

NO. _____

IN THE SUPREME COURT OF THE UNITED STATES

MICHAEL BERNARD BELL

Petitioner,

vs.

SECRETARY, FLORIDA DEPARTMENT OF
CORRECTIONS,

And

ATTORNEY GENERAL, STATE OF FLORIDA

Respondents.

**APPLICATION FOR STAY OF EXECUTION
ON PETITION FOR WRIT OF CERTIORARI TO
TO THE UNITED STATES COURT OF APPEALS FOR THE ELEVENTH
CIRCUIT**

**CAPITAL CASE
DEATH WARRANT SIGNED
EXECUTION SCHEDULED 6:00 P.M., JULY 15, 2025**

Gregory W. Brown
Tennie B. Martin
Assistant Federal Defenders
**Counsel of Record*

Office of the Federal Defender
for the Middle District of Florida
400 N. Tampa Street, Suite 2625
Tampa, Florida 33602
Tel: 813-228-2715
Email: greg_brown@fd.org
FLM_CHU@fd.org

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, Michael Bell, for July 15, 2025, at 6:00 p.m. The Florida Supreme Court denied relief on July 8, 2025. See *Bell v. State*, No. SC2025-0891. Bell 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.*

FACTS AND PROCEEDINGS BELOW

In 1993, Jimmie West and Tamika were shot to death while they were leaving a liquor lounge in Jacksonville Florida. In 1995, Michael Bell was convicted and sentence to death for the murders. As there was no forensic or physical evidence linking Bell to the crime, the state’s case hinged on the testimony of witnesses who either claimed Bell fit the description of the shooter, was the shooter, or overheard Bell make admissions to the shooting. Bell litigated a state post-

conviction petition pro se, after his belatedly appointed counsel failed file his state petition in time to toll the federal statute of limitations, and filed an uncounseled federal petition that was deemed untimely, concluding his first round of litigation in 2011.

On June 13, 2025, Governor Ron DeSantis signed a death warrant scheduling Mr. Bell's execution for July 15, 2025. The day after the warrant issued, Bell's federal counsel received a tip from counsel from a separate autonomous agency, who were investigating an unrelated case, that two of the witnesses in Bell's case had a long-standing history of "helping" the prosecutor and lead detective in Bell's case (ASA George Bateh and Detective William Bolena), and may have information relevant to Bell. Over the next few days, both witnesses had provided affidavits swearing that they had been coerced into testifying falsely at Bell's trial. Bell filed a petition raising claims under *Brady* and *Giglio*, and challenging the absurdly truncated procedures and timeframe within which he had to develop this claim based on materially exculpatory evidence that had been withheld by the State for decades.

Bell's investigation of the *Brady/Giglio* claim continued throughout this process. By its end, Bell had uncovered substantial *Brady/Giglio* evidence. Of three eyewitnesses that identified Bell at trial, all three stated that their trial testimony was coerced by Detective William Bolena and prosecutor George Bateh. Two of the three fully recanted their testimony that Bell was the shooter, and the

third, Bell's codefendant, was beaten by Det. Bolena and threatened with lengthy incarceration if he did not implicate Bell.

Three additional witnesses that testified at trial that Bell had made incriminating statements all said the same thing; their testimony was coerced by Bolena and Bateh. This included threats - to take away children and grandchildren, of criminal charges, physical and verbal aggression - and promises for favors or leniency in pending criminal cases. And the promises of leniency all appear to have come to fruition, despite testimony at trial that there were no deals. Ned Pryor got time served. Dale George got time served. Henry Edwards was released on his own recognizance shortly after giving a sworn statement against Bell, and his charges were eventually dropped. Charles Jones got a 5-9 year downward departure on his federal robbery case. Worst of all, all said they were urged to tell the story Bateh and/or Bolena wanted to hear, without regard to the truth.

