No. 24A1202

IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM 2024

ANTHONY FLOYD WAINWRIGHT,

Petitioner,

v.

STATE OF FLORIDA,

Respondent.

On Petition for a Writ of Certiorari to the Supreme Court of Florida

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REPLY IN SUPPORT OF APPLICATION FOR STAY OF EXECUTION

THIS IS A CAPITAL CASE
WITH AN EXECUTION SCHEDULED FOR
TUESDAY, JUNE 10, 2025, AT 6:00 P.M.

Respondent's stay response ignores both the facts and equities present in this case.

As to the likelihood of this Court granting certiorari review and finding in Mr. Wainwright's favor, this is substantial. The State failed to disclose material exculpatory evidence, either at trial or in the ensuing decades. Evidence of the State's suppressed dealings with a jailhouse informant in exchange for his testimony against Mr. Wainwright—a clear violation of this Court's longstanding precedent—was only disclosed by the informant himself after the signing of Mr. Wainwright's death

warrant. This is a meritorious claim with a substantial likelihood of success.

Respondent's argument to the contrary is unavailing. Contrary to Respondent's bizarre assertion, Response at 3, Mr. Wainwright's petition for writ of certiorari explained in detail that the state court's *Brady* materiality analysis was flawed. Petition at 21-23. And, as the petition also explains, the other "damning" evidence Respondent points to, Response at 3, has been greatly undermined in the years after Mr. Wainwright's trial.

Further, as Mr. Wainwright's petition and supporting reply make clear, the compelling claim related to his *in utero* Agent Orange exposure is of a constitutional nature. *See* Petition at 23-33; Reply at 6-8. And, as Mr. Wainwright has discussed, the procedural hurdles Respondent alleges are disproven by the record below. *Id*. There is a substantial likelihood that this Court will grant certiorari and decide the issues presented in Mr. Wainwright's favor.

As to the remaining stay considerations, to the extent Respondent relies on Mr. Wainwright's death sentence becoming final in 1998 to assert that a brief stay would harm the State, this should be disregarded. Mr. Wainwright has been warrant eligible for nearly 20 years, and for approximately 60% of his time on death row. A brief stay to allow Mr. Wainwright to litigate his substantial constitutional issues—which include State misconduct in the form of suppressed material favorable evidence—would not cause any significant harm to the State.

Finally, this Court should conclusively reject Respondent's assertion—which the State of Florida repeatedly makes during death warrant litigation—that "[i]n the

capital context, more should be required to establish irreparable injury than the execution itself. Otherwise this factor would automatically be satisfied in every capital case." Response at 5. The case law is clear in this Court and below that this stay factor "is necessarily present in capital cases." *Wainwright v. Booker*, 473 U.S. 935, 935 n.1 (1985); *see also Ferguson v. Warden, Fla. State Prison*, 493 F. Appx. 22, 26 (11th Cir. 2012) (Wilson, J., concurring) ("As a general rule, in the circumstance of an imminent execution, this court presumes the existence of irreparable injury."). That Mr. Wainwright clearly satisfies this factor by virtue of the death sentence Florida intends to carry out on Tuesday is not a reason for Respondent to ignore the law.

This Court should grant a stay of execution.

Respectfully submitted,

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