

No. 25A57
CAPITAL CASE

EXECUTION SCHEDULED FOR
TUESDAY, JULY 15, 2025, AT 6:00 P.M.

IN THE
SUPREME COURT OF THE UNITED STATES

MICHAEL BELL,
Petitioner,
v.

RICKY D. DIXON,
SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL.,
Respondents.

ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

RESPONSE TO APPLICATION FOR STAY OF EXECUTION

On July 14, 2025, Bell, represented by federal counsel Gregory W. Brown and Tennie B. Martin, filed, in this Court, a petition for writ of certiorari seeking review of a decision from the Eleventh Circuit Court of Appeals in this active warrant case. The petition raised one issue: whether Court’s holding in *Panetti v. Quarterman*, 551 U.S. 930 (2007), should be extended to *Brady* and *Giglio* claims. 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). Rather, 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 the victims’ 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) (quoting *Bucklew*, 587 U.S. at 151, and vacating a lower court’s grant of a stay of a federal execution).

To be granted a stay of execution in this Court, Bell 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). He must establish all three factors.

Probability of This Court Granting Certiorari Review

As to the first factor, there is little chance that four justices of this Court would vote to grant certiorari review on the issue raised in Bell's petition. Bell seeks review of a one-sentence order by the Eleventh Circuit denying Bell's motion for initial hearing en banc on the ground that no active service member of the court called for a vote on the motion. *See* Fed. R. App. P. 40(c), (e). The order does not address the merits of Bell's *Panetti* argument, nor does it contain any legal error, let alone present any federal law question that would warrant review by this Court. This Court's Rule 10 states that certiorari review will be granted "only for compelling reasons," which include the existence of conflicting decisions on important questions of federal law among federal courts of appeals or state courts of last resort; a conflict between the lower court's decision and the relevant decisions of this Court; or an important question of federal law that has not been but should be settled by this Court. Sup. Ct. R. 10. No such situation exists here. Furthermore, even if the merits of Bell's *Panetti* argument were before this Court, this case presents an exceptionally poor vehicle to address the issue given that Bell's *Brady* and *Giglio* claims were previously found to be untimely in the Florida Supreme Court. There is little probability that the Court would vote to grant review under these circumstances. Bell fails the first factor, which is alone sufficient to deny the motion for a stay.

Furthermore, Bell's certiorari petition was filed the day before his scheduled execution. This case would be unworthy of certiorari review in the normal course of this Court's review, much less on the eve of execution in this long-final case.

Significant Possibility of Reversal

As to the second factor, there is not a significant possibility of reversal on the issue raised by Bell. Again, the decision Bell asks this Court to review is simply an unelaborated order denying Bell's petition for initial hearing en banc prior to any decision by a three-judge panel of the Eleventh Circuit. The en banc Eleventh Circuit acted well within its authority in denying Bell's petition. And even if this Court could reach the underlying *Panetti* issue, the Eleventh Circuit's decision in *Tompkins v. Secretary, Department of Corrections*, 557 F.3d 1257 (11th Cir. 2009), was correctly decided, and Bell acknowledges in his petition that there is no circuit split on the issue. Moreover, while Bell's stay application and certiorari petition contend that testimony at his 1995 jury trial was false or coerced, Bell completely ignores the evidence refuting his allegations that was presented at his 2002 and 2025 state postconviction evidentiary hearings. The facts of Bell's case are accurately set forth in the numerous decisions of the Florida Supreme Court cited in the Secretary's Brief in Opposition, including its most recent decision in *Bell v. State*, No. SC2025-0891, 2025 WL 1874574 (Fla. July 8, 2025). Ultimately, there was no error at all in the proceedings below, let alone one that warrants certiorari review.

Irreparable Injury

As to the third factor of irreparable injury, none is identified. While the execution will result in Bell's death, 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, which is not a natural fit in capital cases. *Barefoot*, 463 U.S. at 895-96 (citing *Times-Picayune Pub. Corp. v. Schulingkamp*, 419 U.S. 1301, 1305 (1974) (Powell, J., in chambers)). Finality in a capital case is the execution, so some additional showing should be required in a capital case to satisfy this factor. Bell has identified no irreparable harm that is not a direct consequence of the valid, constitutional, and long-final death sentence that was imposed in 1995 for his double murder of Jimmy West and Tamecka Smith.

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. The murders for which Bell was sentenced to death occurred in 1993, and his death sentence has been final since 1998. Bell fails this factor as well. Accordingly, this Court should deny the motion to stay.

Bell 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.

Office of the Attorney General
3507 E. Frontage Rd., Ste. 200
Tampa, Florida 33607
Telephone: (813) 287-7900
carlasuzanne.bechard@myfloridalegal.com
capapp@myfloridalegal.com

Respectfully submitted,

JAMES UTHMEIER
ATTORNEY GENERAL OF FLORIDA

/s/ C. SUZANNE BECHARD

C. SUZANNE BECHARD
Associate Deputy Attorney General
Counsel of Record

JONATHAN S. TANNEN
Senior Assistant Attorney General

CHRISTINA Z. PACHECO
Senior Assistant Attorney General

JOSHUA E. SCHOW
Assistant Attorney General

COUNSEL FOR RESPONDENTS