No. _____

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

APPENDIX TO 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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A1

Florida Supreme Court Order

Affirming Order Finding Jeffrey Hutchinson

Competent to be Executed

April 30, 2025

Supreme Court of Florida

No. SC2025-0590

JEFFREY G. HUTCHINSON,
Appellant,

vs.

STATE OF FLORIDA,
Appellee.

April 30, 2025

PER CURIAM.

For the murders he committed in 1998, Jeffrey Glenn Hutchinson is scheduled to be executed on May 1, 2025, at 6:00 p.m. Since Hutchinson's warrant issued on March 31, 2025, he has litigated numerous issues, including his competency to be executed. Hutchinson now appeals the circuit court's order finding him competent to be executed under state and federal law. Carrying out our mandatory-review function,[1] we affirm, and also deny Hutchinson's motion for stay.

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1. *See* art. V, § 3(b)(1), Fla. Const.

I

We have previously discussed at length the horrific crimes that Hutchinson committed and for which he has been sentenced to die. We will mention just a few facts to give background and context to our discussion below.

After drinking at a local bar, Hutchinson drove to a home in Crestview, Florida, where he lived with his then-girlfriend Renee and her three young children. Armed with a pump-action shotgun, he broke down the front door and proceeded to the bedroom where he shot and killed Renee and two of her children—seven-year-old Amanda and four-year-old Logan. He then fatally shot Geoffrey, Renee's nine-year-old son—once in the chest and once in the head.

Hutchinson called 911 and told the dispatcher that he had just shot his family. Later in the call, he added something about "some guys" being present at the home, implying that they were responsible for the shootings.

Law enforcement arrested Hutchinson and took him to a nearby police station. During the ensuing interview with officers, Hutchinson expounded on his theory of innocence. In part, Hutchinson said that the intruders wore black masks and were

likely from Quantico. And he implored the interviewing officers to find the perpetrators.

Ultimately, the State charged Hutchinson with four counts of first-degree murder and sought the death penalty. At trial, the State introduced overwhelming evidence of Hutchinson's guilt. Multiple witnesses said that Hutchinson's voice was that of the 911 caller; witnesses indicated that blood from the victims, as well as body tissue from Geoffrey, was on Hutchinson at the time of arrest; and witnesses testified that the shotgun belonged to Hutchinson and that Hutchinson had gun residue on his hands. Following presentation of this evidence and more, the jury found Hutchinson guilty as charged on all four murder counts.

With his guilt established, Hutchinson waived a jury for the penalty phase. After hearing aggravating and mitigating evidence, the trial court sentenced Hutchinson to death for the murders of the three children, and to life for Renee's murder.

Hutchinson appealed, but we affirmed. He soon began collateral attacks on his convictions and death sentences. As part of certain claims attacking his guilt, he argued complete innocence of the crimes. Of note, he (with the assistance of counsel) has

asserted numerous theories of innocence. One version was that government-connected individuals from Quantico were the alleged killers. Other times, Hutchinson said that the killers were two (former) friends: Billy Taylor and Joel Adams. And at other times still, he alleged that the killer was Renee's ex-husband. But like the rest of his postconviction claims, these innocence-related claims were rejected by all courts to have considered them.

Turning to recent events, Hutchinson filed two more successive postconviction motions in 2025. The circuit court denied each of those motions, prompting two appeals. While these appeals were pending, Hutchinson sent a letter to the Governor asking that he be declared "insane" under section 922.07, Florida Statutes (2024). As required by that statute, *see* § 922.07(1), the Governor stayed the execution and appointed a three-person commission to evaluate Hutchinson's sanity—that is, whether he "understands the nature and effect of the death penalty and why it is to be imposed upon him." *Id.* The commission consisted of three psychiatrists: Dr. Tonia Werner, Dr. Wade Myers, and Dr. Emily Lazarou. Based on interviews with prison staff, a review of voluminous records, and a 90-minute in-person evaluation of

Hutchinson, the commission found that Hutchinson satisfied the statute's definition of sanity. Agreeing with the commission's report, the Governor entered an executive order finding Hutchinson sane to be executed. Consistent with that finding, the Governor also lifted the stay.

Hutchinson then filed a motion in circuit court, asking to be declared "insane" under Florida Rules of Criminal Procedure 3.811 and 3.812—a term meaning that the death-sentenced prisoner lacks understanding of the fact of the forthcoming execution and the State's reasons for the punishment. Fla. R. Crim. P. 3.811(b); 3.812(b). Hutchinson also relied on U.S. Supreme Court precedent, which holds that the Eighth Amendment to the U.S. Constitution bars the execution of those who are insane or incompetent at the time such punishment is to be inflicted.[2]

The circuit court held a hearing at which both sides presented evidence on the issue of Hutchinson's competency and sanity. For his part, Hutchinson called nine witnesses, including past and

2. *See, e.g.*, *Ford v. Wainwright*, 477 U.S. 399, 410 (1986) (plurality opinion) ("The Eighth Amendment prohibits the State from inflicting the penalty of death upon a prisoner who is insane.").

present members of his legal team and two experts to support his theory that delusions (namely, that the government was conspiring against him to keep him quiet and that he viewed the execution as the State's ultimate way of enforcing that conspiracy) prevented him from rationally understanding the State's true reasons for the punishment. As for the first category of witnesses, they indicated that Hutchinson has long maintained a sincere belief that the murders were the product of the government's efforts to silence him. Relying in part on these observations, Hutchinson's experts opined that his mental disorders—including Delusional Disorder—rendered him unable to rationally understand the State's reasons for executing him.

The State countered this evidence with two experts of its own, Dr. Werner and Dr. Myers. Both found that Hutchinson did not suffer from Delusional Disorder or any other mental illness for that matter. And in the final analysis, both concluded that Hutchinson was, in fact, competent to be executed. Among other things, the experts noted that Hutchinson's detailed story of innocence had evolved throughout the years and was not a subject of Hutchinson's

regular conversation with the prison staff. Indeed, three members of that staff echoed this point.

