

No. 25A45
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.

STATE OF FLORIDA,
Respondent.

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

RESPONSE TO APPLICATION FOR STAY OF EXECUTION

On July 10, 2025, Bell, represented by state postconviction counsel Robert Norgard, filed, in this Court, a petition for writ of certiorari seeking review of a decision from the Florida Supreme Court in this active warrant case. The petition raised one issue: whether the state courts violated the Eighth or Fourteenth Amendments by allowing some witnesses to plead the Fifth Amendment in response to certain questions at Bell's recent postconviction evidentiary hearing. Bell also filed an application for a stay of execution based on that petition. 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. As a threshold matter, this Court lacks jurisdiction to grant review because (a) Bell's underlying postconviction claim was rejected by the Florida Supreme Court on the independent and adequate state-law ground that it was untimely raised under the applicable Florida Rule of Criminal Procedure, and (b) Bell never presented his current Eighth and Fourteenth Amendment argument to the Florida Supreme Court, nor did the Florida Supreme Court address that issue. Additionally, 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. Bell has cited no conflict of decisions or important question of law warranting this Court's review. Indeed, Bell's petition does not address the Rule 10 standard for granting certiorari review at all. 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.

Significant Possibility of Reversal

As to the second factor, there is not a significant possibility of reversal on the issue raised by Bell. Again, this Court lacks jurisdiction to grant Bell's petition to begin with. Moreover, Bell fails to identify any error of law by the Florida Supreme Court, let alone a conflict of decisions or an important or unsettled federal question that would require this Court's intervention to resolve. Bell complains at length that several of the witnesses at his evidentiary hearing were permitted to invoke their privilege against self-incrimination, but the Florida Supreme Court correctly held, consistent with this Court's Fifth Amendment precedents, that the postconviction judge did not err. Nor does the record support Bell's allegation that the witnesses were threatened with perjury charges. Bell also fails to cite a single case, from this Court or any other, to support his novel theory that witnesses lose their Fifth Amendment protections in capital collateral proceedings under the Eighth and Fourteenth Amendments. As well, Bell completely ignores the testimony of one of his purportedly recanting witnesses that the affidavit he signed was not true, that he did not read it before he signed it, and that he only signed it because investigators for Bell's counsel told him that he had to do so to save Bell's life.

Finally, the Florida Supreme Court correctly held, based on the overwhelming evidence of guilt that was presented at Bell's 1995 jury trial, as well as the evidence presented at his 2002 and 2025 postconviction proceedings, that Bell could not meet

the materiality prong of his underlying *Brady* and *Giglio* claims. Among other evidence, Bell's aunt (who did not plead the Fifth Amendment) confirmed at Bell's 2025 evidentiary hearing that her trial testimony that Bell confessed to her that he committed the murders was the truth. 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.

Respectfully submitted,

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