No. 24-7079

IN THE

Supreme Court of the United States

JEFFREY GLENN HUTCHINSON,

Petitioner,

v.

STATE OF FLORIDA,

Respondent.

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

REPLY BRIEF IN SUPPORT OF PETITION FOR A WRIT OF CERTIORARI

THIS IS A CAPITAL CASE WITH AN EXECUTION SCHEDULED FOR THURSDAY, MAY 1, 2025, AT 6:00 P.M.

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REPLY BRIEF IN SUPPORT OF PETITION FOR CERTIORARI

Nearly all of Respondent's Brief in Opposition centers around incorrect assertions that Mr. Hutchinson's certiorari issues implicate only state law. The nature and pervasiveness of Respondent's misconceptions do not undermine the need for certiorari review—rather, they underscore it.

I. Mr. Hutchinson's certiorari issues are grounded in the Eighth Amendment

The vast majority of Respondent's Brief in Opposition centers around an incorrect assertion that Mr. Hutchinson's certiorari issues implicate only state law. Respondent characterizes Mr. Hutchinson's claim as simply "newly discovered evidence of mitigation[,]" BIO at 11-27, and suggests there is no Eighth Amendment corollary in his procedural posture. BIO at 14-15, 25. But Respondent misunderstands the constitutional contours of this issue, which goes not to "mitigation" but to whether Mr. Hutchinson's death sentences would violate the prohibition against cruel, unusual, and excessive punishments based on his diminished "personal responsibility and moral guilt." *See* PCR4 176 (citing *Enmund v. Florida*, 458 U.S. 782, 800 (1982)). The issues before this Court are constitutional in nature.

II. The Eighth Amendment issue was fairly presented in state court

Respondent's myopic focus on whether and how Mr. Hutchinson's Eighth Amendment claim was numbered ignores this Court's clear precedent regarding fair presentation. BIO at 10. Bizarrely, Respondent claims: "Counsel did not clarify whether the Eighth Amendment claim was being raised at the *Huff* hearing nor did

counsel file an amended motion clearly raising the Eighth Amendment claim." BIO at 11. But counsel did not need to do either of these things, because Mr. Hutchinson had already fairly presented the Eighth Amendment issue in his filed motion.

As Mr. Hutchinson's petition explained, fair presentation of a federal claim requires only that a postconviction movant state the factual and legal basis for the claim, such that the state's highest court would likely be alerted to the claim's federal nature. *See Baldwin v. Reese*, 541 U.S. 27, 29 (2004); *see also Dye v. Hofbauer*, 546 U.S. 1, 3-4 (2005) (finding fair presentation satisfied where a heading cited "due process" and the text below cited federal cases and federal constitutional amendments); *Vasquez v. Hillery*, 474 U.S. 254 (1986) (fair presentation simply requires presentation of the claim's "substance" in state court).

The title of "Claim I" in Mr. Hutchinson's postconviction motion specifically cited to his "federal rights[.]" PCR4 157. Contrary to Respondent's assertions, Mr. Hutchinson only ever raised one claim in the circuit court, which encompassed the impact—under state and federal law—of the catastrophic injuries he suffered during his service on the front lines of the Gulf War. PCR4 157-76. The claim included a separately headed section followed, entitled "The Eighth Amendment[.]" PCR4 176. Within this section, Mr. Hutchinson provided pincites and quoted from four of this Court's seminal Eighth Amendment cases in support of his argument: *Enmund*, 458 U.S. at 800; *Woodson v. North Carolina*, 428 U.S. 380 (1976); *Eddings v. Oklahoma*, 455 U.S. 104, 105 (1982); and *Lockett v. Ohio*, 438 U.S. 586, 606 (1978). PCR4 176. The claim was fairly presented.

III. No adequate and independent state law ground precludes review

Respondent's assertions of an adequate and independent state law ground cannot be credited, because the Florida Supreme Court's merits resolution of Mr. Hutchinson's Eighth Amendment claim involved an interpretation of this Court's precedent. The Florida Supreme Court found the Eighth Amendment claim "meritless under our case law[,]" Pet. App. A2, citing cases that used Florida's conformity clause to bar relief. The conformity clause is inextricable from federal law, because it treats this Court's "interpretation of the Eighth Amendment [as] both the floor and the ceiling for protection from cruel and unusual punishment in Florida[.]" *Barwick v. State*, 361 So. 3d 785, 794 (Fla. 2023). Thus, the purportedly "state law determination is…dependent on, resting primarily on, or influenced by a question of federal law…[which means] it is not independent of federal law and thus poses no bar to [this Court's] jurisdiction." *Foster v. Chatman*, 578 U.S. 488, 499 n.4 (2016) (cleaned up). And, as Mr. Hutchinson explained in his petition, any timeliness findings were incorrect and thus inadequate. Petition at 30.

CONCLUSION

Based on the foregoing, this Court should grant a writ of certiorari to review the decision of the Florida Supreme Court in this case.

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