

No. _____

IN THE
Supreme Court of the United States

EDWARD JAMES ZAKRZEWSKI, II,

Petitioner,

v.

STATE OF FLORIDA,

Respondent.

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

APPLICATION FOR STAY OF EXECUTION

***THIS IS A CAPITAL CASE
WITH AN EXECUTION SCHEDULED FOR
THURSDAY, JULY 31, 2025, AT 6:00 PM***

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To the Honorable Clarence Thomas, Associate Justice of the Supreme Court of the United States and Circuit Justice for the Eleventh Circuit:

The State of Florida has scheduled the execution of Petitioner, Edward James Zakrzewski, II, for **July 31, 2025, at 6:00 p.m.** The Florida Supreme Court denied relief on Tuesday, July 22, 2025. Mr. Zakrzewski respectfully requests that this Court stay his execution, pursuant to Supreme Court Rule 23 and 28 U.S.C. § 2101(f), pending consideration of his concurrently filed petition for a writ of certiorari.

STANDARDS FOR A STAY OF EXECUTION

The standards for granting a stay of execution are well-established. *Barefoot v. Estelle*, 463 U.S. 880, 895 (1983). There “must be a reasonable probability that four members of the Court would consider the underlying issue sufficiently meritorious for the grant of certiorari or the notation of probable jurisdiction; there must be a significant possibility of reversal of the lower court's decision; and there must be a likelihood that irreparable harm will result if that decision is not stayed.” *Id.* (internal quotations omitted).

PETITIONER SHOULD BE GRANTED A STAY OF EXECUTION

The question raised in Mr. Zakrzewski’s petition is sufficiently meritorious for a grant of a writ of certiorari. The underlying issues present significant, compelling questions of constitutional law which deserve to be fully addressed by the Court free from the constraints of a warrant. A stay is necessary to avoid Mr. Zakrzewski being executed in violation of the Fifth, Eighth, and Fourteenth Amendments to the United States Constitution.

Mr. Zakrzewski will be irreparably harmed if this Court does not intervene. The irreversible nature of the death penalty supports granting a stay. This Court has long recognized “death is a punishment different from all other sanctions.” *Woodson v. North Carolina*, 428 U.S. 280, 303-04 (1976). See *Ford v. Wainwright*, 477 U.S. 399, 411 (1986) (“Execution is the most irremediable and unfathomable of penalties; . . . death is different.”). Thus, “there is a corresponding difference in the need for reliability in the determination that death is the appropriate punishment.” *Id.* at 305.

Mr. Zakrzewski’s three death sentences stem from two bare majority jury votes of 7-5 and the trial judge’s override of the jury’s 6-6 recommendation for a life sentence on the third count. After this Court’s decision in *Hurst*¹, Florida courts arbitrarily decided death sentences which became final prior to June 24, 2002 were not entitled to relief. Thus, Mr. Zakrzewski’s death sentences, which are the product of an unconstitutional capital sentencing scheme, were never overturned despite over a hundred other similarly situated capital defendants in Florida receiving relief. See *Gregg v. Georgia*, 428 U.S. 153, 188 (1976) (holding the death penalty cannot “be imposed under sentencing procedures that created a substantial risk that it would be inflicted in an arbitrary and capricious manner.”). The issues associated with Mr. Zakrzewski’s death sentences evince they have been imposed in an arbitrary, capricious, and discriminatory manner in violation of the Eighth and Fourteenth Amendments. “The Eighth and Fourteenth Amendments cannot tolerate the

¹ *Hurst v. Florida*, 577 U.S. 92 (2016).

infliction of a sentence of death under legal systems that permit this unique penalty to be so wantonly and so freakishly imposed.” *Id.*

The State of Florida continues to be an extreme outlier when it comes to capital punishment. Mr. Zakrzewski’s death sentences and impending execution stand in violation of the Eighth Amendment’s prohibition against cruel and unusual punishment. Bare majority jury recommendations and jury overrides have not only been abolished in Florida, but also do not comport with the evolving standards of decency. Executing an individual like Mr. Zakrzewski whose death sentences were imposed by a bare majority jury recommendation and jury override constitutes cruel and unusual punishment under the Eighth Amendment.

In addition, while Petitioner acknowledges Florida’s interest in the timely enforcement of judgments handed down by its courts and in finality, “[c]onventional notions of finality of litigation have no place where life or liberty is at stake and infringement of constitutional rights is alleged.” *Sanders v. United States*, 373 U.S. 1, 8 (1963); *see also Witt v. State*, 387 So. 2d 922, 926 (Fla. 1980) (“we must balance the interests of fairness and uniformity for [the defendant] against the interests of decisional finality”). Moreover, the interests of finality must be weighed against Mr. Zakrzewski’s continued interest in his life. *See Ohio Adult Parole Authority, et al. v. Woodard*, 523 U.S. 272, 291-92 (1998) (“[a] prisoner under a death sentence remains a living person and consequently has an interest in his life”). Florida has a minimal interest in finality and efficient enforcement of judgments, but Mr. Zakrzewski, has a right in ensuring that his sentence comports with the Constitution. This right

includes the ability to have meaningful judicial review of the complex constitutional claims he raises.

A stay of execution would ensure a meaningful review process and make certain that Mr. Zakrzewski is not denied due process. “The fundamental requirement of due process is the opportunity to be heard ‘*at a meaningful time and in a meaningful manner.*’” *Armstrong v. Manzo*, 380 U.S. 545, 552 (1965) (emphasis added). The issues present in the instant case require appellate review that is not truncated by the exigencies of an imminent execution. A stay of execution should be granted.

Public interest demands a stay and Mr. Zakrzewski’s claim deserves to be considered outside of the accelerated constraints of his execution being scheduled mere days later. In addition, the irreversible nature of the death penalty frequently supports in favor of granting a stay. “[A] death sentence cannot begin to be carried out by the State while substantial legal issues remain outstanding.” *Barefoot*, 463 U.S. at 888. Should this Court grant the request for a stay and review of the underlying petition, Mr. Zakrzewski submits there is “a fair prospect that a majority of the Court will vote to reverse the judgment below” due to the reasons explained in the accompanying petition. *Hollingsworth v. Perry*, 558 U.S. 183, 190 (2010). This Court’s intervention is urgently needed to prevent Mr. Zakrzewski’s imminent execution despite the protections from the death penalty he is entitled to by the Fifth, Eighth, and Fourteenth Amendments to the United States Constitution.

CONCLUSION

For the foregoing reasons, Mr. Zakrzewski respectfully requests that the Court grant his application for a stay of his July 31, 2025 execution to address the compelling constitutional questions present in his case on the merits.

Respectfully submitted,

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