the Eighth Amendment requires jury sentencing. The Florida Supreme Court found James' claim both procedurally barred under Florida law and meritless under the federal and Florida constitutions. *James v. State*, No. SC2025-0280, 2025 WL 798376, at *8 (Fla. Mar. 13, 2025). The procedural bar applied in state court below is reason enough to deny review. This Court does not grant review of issues that are matters of state law. *Foster v. Chatman*, 578 U.S. 488, 497 (2016); *Michigan v. Long*, 463 U.S. 1032, 1041-42 (1983).

Further, James' instant argument that there is a lack of consensus in state and federal courts regarding whether a substantive claim of mental incompetency can be subject to a time or procedural bar was not made in either his post-warrant successive postconviction motion or in his post-warrant habeas petition. Instead, he argued that the state court should revisit its earlier timeliness rulings because of an amendment to a rule of state criminal procedure, inconsistent treatment of defendants seeking to reinstate postconviction proceedings, newly received CT scans, and "manifest injustice." Because he did not present the same federal question in state court, this Court has "no power to consider it." *Street v. New York*, 394 U.S. 576, 581-82 (1969); *see also Hill v. California,*

401 U.S. 797, 805 (1971) (finding an issue was not properly before this Court when it was never raised, briefed, or argued in the state appellate court).

There is little probability that the Court would vote to grant certiorari review under these circumstances. James fails the first factor, which alone is sufficient to deny the motion for a stay.

Significant Possibility of Reversal

As to the second factor, there is not a significant possibility of reversal on either of the issues raised by James. There is no significant possibility of reversal on the issue of the Eighth Amendment requiring jury sentencing. In *Spaziano v. Florida*, 468 U.S. 447, 459-61 (1984), the Court refused to interpret the Eighth Amendment to require jury sentencing, reasoning that individualized sentencing did not require the jury's participation. *Hurst v. Florida*, 577 U.S. 92 (2016), did not address the Eighth Amendment claim and therefore, *Hurst* did not overrule that part of *Spaziano*. The *Hurst* Court overruled *Spaziano* only "to the extent" it allowed "a sentencing judge to find an aggravating circumstance, independent of a jury's factfinding." *Id.* at 102. *Spaziano* remains good law in the wake of *Hurst*.

Moreover, this Court reaffirmed the view that "States that leave the ultimate life-or-death decision to the judge may continue to do so." *McKinney v. Arizona*, 589 U.S. 139, 145 (2020) (quoting Justice Scalia's concurring opinion in *Ring v. Arizona*, 536 U.S. 584, 612 (2002)). While *McKinney* was decided as a matter of the Sixth Amendment right-to-a-jury-trial provision, that is because that is the constitutional provision that actually applies to such a claim. If the Eighth Amendment does not require jury sentencing, which

it does not under this Court's current precedent, then it cannot require unanimous jury sentencing.

Similarly, there is no significant possibility of reversal on the issue of whether a postconviction procedural bar to a competency claim violates the Due Process Clause. There is no federal constitutional right to state postconviction proceedings. *Pennsylvania v. Finley*, 481 U.S. 551, 557 (1987). States have no obligation to provide postconviction relief and when a state does, it is only fundamental fairness that governs such proceedings. *Id*. A convicted defendant's due process rights "must be analyzed in light of the fact that he has already been found guilty at a fair trial and has only a limited interest in postconviction relief." *Dist. Attorney's Off. for Third Jud. Dist. v. Osborne*, 557 U.S. 52, 69 (2009). Only if the state's postconviction procedures violate fundamental fairness may they be challenged in federal court. *Osborne*, 557 U.S. at 69 (citing *Medina v. California*, 505 U.S. 437, 446, 448 (1992)).

Here, James was found to be competent by the lower court in 2003. *James v. State*, 974 So. 2d 365, 366 (Fla. 2008) (noting the postconviction court "held a hearing to determine whether James was competent and fully understood the consequences of dismissing the postconviction motion" in the appeal of his motion to reinstate). Indeed, as the Florida Supreme Court noted, James' postconviction attorney did not challenge the validity of the original waiver in that appeal. *Id*. at 368.

Fundamental fairness does not mandate that James be allowed to relitigate his competency in 2003 to waive state postconviction proceedings, based on new evidence of his cerebral atrophy, discovered 20 years later, and on the eve of a warrant.

James fails the second factor as well.

Irreparable Injury

As to the third factor of irreparable injury, it is a given in capital cases. While the execution will cause irreparable injury, that is the inherent nature of a death sentence. The factors for granting a stay are taken from the standard for granting a stay as applied to normal civil litigation. This factor is not a natural fit in capital cases. In the capital context, more should be required. Otherwise, this factor would automatically be satisfied in every capital case. Indeed, this Court has stated in the capital context that "the *relative* harms to the parties" must still be considered, including "the State's significant interest in enforcing its criminal judgments." *Nelson*, 541 U.S. at 649-50 (emphasis added).

Here, James does not provide any unique or special argument as to why a last-minute stay is warranted in his specific case that outweighs the State's interest in enforcing the law. While the execution means James' pending litigation will be rendered moot, that consideration must be balanced by the fact that James has had years to raise these claims and did not do so until the eve of the execution. As the Eleventh Circuit has noted regarding stays of execution, they amount to a commutation of a death sentence to a life sentence for the duration of the stay. *Bowles v. DeSantis*, 934 F.3d 1230, 1248 (11th Cir. 2019) (citing *Bucklew v. Precythe*, 587 U.S. 119, 149-151 (2019)). Without finality, "the criminal law is deprived of much of its deterrent effect." *Calderon v. Thompson*, 523 U.S. 538, 555-56 (1998). And real finality is the execution. Because James points to no specific argument in support of this factor, he fails this prong as well.

James fails to meet any of the three factors for being granted a stay of execution. Therefore, the application for a stay of execution should be denied.

Respectfully submitted,

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