Ultimately, the trial court credited the State's witnesses and found Hutchinson competent for purposes of execution.[3] Hutchinson now challenges the order making this finding. He also seeks reversal of other orders denying his request for a continuance or stay and declining to compel additional discovery.

II

The Eighth Amendment forbids the infliction of "cruel and unusual punishment." As interpreted by the U.S. Supreme Court, this amendment prohibits the execution of those who have "lost [their] sanity" or (using more modern terms) have become "incompetent to be executed." *Ford*, 477 U.S. at 406 (framed in terms of "sanity"); *Dunn v. Madison*, 583 U.S. 10, 13 (2017) (framed in terms of "mental competence").

This prohibition, the Supreme Court tells us, means that it is unconstitutional for a state to execute someone "whose mental

3. In denying the requested relief, the circuit court found that Hutchinson could not prevail under the clear-and-convincing standard or the preponderance-of-the-evidence standard.

illness makes him unable to 'reach a rational understanding of the reason for [his] execution.' " *Madison v. Alabama*, 586 U.S. 265, 274 (2019) (alteration in original) (quoting *Panetti v. Quarterman*, 551 U.S. 930, 958 (2007)). Put differently, a state may not execute a prisoner whose "concept of reality is so impaired that he cannot grasp the execution's meaning and purpose or the link between his crime and its punishment." *Id.* at 269 (cleaned up). In applying this standard, the focus is on the prisoner's "understanding of why the State seeks capital punishment for a crime"—looking "beyond any given diagnosis to [the] downstream consequence[s]" of the mental illness. *Id.* at 276, 279.

In line with this precedent, our procedural rules also set forth a competency standard and prohibit the execution of a death-sentenced prisoner who cannot understand "the fact" of the pending execution "and the reason for it." Fla. R. Crim. P. 3.811(b); 3.812(b). When a prisoner meets this standard, the court must order stay relief. Fla. R. Crim. P. 3.812(e).

III

A

Hutchinson argues that the circuit court erred in finding him competent to be executed. We disagree. Our review of any legal issues is de novo. *See Davidson v. State*, 323 So. 3d 1241, 1247 n.8 (Fla. 2021). If no legal error is shown, we will affirm where there is "competent, substantial evidence supporting the circuit court's determination." *Owen v. State*, 363 So. 3d 1035, 1038 (Fla. 2023) (citing *Gore v. State*, 120 So. 3d 554, 557 (Fla. 2013)).

To begin, Hutchinson has failed to demonstrate any legal error in the challenged order. The court stated and applied the correct legal standards in determining that Hutchinson was sane or competent to be executed. In doing so, the court cited our recent decision in *Owens* and indirectly quoted principles discussed above from the Supreme Court's decisions in *Panetti* and *Madison*. Additionally, the court did not employ the restrictive procedures found inadequate in *Ford*.[4] Nor did the court deem Hutchinson's

4. Rather, the court allowed Hutchinson to present his evidence on the subject of competency and to cross-examine the State's witnesses. The statute disapproved of in *Ford* did not give a death-sentenced prisoner such procedural rights, and it entrusted

claimed delusions to be irrelevant to its competency determination—something that *Panetti* disapproved of. *See Panetti*, 551 U.S. at 960 (rejecting "a strict test for competency that treats delusional beliefs as irrelevant once the prisoner is aware the State has identified the link between his crime and the punishment to be inflicted").

We now turn to the record to determine if the court's findings are supported by competent, substantial evidence. Here, the court found that (1) Hutchinson understands that he is to be executed for the children's murders and that he will die if the execution is successfully carried out; (2) Hutchinson does not have any current mental health issues, including Delusional Disorder; (3) Hutchinson provided no evidence that even if he did have Delusional Disorder, he could not understand the link between the murders and the impending execution; (4) Hutchinson has anti-social and narcissistic traits; and (5) Hutchinson has raised his government-conspiracy theory in an effort to avoid responsibility for the murders and the death penalty.

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the executive branch alone with the sanity determination. *Ford*, 477 U.S. at 413-16.

The record supports these findings. At the hearing, the State's experts opined that Hutchinson rationally understands that Renee and her three children were murdered and that he will die as a result of the execution, should it go forward. Indeed, Hutchinson's own experts conceded as much. Additionally, an expert for the State noted that although Hutchinson does not accept the State's reasons for executing him, he does have the capacity to appreciate why the State would punish (by death) the person or persons who murdered the three children.

The State's experts also testified that while Hutchinson had certain anti-social and narcissistic traits, they saw no indications of current mental illness or signs of Delusional Disorder. This was consistent with the Department of Corrections' records (which noted no such diagnosis or anything comparable to it),[5] Hutchinson's detailed—and evolving—descriptions of innocence, and Hutchinson's interactions with various prison staff. Nevertheless, even assuming that Hutchinson had delusions, both experts opined

5. Indeed, Dr. Barry Crown, one of Hutchinson's witnesses, had not diagnosed Hutchinson with Delusional Disorder prior to this proceeding, even having examined him multiple times in the past.

that such a disorder did not interfere with Hutchinson's ability to rationally understand the reasons for his execution.

Moreover, according to the experts, Hutchinson's steadfast commitment to the government-conspiracy theory was nothing more than an "alibi" that he "stuck with" despite overwhelming evidence to the contrary. In disagreeing with Hutchinson's experts, an expert for the State underscored that the length of time that an individual adheres to a particular alibi is not indicative of mental illness.