Three more witnesses¹ that had incriminating statements attributed to them in Det. Bolena's police report, but did not testify at trial, indicated that Bolena had completely fabricated the statements after the witnesses resisted efforts by Bolena to coerce them into testifying against Bell. It is hard to imagine evidence more corroborating to Bell's *Brady/Giglio* claim, than each of the witnesses in the police

¹ Bell has actually obtained sworn affidavits from six witnesses that assert that Bolena first attempted to coerce false testimony against Bell, and then attributed completely fabricated incriminating testimony to them in his police report when they refused to provide false testimony. Due to the extremely limited time constraints placed on Bell by the State courts, only three of those affidavits appear in the State Court record.

report that allegedly had incriminating evidence against Bell that were not called to testify, happen to all say that Bolena attempted to coerce them into testifying falsely, but they rebuffed his attempts. It appears as if the State intentionally called only those witnesses that succumbed to Botena and Bateh's pressure campaign.

Additionally, handwritten detectives' notes turned over for the first time on July 2, 2025, established that another eyewitness, Mark Richardson, who testified that he could not identify the shooter but that the shooter had the same height and weight as Bell, had actually told the detectives that the shooter was significantly taller and lighter than Bell, and that Bell could not have possibly been the shooter because he was too short and too heavy. Bell was 5'10" and 200lbs, Richardson told the detectives the shooter was 6'-6'2" and 155-160lbs. This matched the description given by another eyewitness that could not identify the shooter, Laura Hampton, who told police that the shooter was 6'3".

Bell has located more than ten witnesses who all say the same thing, Bolena and Bateh either coerced them into testifying against Bell or attempted to coerce them to testify against Bell. The merits of his underlying *Brady/Giglio* claims are discussed much more thoroughly in the habeas petition that is the subject of this appeal.

In light of the egregious prosecutorial misconduct that was used to secure his conviction and death sentence, it is not possible to have confidence in the outcome of Bell's trial. In light of the State court's unreasonably truncated proceedings, it is not

possible to conclude that Bell has received fair consideration of the merits of his claim, in the State courts. Yet Bell is precluded from federal review of his *Brady* and *Giglio* claims in light of the Eleventh Circuit's precedent in *Tompkins v. Sec'y, Dep't of Corr.*, 557 F.3d 1257 (11th Cir. 2009)

PETITIONER SHOULD BE GRANTED A STAY OF EXECUTION

The questions raised in Bell's petition are sufficiently meritorious for a grant of a writ of certiorari. The underlying issues present significant, compelling questions of constitutional law, and a stay is necessary to avoid Bell being executed in violation of the Eighth Amendment and the Fourteenth Amendment to the United States Constitution.

The Eleventh Circuit Court of Appeals affirmed the dismissal of Bell's second in time habeas corpus petition raising a *Brady/Giglio* claim as an improper second or successive petition based on its panel precedent in *Tompkins v. Sec'y, Dep't of Corr.*, 557 F.3d 1257 (11th Cir. 2009).

As detailed in Mr. Bell's concurrently filed Petition for Writ of Certiorari, in the years since the Eleventh Circuit's decision in *Tompkins*, a unanimous separate panel of the Eleventh Circuit has given a detailed explanation for why *Tompkins* was wrongly decided. *See Scott v. United States*, 890 F.3d 1239 (11th Cir. 2018). Jurists from various circuits and this Court have expressed similar doubts about subjecting *Brady/Giglio* claims to § 2244's gatekeeping requirements. *See Storey v. Lumpkin*, 142 S. Ct. 2576 (2022) (Sotomayor, J., respecting denial of certiorari); *See Bernard v. United States*, 141 S. Ct. 504, 506-07 (2020) (Sotomayor, J., dissenting

from the denial of certiorari and application of stay); *Douglas v. Workman*, 560 F.3d 1156 (10th Cir. 2009); *Gage v. Chappell*, 793 F.3d 1159, 1165 (9th Cir. 2015); *In re Wogenstahl*, 902 F.3d 621, 627-28 (6th Cir. 2018); *Long v. Hooks*, 972 F.3d 442, 486 (4th Cir. 2020)(Wynn, J., concurring); *In re Jackson*, 12 F.4th 604 (6th Cir. 2021).

