

No. 24A1204
IN THE SUPREME COURT OF THE UNITED STATES
OCTOBER TERM 2024

IN RE ANTHONY FLOYD WAINWRIGHT,

Petitioner.

On Petition for a Writ of Habeas Corpus

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 urges this Court to deny a stay on equitable grounds owing to the State's interest in carrying out its sentence. Response at 2. But any apparent harm caused by a brief stay of execution to allow this Court to consider Mr. Wainwright's habeas corpus petition unconstrained by the exigencies of his impending warrant is easily cured: if this Court, after untruncated review, denies the petition, the stay will be dissolved and Mr. Wainwright's execution will proceed. However, if Mr. Wainwright is erroneously executed despite his presentation of a meritorious petition, there is no going back. The balance of the equities clearly favors Mr. Wainwright, especially where he seeks to raise a previously unavailable claim that the State violated his due process rights by suppressing material favorable evidence. Although the State misleadingly suggests that Mr. Wainwright's application for a stay is a tool to impose delay, Response at 2, it is the State who is responsible for the

delay. Had the State not continued to suppress evidence, Mr. Wainwright could have litigated this issue before his death warrant was signed.

Respondent then seeks to alter this Court's well-established standard for granting a stay outlined in *Barefoot v. Estelle*, 880, 895 (1983), advocating for an additional prong: "the likelihood of irreparable injury other than the execution itself." Response at 3. Respondent goes on to claim that "Wainwright has identified no irreparable harm" apart from his execution and that "the relative harm to the parties must be considered." Response at 4-5.

Respondent concedes that his self-invented standard is not the law of this Court, *see* Response at 3, and so it should be disregarded. Even so, Respondent's argument that Mr. Wainwright cannot show irreparable harm is intellectually dishonest. As a previous Justice of this Court observed, irreparable harm "is necessarily present in capital cases." *Wainwright v. Booker*, 473 U.S. 935, 937 n.1 (1985) (Powell, J., concurring). Respondent's efforts to compare the illusory, easily reversible harm caused by a brief stay to the concrete, definitive harm that will occur if Mr. Wainwright's execution proceeds are disingenuous and should be rejected by the Court.

Finally, Respondent alleges that "[t]here is not a significant possibility of this Court granting an original writ of habeas corpus." Response at 3. But as Mr. Wainwright noted, his petition raises questions concerning significant constitutional violations that occurred at Mr. Wainwright's trial and sentencing proceedings under *Brady v. Maryland*, 373 U.S. 83 (1963), and the lack of available avenues for him to

litigate his claim owing to the Eleventh Circuit's restrictive reading of *Panetti v. Quarterman*, 551 U.S. 930, 945 (2007).¹ Thus, exceptional circumstances warrant the exercise of this Court's original habeas jurisdiction because relief on this meritorious claim cannot be obtained elsewhere. And, contrary to Respondent's contention, Response at 4, the fact that Mr. Wainwright is not presenting an actual innocence claim supports rather than detracts from the likelihood of this Court's exercise of original jurisdiction, as a viable actual innocence claim would be grounds for a successive application to the Eleventh Circuit, not an Original Writ.

Owing to the significance of the questions involved, untruncated review freed from the exigencies of Mr. Wainwright's imminent execution is needed.

CONCLUSION

For the foregoing reasons, Mr. Wainwright respectfully requests that the Court grant his application for a stay of his June 10, 2025, execution to address the compelling constitutional questions in his case on the merits.

Respectfully submitted,

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¹ The *Panetti* question is not implicated in Mr. Wainwright's pending certiorari petition, further highlighting why this Court's original jurisdiction is required. *Contra* Response at 4 ("[I]f this Court wanted to address this *Brady* claim it could do so in the pending [certiorari petition].").

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