Though Hutchinson acknowledges the existence of this evidence, he asks us to instead focus on the favorable evidence he presented at the hearing—essentially urging us to credit that evidence (though the trial court did not). But our job is not to reassess the credibility of witnesses or reweigh the evidence. *Lambrix v. State*, 39 So. 3d 260, 268 (Fla. 2010) ("Appellate courts do not 'reweigh the evidence or second-guess the circuit court's findings as to the credibility of witnesses.' " (quoting *Nixon v. State*, 2 So. 3d 137, 141 (Fla. 2009))). Rather, we limit our review in this respect to whether the circuit court's determinations are supported

by legally sufficient evidence. *Calhoun v. State*, 376 So. 3d 583, 586 (Fla. 2023) (a legal sufficiency standard). We find that they are.

In so holding, we again underscore what the circuit court also noted: What matters is whether a person has the 'rational understanding' of why the State seeks to execute him, not whether he has any particular memory or any particular mental illness. (Cleaned up.) As clearly articulated by the circuit court, "[t]here is no credible evidence that in his current mental state Mr. Hutchinson believes himself unable to die or that he is being executed for any reason other than the murders he was convicted of by a jury of his peers."

Hutchinson's steadfast refusal to take responsibility for his actions aside, it is clear from the record that Hutchinson understands and fully comprehends the following: Renee and her three children were brutally murdered; the evidence against him was great; a jury of his peers found him guilty; he was sentenced to death in a court of law; the sentence of death will be executed upon him *for those crimes*; and he will die as a result of the execution. *See Madison*, 586 U.S. at 275; *Ferguson v. State*, 112 So. 3d 1154, 1156 (Fla. 2012) ("[F]or insanity to bar execution, the defendant

must lack the capacity to understand the nature of the death penalty and why it was imposed.").

B

Hutchinson also argues that the circuit court erred in denying his motions to continue the evidentiary hearing, for a stay, and for additional discovery. Such rulings are committed to the sound discretion of the court. *Owen*, 363 So. 3d at 1039 (continuances); *Hutchinson v. State*, No. SC2025-0517, 2025 WL 1198037, at *3 (Fla. Apr. 25, 2025) (post-warrant discovery); *Barwick v. Governor of Florida*, 66 F.4th 896, 902 (11th Cir. 2023) (stays). Having carefully reviewed the record (including the motions, rulings, and transcripts) as well as the briefing here, we believe that reasonable judges might well agree with the court's decisions not to postpone the hearing, stay the execution, or compel the requested discovery.[6] Although

6. We note the following supportive facts: (1) due to the professionalism and diligence of the presiding judge, court staff, and the parties—the evidentiary hearing was completed in one calendar day despite collateral counsel's initial concerns that it would take more time; (2) all of the projected defense witnesses testified fully at the hearing, in spite of its expedited nature; and (3) on the day of the evidentiary hearing, collateral counsel did not renew any objection to the timing of the hearing or indicate that any witness was unavailable or ill-prepared.

Hutchinson points to certain things that he deems less than ideal, he does not claim that further evidentiary development would have altered the trial court's competency ruling. Nor, for that matter, would additional evidence alter our conclusion on whether legally *sufficient* evidence was introduced. We find no abuse of discretion in the circuit court's denial of these motions.

IV

Based on our analysis above, we affirm the challenged orders. In light of our affirmance, we decline to stay Hutchinson's execution. No motion for rehearing will be considered, and the mandate shall issue immediately.

It is so ordered.

MUÑIZ, C.J., and CANADY, COURIEL, GROSSHANS, FRANCIS, and SASSO, JJ., concur.
LABARGA, J., dissents with an opinion.

LABARGA, J., dissenting.

As I explained in my recent dissent, "I fully acknowledge the horrific facts of this death warrant case." *Hutchinson v. State*, SC2025-0517, 2025 WL 1198037, at *7 (Fla. Apr. 25, 2025) (Labarga, J., dissenting). Moreover, I join the majority in recognizing "the professionalism and diligence of the presiding

judge, court staff, and the parties" that aided in conducting the evidentiary hearing in the circuit court. Majority op. at 14 note 6.

And yet, this death warrant case has had a procedural path unlike any in recent history. It is because of this that I continue to believe that a stay would be beneficial to the consideration of the issues raised. As such, I dissent.

An Appeal from the Circuit Court in and for Bradford County,
James Matthew Colaw, Judge
Case No. 042025CA000163CAAXMX

Dawn B. Macready, Capital Collateral Regional Counsel, Chelsea Shirley, Assistant Capital Collateral Regional Counsel, Lisa M. Fusaro, Assistant Capital Collateral Regional Counsel, and Alicia Hampton, Assistant Capital Collateral Regional Counsel, Northern Region, Tallahassee, Florida,

for Appellant

James Uthmeier, Attorney General, Charmaine M. Millsaps, Senior Assistant Attorney General, and Janine D. Robinson, Assistant Attorney General, Tallahassee, Florida,

for Appellee

A2

Eighth Judicial Circuit Court Bradford County
Order Finding Jeffrey Hutchinson
Competent to be Executed
April 27, 2025

IN THE CIRCUIT COURT OF THE EIGHTH JUDICIAL CIRCUIT IN AND FOR BRADFORD COUNTY, FLORIDA

STATE OF FLORIDA,

Plaintiff,

vs.

JEFFREY HUTCHINSON,

Defendant.

CASE NO.: 04-2025-CA-000163

EMERGENCY CAPITAL CASE DEATH WARRANT SIGNED EXECUTION SCHEDULED FOR MAY 1, 2025 AT 6:00 P.M.