It is indisputable that Bell will be irreparably harmed if his execution is allowed to go forward, and the balance of equities weighs heavily in favor of a stay. Florida’s interest in the timely enforcement of judgments handed down by its courts must be weighed against Bell’s continued interest in his life. See *Ohio Adult Parole Auth. v. Woodard*, 523 U.S. 272, 289 (1998) (“[I]t is incorrect . . . to say that a prisoner has been deprived of all interest in his life before his execution.”) (O’Connor, J., plurality opinion). Florida has an interest in finality and efficient enforcement of judgments, but Bell has a right in ensuring that his execution comports with the Constitution. In addition, the irreversible nature of the death penalty supports the 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.

After his death warrant was signed, Bell learned of the recantations of two key trial witnesses, as well as suppressed evidence of police and prosecutorial misconduct and impeachment material, which cast significant doubt on his guilt and death sentence. At the June 23, 2025, evidentiary hearing, the State interfered with Bell’s ability to present evidence by strongly suggesting to the witnesses that they would be charged with perjury if they testified inconsistently with prior

testimony, which caused both recanters to reverse course. Additionally, the trial court permitted Bell's witnesses to plead the Fifth and avoid answering questions that – while crucial to Bell's claims – had no reasonable connection to their own criminal liability, as well as questions on topics to which they waived the privilege by voluntarily answering other related questions. Thus, should this Court grant the request for a stay and review of the underlying petition, Bell submits there is a significant possibility of a reversal of the Florida Supreme Court's opinion. This Court's intervention is urgently needed to prevent Bell's imminent execution.

Bell's case presents important constitutional issues which should be fully addressed by this Court free from the extreme time constraints set by the warrant. Bell's execution is set for July 15, 2025, which is only five days away from the filing of this application. Bell respectfully requests that this Court enter a stay of execution and also relinquish jurisdiction to the state circuit court with instructions to provide Bell with adequate time to investigate these recantations and gather corroborating evidence and to compel witnesses to answer critical questions. Bell will be irreparably harmed if his execution is rushed under this truncated schedule, with such an important and meritorious issue requiring further judicial review.

CONCLUSION

“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). Bell's meritorious issues cannot possibly be heard in a meaningful manner with only one day left until his execution. Bell has been

diligent in presenting these claims. The first newly discovered evidence of *Brady/Giglio* evidence was discovered on June 16, 2025, and Bell has been diligently presenting the issue to lower Court's. The filing of this petition on the eve of his execution is a result of the evidence being discovered so close to the execution date and the time it took to present the issue to the lower courts, not any dilatoriness on Bell's part. The important constitutional issues presented by Bell's case require full appellate review that is not truncated by the exigencies of an imminent execution. For the foregoing reasons, Bell respectfully requests that this Court grant his application for a stay of his July 15, 2025, execution to address the compelling constitutional questions in his case on the merits.

Respectfully submitted,

A. FITZGERALD HALL. ESQ.
FEDERAL DEFENDER

/s/ Greg W. Brown, Esq.
Assistant Federal Defender
Capital Habeas Unit (CHU)
Florida Bar No. 0086437
Email: Greg_Brown@fd.org

/s/ Tennie B. Martin, Esq.
Assistant Federal Defender, CHU
Arizona Bar No. 016257
Email: Tennie_Martin@fd.org

Office of the Federal Defender
Middle District of Florida
Capital Habeas Unit
400 N. Tampa Street, Suite 2625
Tel: 813-228-2715
Tampa, Florida 33602
Secondary Email: FLM_CHU@fd.org

Counsel for Petitioner.