No. 24A1251

In the
Supreme Court of the United States

THOMAS GUDINAS,
Petitioner,

v.

STATE OF FLORIDA,
Respondent.

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

EXECUTION SCHEDULED FOR JUNE 24, 2025, AT 6:00 P.M.

RESPONSE TO APPLICATION FOR A STAY OF THE EXECUTION

On June 18, 2025, Gudinas, represented by the Capital Collateral Regional Counsel – Middle (CCRC-M), filed a petition for a writ of certiorari in this Court seeking review of the Florida Supreme Court's rejection of a claim that the post-conviction court abused its discretion in denying Gudinas public records from the Florida Executive Office of the Governor about the clemency process and how the Governor chose Gudinas for a death warrant. On the same day CCRC-M also filed an application for a stay of the execution. Petitioner Gudinas seeks a stay of the execution for this Court to decide his pending petition for certiorari. This Court, however, should simply deny the petition and then deny the stay.

Stays of Execution

Stays of execution 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 judgements 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. This 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) (quoting *Bucklew,* 587 U.S. at 151 and vacating a lower court's grant of a stay of a federal execution).

Gudinas asserts that he is raising significant, meritorious constitutional issues which cannot be fully addressed given the severe time constraints imposed by this

warrant schedule. The State disagrees. Gudinas is seeking clemency and post-conviction records from the Governor's office to support a challenge to both his selection for a death warrant as well as a broader challenge to Florida's clemency structure and laws regarding issuing death warrants. These issues are rooted firmly in state law and do not implicate federal constitutional issues. Gudinas has very little chance of success on the merits of his petition.

To be granted a stay of execution in this Court, Gudinas must establish three factors: (1) a reasonable probability that the Court would vote to grant certiorari; (2) a significant possibility of reversal if review were 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). He must establish all three factors.

As to the first factor, there is little chance that four justices of this Court would vote to grant certiorari review of the claim raised in the petition. As explained in greater detail in the accompanying brief in opposition, this Court lacks jurisdiction to even entertain the petition since Florida law mandates that the requested records are confidential and exempt from production. Furthermore, the records could not give rise to any colorable claims for relief since the Florida Constitution and statutory law give the Governor absolute discretion to decisions on clemency and the issuance of death warrants on defendants whose cases are final. Failing the first factor, which is alone sufficient reason to deny his request for a stay, Gudinas cannot meet the necessary requirements for the granting of a stay.

Additionally, since the issue is largely a matter of state law, there is no

possibility that Gudinas could meet the second factor of this Court granting relief on the merits. This Court must defer to the requirements of Florida law regarding the confidentiality of the requested records, making them exempt from disclosure.

Finally, the death penalty naturally results in the defendant's death. Gudinas does not identify any other irreparable injury. The factors for granting a stay are taken from the standard for granting a stay for normal civil litigation, which is not a natural fit in capital cases. *Barefoot*, 463 U.S. at 895-96. Finality in a capital case is the execution, so some additional showing should be required in a capital case to satisfy this factor. Gudinas has identified no irreparable harm that is not a direct consequence of his valid, constitutional, and long-final death sentence for the murder of M.M.

Moreover, 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). Without finality, "the criminal law is deprived of much of its deterrent effect." *Calderon v. Thompson*, 523 U.S. 538, 555-56 (1998). Again, finality in a capital case is the execution. This murder occurred in 1995 and his death sentence has been final since 1997. Gudinas fails the third factor as well. Accordingly, this Court should deny the motion to stay.

Respectfully submitted,

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