ORDER FINDING JEFFREY HUTCHINSON COMPETENT TO BE EXECUTED

THIS CAUSE comes before the Court upon the defendant Jeffrey Hutchinson's "Motion for Determination of Sanity to be Executed Pursuant to Florida Rule of Criminal Procedure 3.811," filed April 24, 2025, pursuant to Fla. R. Crim. P. 3.811(d). An evidentiary hearing was held on the motion on April 25, 2025. Upon consideration of the motion, the State's response to the motion, the written materials provided by the parties, and the evidence and testimony presented at the rule 3.812 hearing, this Court finds and concludes that Jeffrey Hutchinson is sane and competent to be executed and makes the following findings:

PROCEDURAL HISTORY

The defendant, Jeffrey Hutchinson ("Hutchinson"), is under an active death warrant, signed by the Governor on March 31, 2025, based on the affirmance of his 2001 convictions and sentences for the first-degree murders of the three children of his then girlfriend Renee Flaherty. Hutchinson v. State, 882 So. 2d 943 (Fla. 2004). Hutchinson was convicted and sentenced to life imprisonment for first-degree murder of Renee Flaherty. In the trial, Hutchinson asserted a defense that "two men barged into the house and shot Renee and the children, despite Hutchinson's best efforts to disarm them." Hutchinson v. State, No. SC2025-0517, 2025 WL 1198037, at *2 (Fla. Apr. 25,

2025). The jury rejected this defense. Hutchinson waived a penalty-phase jury. "At the ensuing penalty phase, the trial court received evidence… that Hutchinson had served in the Gulf War and suffered effects (including nonphysical issues) from that service—what witnesses described as Gulf War Syndrome or Illness." Hutchinson v. State, No. SC2025-0517, 2025 WL 1198037, at *2 (Fla. Apr. 25, 2025). The court sentenced Hutchinson to life for the murder of Renee Flaherty; and to death for the murder of each of her three children.

As recently discussed by the Florida Supreme Court,

> [i]n the twenty-plus years since our affirmance, Hutchinson has challenged his convictions and death sentences in both state and federal court to no avail. We affirmed the denial of his initial motion for postconviction relief and likewise affirmed the denial of his successive motions, including one pending when the Governor signed the death warrant. Hutchinson v. State, 17 So. 3d 696 (Fla. 2009) (initial state postconviction proceeding); Hutchinson v. State, 243 So. 3d 880 (Fla. 2018) (successive state proceeding); Hutchinson v. State, 343 So. 3d 50 (Fla. 2022) (successive state proceeding); Hutchinson v. State, No. SC2025-0497, 2025 WL 1155717 (Fla. Apr. 21, 2025) (successive state proceeding). Hutchinson fared no better in federal court. His first habeas petition was rejected on timeliness grounds. Hutchinson v. Florida, No. 5:09-cv-261-RS, 2010 WL 3833921 (N.D. Fla. Sept. 28, 2010), *aff'd*, 677 F.3d 1097 (11th Cir. 2012).[3] And his second petition was dismissed as an unauthorized second or successive petition. Hutchinson v. Crews, No. 3:13-cv-128-MW, 2013 WL 1765201 (N.D. Fla. Apr. 24, 2013).

Hutchinson v. State, No. SC2025-0517, 2025 WL 1198037, at *2 (Fla. Apr. 25, 2025). The Florida Supreme Court denied Hutchinson's fourth rule 3.851 motion on April 25, 2025. Id.

During his litigation under an active death warrant, Hutchinson had Drs. Bhushan Agharkar (psychiatrist) and Barry Crown (psychologist) evaluate him. On April 12, 2025, both Dr. Agharkar and Dr. Crown submitted reports finding Hutchinson not competent to be executed. On April 14, 2025, Hutchinson sent a letter to Governor DeSantis under section 922.07(1), Florida Statues, asserting Hutchinson was insane to be executed. Upon receipt of the letter, on April 17, 2025, the Governor issued a stay and, as provided under section 922.07(1), authorized an independent three-

panel commission of psychiatrists to evaluate Hutchinson. Their examination was completed on April 22, 2025, when they issued a report to the Governor finding Hutchinson: (1) to have no current mental illness; (2) to have Narcissistic and Antisocial Personality Traits; and (3) sane to be executed. On April 23, 2025, the Governor lifted the stay of execution based on the results of the commission's report.

On April 24, 2025, Hutchinson filed his motion for determination of sanity to be executed pursuant to Florida Rule of Criminal Procedure 3.811(d). The State filed a response. On April 25, 2025, an evidentiary hearing occurred to determine Hutchinson's sanity to be executed.

LEGAL STANDARD FOR SANITY DETERMINATION

Under Rule 3.812(e), the prisoner has the burden to establish by clear and convincing evidence that he is insane to be executed. Under Florida law the standard for determining whether a prisoner is insane to be executed is whether he "lacks the mental capacity to understand the fact of the impending execution and the reason for it." The Florida Supreme Court in Provenzano v. State, 760 So. 2d 137 (Fla. 2000), considered the difficulties of persons who have mental illnesses and delusions, and held that such person could still be found competent to be executed when that person "had a factual and rational understanding" of the details of his trial; conviction; jury recommendation of death; whose murder he was sentenced to die for; and, that he will physically die once he is executed. "In other words, sanity for execution depends on whether a 'prisoner's concept of reality' prevents him from grasping 'the link between his crime and the punishment.'" Owen v. State, 363 So. 3d 1035, 1038 (Fla. 2023) (quoting Panetti v. Quarterman, 551 U.S. 930, 958, 960, 127 S.Ct. 2842, 168 L.Ed.2d 662 (2007)). "What matters is whether a person has the 'rational understanding' of why the State seeks to execute him, 'not whether he has any particular

memory or any particular mental illness.'" Id. (quoting Madison v. Alabama, 586 U.S. 265, 275, 139 S.Ct. 718, 203 L.Ed.2d 10 (2019)).

HEARING TESTIMONY AND RELATED EVIDENCE

Monica Jordan is a licensed private investigator and mitigation specialist with 30 years of experience. She has worked on approximately 50 capital murder cases from the trial through the penalty phase. She has not had any experience with anyone malingering a mental illness. She became involved in Mr. Hutchinson's case in October of 2007 when Clyde Taylor, counsel for Mr. Hutchinson at the time, asked her to assist with the case. As part of her involvement, Ms. Jordan spent around three (3) hours with the defendant in the prison. She testified that the defendant was focused on the United States government having framed him for the murder of his girlfriend and her three children and that he was concrete in this belief. Ms. Jordan stopped working on the defendant's case in December of 2007 and has not had any contact with him for the last eighteen (18) years. Ms. Jordan testified that the defendant did not tell her that two to three masked men had broken into his house on the night of the murders. Ms. Jordan, from her review of the records, was familiar with the fact that the defendant had admitted to shooting the victims on a 911 call made right after the murders.

Stacy Biggart is a legal skills Professor at the University of Florida Levin College of Law for the last three years. She previously was an attorney and contract attorney for Capital Collateral Regional Counsel (CCRC)-North where she worked on approximately a dozen Death Penalty cases. As a practicing attorney, Professor Biggart represented several clients with failing mental health but none of those were on death row. She was assigned to Mr. Hutchinson's case in 2021 to specifically handle an appeal of a 3.851 postconviction motion. Since this was during the covid-

19 pandemic, most of her communications and contact with the defendant were by phone. During these contacts, the defendant maintained the belief that the government had killed his family to shut him up about information he possessed concerning the Gulf War and specifically Gulf War Syndrome. Professor Biggart believed that the defendant actually believed this to be the case.

Dan Ashton is the Chief Investigator for the Federal Public Defender's Office for the last 25 years where he has worked primarily on capital cases. He estimates working on more than 100 capital cases in his career thus far. Mr. Ashton became involved in the defendant's case in 2005 when he was brought into the case by the defendant's attorney at the time. He worked on the defendant's case until halfway into 2006. During this time, Mr. Ashton had approximately six (6) in person interactions with the defendant for an average of one hour each. Mr. Ashton described the visits as unusual because the conversations were the same every time. The defendant consistently expressed that the government had framed him for the murder of his family. That masked men had entered his house and killed his family in order to silence him over being vocal about Gulf War Syndrome. Mr. Aston described the defendant as forceful and passionate in these assertions. When Mr. Ashton attempted to play devil's advocate on one occasion by asking the defendant why the masked men didn't just kill him if they wanted to silence him, the defendant appeared initially stunned by the question, but then went right back to his claim that he was framed by the government. Approximately ten (10) years later, Mr. Ashton found himself involved with the defendant's case a second time as part of the Federal Public Defender Office-Habeas Unit. This resulted in five (5) to six (6) additional in person meetings with the defendant each lasting between 30-90 minutes. Finally, in 2024, Mr. Ashton had two (2) additional visits with the defendant while working on his clemency proceedings. Mr. Ashton described defendant as being

reluctant to speak over the phone because he didn't trust it was secure. Over the course of approximately 20 years, the conversations with the defendant have been the same content, delivered with the same demeanor, forcefulness and conviction. Mr. Ashton did acknowledge on cross examination that he was aware of a 911 call recording where defendant admitted to shooting the victims.

Nels Roderwald is an investigator with the Federal Public Defender Office-Capital Habeas Unit for the past seven and a half (7 ½) years and was a private investigator for five (5) years prior to that. He worked on approximately twelve (12) death cases and was specifically assigned to the defendant's case in 2017. Once being assigned to the defendant's case, Mr. Roderwald had around two dozen in person visits with the defendant as well as some additional phone contact and communications through letters. Defendant was not comfortable speaking in detail about his case over the phone. During these visits and contacts, the defendant expressed the same belief that he had been set up by the government to silence him. Mr. Roderwald believes the defendant actually believes this. Mr. Roderwald testified that the defendant believed that some of his attorneys and judges on his case over the years have been part of this conspiracy to frame him.

Jeffrey Hazen is an attorney currently with the Florida Bar Ethics Department. He previously worked for CCRC in both Tampa and Tallahassee and was in private practice for eight (8) years. From 2004-2008, Mr. Hazen represented the defendant and during this time had more than twenty (20) personal visits with him. Mr. Hazen described the defendant as being very fixated on finding the people responsible for these murders and insisted that the killings were part of a government conspiracy to silence him. Mr. Hazen tried to get the defendant focused in other directions, such as mitigation, which caused the defendant to believe Mr. Hazen was working with

the government and was part of the conspiracy. On cross examination, Mr. Hazen acknowledged that he has spoken to the defendant specifically about federal habeas deadlines and the issue of those deadlines being tolled with the filing of certain motions in state court.

Terri Backhus is an attorney licensed to practice in both Florida and Missouri. She previously was the Chief of the Capital Habeas Unit at the Federal Public Defender Office in Tallahassee. She has worked on 50-100 capital cases in her career and has experience with clients who were mentally ill, who had delusions and many who were malingering. Defendant's case was the very first case assigned to the Capital Habeas Unit at the Federal Public Defender Office in 2015. She represented the defendant from that time until the end of 2021/beginning of 2022. Ms. Backhus believes the defendant believes his delusion despite it being irrational. She described him as hesitant to speak over the phone and paranoid around new people. Throughout her representation of the defendant, he maintained the same delusion of being set up by the government. Defendant told Ms. Backhus that he could see auras around people and based on their color he knew whether the person was good or bad. He stated she had a red aura around her which allowed him to know she was good. On cross examination, Ms. Backhus acknowledged that defendant's *pro se* motion, that she reviewed when first coming into the case, was very well done. It cited the correct rules and law to support the motion and specifically made a request to have counsel appointed. She testified that the defendant is very intelligent yet still has irrational thoughts. Ms. Backhus acknowledged that she had pursued actual innocence litigation in the courts on defendant's behalf.

Dawn Macready is an attorney with CCRC North. She attended the Commission's April 21, 2025 evaluation of the defendant. She testified that when the defendant was initially asked by

the evaluators whether he knew why they were there, he stated to discuss blast over pressure and the Gulf War Syndrome. She stated the evaluators had to tell him why they were actually there. She stated each evaluator participated equally and asked their own questions of the defendant. She observed that the defendant was calm, answered the questions, but was adamant about his innocence. Mr. Hutchinson stated that three (3) individuals were involved in the murders but only two (2) were there the night of. He told the evaluators he didn't know why they didn't kill him. Ms. Macready stated the defendant told the Commission that he had been convicted of these crimes (murders) but he was not a murderer, he was not a killer, and he didn't belong on death row. Mr. Hutchinson then stated he was going to have to pay the price for something that somebody else did. These statements very clearly demonstrate to the court that Mr. Hutchinson rationally understands the nature and effect of the death penalty and why it is to be imposed on him. Ms. Macready additionally overheard Corrections Officer Philbert tell the evaluators that the defendant told him that he wasn't the killer.

Dr. Barry Crown is a board certified neuropsychologist licensed in Florida as a psychologist. His qualifications are more fully laid out in his *curriculum vitae* entered into evidence as Defense Exhibit #1. Dr. Crown has had a consulting forensic practice for over forty (40) years and has been retained by both the State and Defense. He has previously assessed defendants for competency to be executed finding some competent and some incompetent. Dr. Crown first became involved in this case in August of 2024 after being retained by the defense and conducted an evaluation of Mr. Hutchinson on September 12, 2024. He then conducted a second evaluation specifically for competency to be executed on April 11, 2025. Dr. Crown's full reports from these evaluations are in evidence as Defense Exhibits #2 and #3. On September 12, 2024,

Dr. Crown spent three and a half (3 ½) hours with the defendant at Union Correctional Institute (UCI). He conducted tests to assess brain function and found defendant functioning in the twenty-third percentile for general reasoning and judgment. He was found to being in the third percentile in overall brain functioning, with the cutoff for brain damage being twenty-seventh percentile. Additionally, Dr. Crown administered a malingering test which the defendant passed. After this evaluation, Dr. Crown found defendant to have a cognitive disorder not otherwise specified, PTSD, organic brain damage with impairments in reasoning, judgment, critical thinking and memory. On April 11, 2025, Dr. Crown spent two (2) hours with the defendant at Florida State Prison (FSP) to address his competency to be executed. Dr. Crown administered similar tests as he had done before. He testified that the defendants scale scores were between two (2) and six (6) with the average or normal range being ten (10). He also administered a PTSD test where defendant scored at the moderate level. Defendant told Dr. Crown about the government conspiracy and that others had committed the murders. He specifically discussed that two (2) masked men were the killers. Dr. Crown opined defendant suffers from Delusional Disorder and that he was not competent to be executed. Dr. Crown's opinions are not impacted by the lack of prior mental health diagnosis or treatment. Dr. Crown testified that Mr. Hutchinson understands that he is going to be executed. He understands the nature and effect of the death penalty. But he does not have a rational understanding of why the State seeks to execute him. On cross examination, Dr. Crown testified that the defendant told him two (2) bank robbers committed the murders because of a government conspiracy to silence him over secrets he possessed from the Gulf War. Dr. Crown agreed that there should be a level of consistency with a fixed delusion. Dr. Crown also acknowledged that he did not diagnose the defendant with Delusional Disorder in September of 2024. Dr. Crown further

acknowledged that no prior doctor who had evaluated the defendant in the past had ever diagnosed him with Delusional Disorder either and that in all the mental health records of the Department of Corrections there is no reference to any mental health diagnoses at all. Dr. Crown stated that over 95% of his work over past forty (40) years has been for the defense. Dr. Crown on redirect testified that the defendant has a working knowledge of his case and the procedural issues and did not want to be found incompetent because he believes he is innocent.

Dr. Bhushan Agharkar is a medical doctor and psychiatrist who is board certified in psychiatry and neurology. His qualifications are more fully laid out in his *curriculum vitae* entered into evidence as Defense Exhibit #6. Dr. Agharkar has testified as an expert approximately 150 times in both State and Federal court. He has previously assessed defendants for competency to be executed finding some competent and some incompetent. He was retained by the defense in this case to evaluate Mr. Hutchinson. On April 10, 2025, Dr. Agharkar interviewed Mr. Hutchinson at Florida State Prison for approximately three (3) hours and fifteen (15) minutes. Dr. Agharkar's full report is in evidence as Defense Exhibit #7. He did not do any formal testing. Dr. Agharkar testified that the most prevalent feature of his time with the defendant was how thought disorganized he was. Defendant stated the government wants him executed as part of a government conspiracy. He explained that men were looking for blood diamonds and then wanted to frame him for the murders of his girlfriend and her children. He maintained his innocence, even coming to tears at times, and expressed how he couldn't believe the government would kill a woman and children to get at him. Dr. Agharkar opined that the defendant suffers from Delusional Disorder which is long standing and not amenable to change. This delusional belief interferes with the defendant having a rational understanding of the reason for his execution. Dr. Agharkar stated that

the defendant understands he is being executed for the charges of capital murder for which he was convicted but insists that he is innocent. Dr. Agharkar did not believe the defendant was malingering given the fact that he professed over and over that there was nothing wrong with him, that he wasn't mentally ill or crazy. Dr. Agharkar's opinions are not impacted by the lack of prior mental health diagnosis or treatment because it is the defendant who has refused to seek treatment or take medications. Dr. Agharkar testified that Mr. Hutchinson understands that he is going to be executed. He understands the nature and effect of the death penalty. But he does not have a rational understanding of why the State seeks to execute him. On cross examination, Dr. Agharkar acknowledged that more than 95% of his criminal work is for the defense but that he has only testified in seven (7) percent of those cases. He also stated that the defendant recalled more than two (2) people breaking in on the night of the murders. He further stated he would expect general consistency in the defendant's fixed delusion. Then concedes that in his review of the records in this case he did not see any prior mention of blood diamonds. Nonetheless, Dr. Agharkar explained that the prominent feature of the Delusional Diagnosis of the defendant was the persecutory aspect, that the government is framing him.

