

*** CAPITAL CASE ***

No. _____

IN THE
Supreme Court of the United States

JEFFREY GLENN HUTCHINSON,

Petitioner,

v.

RICKY D. DIXON, SECRETARY,
FLORIDA DEPARTMENT OF CORRECTIONS,

Respondent.

*On Petition for a Writ of Certiorari to the
United States Court of Appeals for the Eleventh Circuit*

PETITION FOR A WRIT OF CERTIORARI

EXECUTION SCHEDULED FOR MAY 1, 2025, AT 6:00 P.M.

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CAPITAL CASE

QUESTIONS PRESENTED

Jeffrey Glenn Hutchinson, a decorated combat veteran, returned from the front lines of the Gulf War plagued by persecutory delusions about a government conspiracy to silence his knowledge of military secrets and advocacy related to Gulf War Illness.

From his first contact with law enforcement, Mr. Hutchinson attributed the commission of the crimes to the government. His belief that the government is responsible for killing his girlfriend and her children has persisted without wavering for nearly 30 years. Mr. Hutchinson does not believe that he will die for crimes he committed, but instead, that the government conspiracy is responsible for his death sentences, and if this Court does not intervene, will lead to his execution.

Based upon the standard set forth by this Court in *Panetti v. Quarterman*, 551 U.S. 930, 952 (2007), Mr. Hutchinson is incompetent to be executed. Florida's continued rejection of the correct application of *Panetti* violates the long-held principle that the execution of the insane violates the Eighth Amendment. *Ford v. Wainwright*, 477 U.S. 399, 401, 410 (1986).

Mr. Hutchinson requests that his execution be stayed, and certiorari be granted to address the following questions:

1. Does a finding of competency because a petitioner has a “rational understanding of the fact of his pending execution and the reason for it[,]” solely because he 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[,]” run afoul of the *Panetti* rational understanding standard?
2. Does the *Panetti* standard account for a petitioner's subjective understanding of the reason for their execution as opposed to their ability to coherently explain the State's reason for carrying out the execution?

LIST OF DIRECTLY RELATED PROCEEDINGS

Direct Review

Caption: *Hutchinson v. State*
Court: Supreme Court of Florida
Docket: SC01-500
Decided: July 1, 2004
Published: 882 So. 2d 943 (Fla. 2004)

State Collateral Review

Caption: *State v. Hutchinson*
Court: Circuit Court of the First Judicial Circuit, Okaloosa County, Florida
Docket: 1998 CF 001382 AC
Decided: January 3, 2008 (Initial State Postconviction Motion)
Published: 2008 WL 8948638 (Fla. Cir. Ct. Jan. 3, 2008)

Caption: *Hutchinson v. State*
Court: Supreme Court of Florida
Docket: SC08-99
Decided: July 9, 2009 (Initial State Postconviction Appeal)
Published: 17 So. 3d 696 (Fla. 2008)

Caption: *State v. Hutchinson*
Court: Circuit Court of the First Judicial Circuit, Okaloosa County, Florida
Docket: 1998 CF 001382 AC
Decided: November 11, 2011 (Motion for DNA Testing)
November 19, 2013 (First Successive Postconviction Motion)
May 30, 2017 (Second Successive Postconviction Motion)
December 4, 2020 (Third Successive Postconviction Motion)
April 4, 2025 (Fourth Successive Postconviction Motion)
April 11, 2025 (Fifth Successive Postconviction Motion)
April 27, 2025 (Motion to Determine Competency to be Executed)

Caption: *Hutchinson v. State*
Court: Supreme Court of Florida
Docket: SC11-2301 (Appeal re Motion for DNA Testing)
Decided: February 8, 2012
Published: N/A

Caption: *Hutchinson v. State*
Court: Supreme Court of Florida

Docket: SC13-1005 (Appeal re First Successive Postconviction Motion)
Decided: January 19, 2014
Published: N/A

Caption: *Hutchinson v. State*
Court: Supreme Court of Florida
Docket: SC17-1229 (Appeal re Second Successive Postconviction Motion)
Decided: March 15, 2018
Published: 243 So. 3d 880 (Fla. 2018)

Caption: *Hutchinson v. State*
Court: Supreme Court of Florida
Docket: SC21-18 (Appeal re Third Successive Postconviction Motion)
Decided: June 16, 2022
Published: 343 So. 3d 50 (Fla. 2022)

Caption: *Hutchinson v. State*
Court: Supreme Court of Florida
Docket: SC25-497 (Appeal re Fourth Successive Postconviction Motion)
Decided: April 21, 2025
Published: 2025 WL 1155717 (Fla. Apr. 21, 2025)

Caption: *Hutchinson v. State*
Court: Supreme Court of Florida
Docket: SC25-517 (Appeal re Fifth Successive Postconviction Motion)
Decided: April 25, 2025
Published: 2025 WL 1198037

Caption: *Hutchinson v. State*
Court: Supreme Court of Florida
Docket: SC25-590 (Appeal re Competency to be Executed)
Decided: April 30, 2025
Published: N/A

Federal Habeas Review

Caption: *Hutchinson v. Florida*
Court: United States District Court for the Northern District of Florida
Docket: 5:09-cv-261-RS
Decided: September 28, 2010 (Initial Federal Habeas Petition)
Published: 2010 WL 3833921 (N.D. Fla. Sep. 28, 2010)

Caption: *Hutchinson v. Florida*
Court: United States Court of Appeals for the Eleventh Circuit

Docket: 10-14978 (Initial Federal Habeas Appeal)
Decided: April 19, 2012
Published: 677 F.3d 1097 (11th Cir. 2012)

Caption: *Hutchinson v. Crews*
Court: United States District Court for the Northern District of Florida
Docket: 3:13-cv-128-MW
Decided: April 24, 2013 (Second Federal Habeas Petition)
June 12, 2013 (Rule 59(e) Motion)
January 15, 2021 (Rule 60(b) Motion)
April 16, 2025 (2d Rule 60(b) Motion)
Published: 2013 WL 1765201 (N.D. Fla. Apr. 24, 2013)
2013 WL 2903530 (N.D. Fla. June 12, 2013)
[Rule 60(b) Decision Not Published]
[2d Rule 60(b) Decision Not Published]

Caption: *Hutchinson v. Sec’y, Fla. Dep’t of Corr.*
Court: United States Court of Appeals for the Eleventh Circuit
Docket: 13-12296 (Appeal re 2nd Federal Habeas Petition, Rule 59(e) Motion)
Decided: August 15, 2013
Published: N/A

Caption: *Hutchinson v. Sec’y, Fla. Dep’t of Corr.*
Court: United States Court of Appeals for the Eleventh Circuit
Docket: 21-10508 (Appeal re Rule 60(b) Motion)
Decided: March 24, 2021
Published: N/A

Caption: *Hutchinson v. