

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

Respondent's suggestion that this Court should not grant review to address factual findings and credibility determinations misses the point of Mr. Hutchinson's argument. *See* BIO at 6, 11-21. Mr. Hutchinson is not merely "taking issue" with the findings related to his competency-to-be-executed claim. He is challenging the fundamentally flawed process that led to those findings, which necessarily undermines them.

In a similar vein, Respondent is also incorrect that there is "no conflict between this Court's *Ford* jurisprudence and the Florida Supreme Court's decision in this case." BIO at 7. This Court was explicit with its concern that competency procedures be "adequate for reaching reasonably correct results" and the "ascertainment of truth[.]" *Panetti v. Quarterman*, 551 U.S. 930, 954 (2007) (quoting *Ford v. Wainwright*, 477 U.S. 399, 423-24 (1986) (Powell, J., concurring)). The Florida Supreme Court, by upholding a decision based on a procedure that was not adequate for these purposes, is certainly in conflict with this Court's jurisprudence.

Indeed, much of Respondent's factual assertions and recitations of the lower courts' rulings proves the point with regard to a violation of due process. In this Brief alone, Respondent identifies:

- The circuit court's findings that Mr. Hutchinson does not have any current mental health issues (BIO at 8), and is simply creating an alibi (BIO at 9)—both of which are the direct result of his counsel not being able to adequately impeach the three members of the Commission with evidence of their bias and lack of comprehensive review; and

- Respondent’s own contention that Mr. Hutchinson has no mental illness “at all,” (BIO at 6, 8, 10), which is completely contrary to the underlying record, which in addition to containing a diagnosis of delusional disorder dating all the way back to the 1990s also includes Mr. Hutchinson’s childhood history of ADHD; traumatic brain injuries related to blast overpressure exposure; neurocognitive conditions attributable to Gulf War Illness; and PTSD related to his valiant service on the front lines of combat.

Had Mr. Hutchinson received what *Ford* and *Panetti* envision, including a meaningful opportunity to counter the State’s presentation before an impartial officer, the findings would have been much different.

The Florida Supreme Court’s upholding of the lower court’s order, purportedly on the basis of competent substantial evidence, was attributable to the Florida Supreme Court’s misapplication of the incompetency-to-be-executed standard as laid out in *Panetti*. Although the Florida Supreme Court used the words “rationally understood” they actually used the factual awareness standard by relying on the circuit courts findings that Mr. Hutchinson is aware that (1) his partner and her children were killed; and (2) he has been convicted, sentenced, and set to die for it. BIO at 9. This is precisely the standard the *Panetti* Court disavowed. *See Panetti*, 551 U.S. at 956 (rejecting as unconstitutional a competency inquiry that asked only whether a prisoner is “aware that [he] is going to be executed and why”); *id.* at 959 (prisoner’s “awareness of the State’s rationale for an execution is not the same as a rational understanding of it.”).

Additionally, Respondent’s contention that “[a] capital defendant raising a *Ford* claim is not entitled to the same due process as a defendant who has yet to be convicted or sentenced[.]” BIO at 10, supports the need for this Court’s certiorari

review. One of the questions Mr. Hutchinson has presented to this Court is whether—in light of *Panetti*'s clarification that competency-to-be-executed claims do not ripen until the signing of a warrant—*Panetti* has created a heightened standard of due process as compared to Justice Powell's controlling holding in *Ford*. Petition at i..

CONCLUSION

This Court should grant a writ of certiorari to review the decision of the Florida Supreme Court.

/s/ Chelsea Shirley

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