Capital Case No. 24A1204

In the Supreme Court of the United States

IN RE ANTHONY FLOYD WAINWRIGHT, *Petitioner*,

ON PETITION FOR AN ORIGINAL WRIT OF HABEAS CORPUS

EXECUTION SCHEDULED FOR JUNE 10, 2025, AT 6:00 P.M.

RESPONSE TO APPLICATION FOR A STAY OF THE EXECUTION

On June 6, 2025, Wainwright, represented by the Capital Habeas Unit of the Office of the Federal Public Defender of the Northern District of Florida (CHU-N), filed a petition for an original writ of habeas corpus in this active warrant case. *In Re Wainwright*, No. 24-7368. The petition for an original writ raised five questions related to an alleged violation of *Brady v. Maryland*, 373 U.S. 83 (1963).

Wainwright also filed an application for a stay of the execution. Wainwright seeks a stay to ensure "meaningful review" of his petition by this Court. Motion at 2-3. But no stay is required. The question of whether this Court should issue an original writ of habeas corpus is fully briefed and easily decided. This Court should simply deny the petition for an original writ and then deny the stay.

Stays of executions

Stays of executions are not granted as "a matter of course." *Hill v. McDonough*, 547 U.S. 573, 583-84 (2006). Rather, a stay 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 repeatedly stated that last minute stays of execution should be the "extreme exception, not the norm." *Barr v. Lee*, 591 U.S. 979, 981 (2020) (vacating a lower court's grant of a stay of a federal execution quoting *Bucklew*, 587 U.S. at 151).

Standard for a stay for original petitions

Normally, to be granted a stay of execution in this Court, the petitioner 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).

But the three *Barefoot* factors do not apply to a motion for a stay involving a petition for an original writ of habeas corpus. While the correct standard for a stay for an original writ is not clear, it presumably involves a variation of the last two *Barefoot* factors, becoming: (1) whether there is a significant possibility of this Court granting an original writ of habeas corpus and (2) the likelihood of irreparable injury other than the execution itself.

There is not a significant possibility of this Court granting an original writ of habeas corpus. Under this Court's rules, such writs are only "rarely granted" and only in "exceptional circumstances." Sup. Ct. R. 20.4(a). There are no exceptional circumstances. None of the questions raised in the petition, the facts of *Brady* claim, or the procedural posture of the case is even unusual, much less exceptional. Wainwright is raising a run-of-the-mill claim of a violation of *Brady v. Maryland*, 373 U.S. 83 (1963), involving common facts. As explained in more detail in the accompanying response to the petition for an original writ, Wainwright's petition does not meet the requirements of Rule 20.4(a). Because the petition does not satisfy the applicable rule, there is not a significant possibility of this Court

granting an original writ of habeas corpus.

And, in practice, this Court adjudicating a petition for an original writ of habeas corpus is exceedingly rare. The last such petition adjudicated by this Court was nearly 15 years ago in a case raising a claim of actual innocence based on the recantation of seven witnesses. *In Re Davis*, 557 U.S. 952 (2009). But Wainwright is not raising a claim of actual innocence of the murder or even a viable claim of innocence of the death penalty. Instead, he is raising a run-of-the-mill *Brady* claim and not a particularly strong one at that. Because the claim being raised in petition for an original writ is not one of innocence or anything of a similar magnitude, this Court is highly unlikely to grant the petition.

Additionally, if this Court wanted to address this *Brady* claim it could do so in the pending case of *Wainwright v. Florida*, No. 24-7365. The possibility of this Court granting an original writ when the same *Brady* issue is currently pending before this Court in a petition for writ of certiorari is basically nonexistent. There is not a significant possibility of this Court granting an original writ of habeas corpus regarding the Brady claim. Wainwright fails the first factor for a stay.

Nor is any irreparable injury identified in the motion to stay other than the execution itself. While the execution obviously will result in Wainwright's death, that is the inherent nature of a death sentence. Wainwright has identified no irreparable harm that is not a direct consequence of his valid, constitutional, and long-final death sentence for the kidnapping, rape, and murder of a young mother. Moreover, this Court has stated in the capital context that "the relative harms to

the parties" must be considered, including "the State's significant interest in enforcing its criminal judgments." *Nelson*, 541 U.S. at 649-50. Without finality, "the criminal law is deprived of much of its deterrent effect." *Calderon v. Thompson*, 523 U.S. 538, 555-56 (1998). And finality in a capital case is the execution. This murder occurred in 1994, and Wainwright's convictions and death sentence have been final since 1998. Wainwright fails this factor for a stay as well.

No stay should be granted. This Court should simply deny the pending petition for an original writ of habeas corpus and then deny the stay.

Accordingly, this Court should deny the motion to stay.

Respectfully submitted,

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