In response to the defense experts' testimony. the State presented testimony from Dr. Tonia Werner. Dr. Werner is the Chief Medical Officer at Meridian Behavioral Healthcare for the past ten (10) years and is licensed to practice medicine in Florida. She is Board Certified in general and forensic psychiatry. She has been appointed to between five (5) and ten (10) Governor Commissions to determine competency of defendants who have been scheduled to be executed. Her qualifications are more fully laid out in her *curriculum vitae* entered into evidence as State's Exhibit #1. Dr. Werner along with Dr. Wade Myers and Dr. Emily Lazarou conducted an

evaluation of Mr. Hutchinson on April 21, 2025. The purpose and non-confidential nature of the evaluation were explained to Mr. Hutchinson.The interview of Mr. Hutchinson by the Commission lasted approximately ninety (90) minutes. In addition to the ninety (90) minute interview of the defendant, Dr. Werner, Dr. Wade Myers and Dr. Emily Lazarou each received and reviewed numerous records in the case and interviewed three (3) department of corrections employees about their contact and experience with the defendant.

The Commission report indicates that during the evaluation, Mr. Hutchinson was calm, cooperative and maintained good eye contact. His speech was of average rate, volume and tone. He was well groomed and wearing ankle and wrist shackles. There was no evidence of disordered or delusional thinking, and he presented as a bright and thoughtful man. He answered questions in a logical, coherent and goal-directed manner. He demonstrated a detailed memory for events during his life and used advanced vocabulary regarding legal, military and racing topics. Additionally, he was able to cite statutes pertaining to his case. The Commission clinically judged the defendant's intelligence to be in the high average range.

Dr. Werner testified that Mr. Hutchinson told the evaluators that three (3) masked individuals entered his home. He believed they were there for blood diamonds and explained that while serving in the war he was approached by the South African government, who as part of a scheme to hide money, wanted him to transport these blood diamonds for them. He indicated he didn't want to be involved in this, so he declined. He believes the three (3) masked men believed he had those blood diamonds in the house the night of the murders. Dr. Werner noted that in a review of all the other records in this case, there is no other mention of blood diamonds. Dr. Werner stated she had personally seen between 40-100 patients in her career who were suffering from

Delusional Disorder Diagnosis, which is a rare disorder. She stated the genuineness of the delusion is essential to a Delusional Disorder Diagnosis. Dr. Werner testified that she believed the defendants statements were an attempted defense to the murders which he had created and was not a delusion at all. She further testified that the defendant's story had evolved and changed over time beginning with the 911 call. During the evaluation the defendant was asked why the masked men didn't kill him, Dr. Werner testified that he appeared confused by this question and did not provide a response. The defendant was also asked about prior allegations of domestic violence against him which he denied and stated that the female had to make these false allegations against him in order to obtain government assistance in the State of Washington at that time. Dr. Werner pointed out that defendant had initially been treated for Gulf War Syndrome many years ago and was receiving medication. However, he stopped this medication claiming his immune system had reset and he no longer needed it. For his entire time in the department of corrections, the defendant has been declared an S1, the lowest mental health ranking, which indicates there are no psychological issues present. Dr. Werner added that in her interviews with other Department of Corrections personnel she learned that the defendant would at times voluntarily bring up his military service upon hearing that a corrections officer had also served. She found this inconsistent with his delusional claim. Dr. Werner opined that the defendant demonstrates both narcissistic and anti-social personality traits but does not suffer from Delusional Disorder. She stated that Mr. Hutchinson understands that he is going to be executed and even explained why that was, specifically because a jury had found him guilty of the murders and he had been sentenced to death. He further told the evaluators that he had filed more than 100 appeals and did 24 of those himself, demonstrating a high level of understanding of the legal system and of his case. Mr. Hutchinson was persistent in his belief that

he was wrongfully convicted and toward the end of the interview told the evaluators "I don't want to die."

Dr. Werner testified that. based on the clinical interview, review of the records, and interviews with correctional employees. it was the opinion of the Commission with a reasonable degree of medical certainty that Mr. Hutchinson (1) has no current mental illness, (2) has Antisocial and Narcissistic Personality Traits, and (3) fully understands the nature and effect of the death penalty and why it has been imposed on him.

In response to the defense experts' testimony, the State also presented testimony from Dr. Wade Myers. Dr. Myers is a Professor of Psychiatry at Brown University for the past 15 years. He is licensed to practice medicine in Florida and is Board Certified in general psychiatry, forensic psychiatry, and child adolescent psychiatry. Although the defense did attempt to challenge whether Dr. Myers' board certification had lapsed in forensic psychiatry on cross, the court's weighing of Dr. Myers' testimony was not impacted by that evidence. He has been appointed to approximately ten (10) Governor Commissions. His qualifications are more fully laid out in his curriculum vitae entered into evidence as State's Exhibit #2. Dr. Myers along with Dr. Tonia Werner and Dr. Emily Lazarou conducted an evaluation of Mr. Hutchinson on April 21, 2025. Dr. Myers testified that Mr. Hutchinson's version of events began with articulating how everything was great, he and is girlfriend and family were having a great night together and drinking beers. However, his girlfriend then received a phone call from an ex that upset her resulting in her taking this out on him. To avoid the confrontation, the defendant stated he left the house and went to a bar. He then describes being back home and putting up a terrific fight with the masked intruders before being hit over the head and waking up in the garage. Dr. Myers has treated patients with Delusion Disorders for over

30 years and is well versed in this condition. Dr. Myers stated he does not believe Mr. Hutchinson in any way has delusional thinking. He further testified that Delusion Disorder is a very persistent and stubborn illness that lasts one's entire life and he saw no evidence the defendant has ever had a delusion. Dr. Myers pointed to the 911 call in the case where the defendant admits to killing his family and then stating he loves them. Dr. Myers also pointed out that records indicate the defendant had a blood alcohol level of approximately three times the legal limit on the night of the murders and the 911 call and that other evidence demonstrated the defendant had a history of becoming violent when he drank. The defense did attempt to counter the evidence of the 911 call by stating that the defendant had subsequently denied it was his voice and then also arguing it had been altered. However, there is no credible evidence of either of those assertions other than the defendant's unsubstantiated claims. Dr. Myers added that the records he reviewed were replete with evidence of the defendant avoiding responsibility. Dr. Myers testified that the defendant's ability to put together, quickly and nimbly, an elaborate story with great detail about two robbers to share with police on the night of the murders, while demonstrating high intelligence, is itself inconsistent with Delusional Disorder. Dr. Myers testified that the odds are one in a billion that the onset of Delusional Disorder could come about in the manner described by the defendant. Dr. Myers stated that the defendant is not malingering a mental illness and that malingering is not a relevant consideration in this case. This is because the defendant has done nothing more than create a story of innocence and stuck with it throughout the years. Dr. Myers added rhetorically, what point would it be to create an alibi if you are not going to stick with it throughout the process? However, Dr. Myers was clear that this is no way morphs into a delusion in this case. Dr. Myers opined that the defendant is not suffering from any mental illness at all. Dr. Myers agreed with Dr.

Werner that Mr. Hutchinson has both Antisocial and Narcissistic Personality Traits, one of the features of which is not accepting responsibility for your actions and trying to control your environment. Dr. Myers stated Mr. Hutchinson understands exactly what he is facing regarding the death penalty and that he in understandably sad about that. Dr. Myers acknowledged on cross-exam examination that the Commission members are paid $400 an hour and travel reimbursement for their services in this case. Dr. Myers also acknowledged on cross that in all of his prior Commission appointments he has also found those defendants to be competent to be executed.

After further review of the records, the three (3) Commission members conferred and there were no differences of opinion amongst them. They found Mr. Hutchinson competent to be executed.

James Hughes is a corrections officer with seventeen (17) years of experience and has worked for the last year at Florida State Prison (FSP). He has had contact with the defendant over the past three (3) weeks since the Death Warrant was signed. He stated that the defendant has never mentioned anything about a government conspiracy to him. Additionally, there is currently a second inmate on Death Watch at FSP and he has overheard the defendant and this second inmate engaged in conversations. Again, there has been no mention of a government conspiracy in those conversations either.

Patrick Hare is a corrections officer with eleven (11) years of experience and has worked for the last nine (9) years at Union Correctional Institute (UCI). He has had at least one (1) interaction per week with the defendant for the past nine (9) years. The interactions have been short and pleasant. The defendant has been able to hold rational conversations. Officer Hare has

never observed the defendant confused or disoriented. Defendant has never expressed any delusional beliefs to Mr. Hare or in his presence.

Scottie Pleasant is a Sergeant with the Florida Department of Corrections where he has been employed for the past eleven (11) years. He has been assigned to FSP for the past seven (7) months. He has had interactions with Mr. Hutchinson upon the Death Warrant being signed and the defendant being transported to FSP. He described the defendant being calm during the reading of the Death Warrant. He was subsequently asked if he had any questions and if he understood. Defendant appeared to understand, did not appear confused in any way and signed the Warrant acknowledging the same. The defendant did not express any delusions during this process. Sargeant Pleasant had other conversations with the defendant as well and states that he has never said he wasn't a killer or criminal.

CONCLUSIONS

This Court, after hearing and evaluating the witnesses' testimony, as well as evaluating the evidence introduced at the hearing and other documents provided by counsel, finds that Mr. Hutchinson has not met his burden of proving by clear and convincing evidence that he is presently insane or incompetent to be executed. This Court finds that even if the standard of proof were preponderance of the evidence, Mr. Hutchinson has also not met that lower burden.

This Court finds the testimony and opinions of Dr. Werner, Dr. Myers and Dr. Lazarou both credible and compelling as it relates to Mr. Hutchinson's current mental condition or lack thereof.

This Court also finds the testimony and opinions of Dr. Werner, Dr. Myers and Dr. Lazarou to be credible as to the limited question of Mr. Hutchinson's competency to be executed. This

Court finds their conclusion that the defendant is competent to be executed to be clearly and conclusively supported by the record. There is no credible evidence that Mr. Hutchinson does not understand what is taking place and why it is taking place. The testimony of the prison employees as it pertains to the absence of any positive symptoms in Mr. Hutchinson's behavior in the past, his post-warrant reaction and response and his subsequent daily life support the testimony and findings of Dr. Werner. Dr. Myers and Dr. Lazarou.

This Court finds that Jeffrey Hutchinson does not have any current mental illness. This Court finds that Mr. Hutchinson's purported delusion is demonstrably false. This Court finds that Mr. Hutchinson has Antisocial and Narcissistic Personality Traits. This Court finds that Mr. Hutchinson is presenting his story of a government conspiracy in order to avoid responsibility for the murders and, ultimately in this instance, the death penalty. Even if Mr. Hutchinson did currently suffer from Delusional Disorder; there is no evidence that that mental illness interferes in any way with his "rational understanding" of the fact of his pending execution and the reason for it. Mr. Hutchinson is aware that the State is executing him for the murders that were committed and that he will physically die as a result of the execution. There is no credible evidence that in his current mental state Mr. Hutchinson believes himself unable to die or that he is being executed for any reason other than the murders he was convicted of by a jury of his peers.

Based on the foregoing, it is hereby **ORDERED AND ADJUDGED** that:

I. Jeffrey Hutchinson does not meet the criteria for incompetency at the time of execution.

II. Jeffrey Hutchinson does not lack the mental capacity to understand the fact of the pending execution.

III. Jeffrey Hutchinson does not lack the mental capacity to understand the reason for the pending execution.

IV. Jeffrey Hutchinson understands that his execution is imminent and the reason why he is to be executed.

DONE AND ORDERED in Chambers at Starke, Bradford County, Florida, on 27 April 2025.

JAMES M. COLAW
CIRCUIT JUDGE

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been furnished on 27 April 2025 by e-mail to:

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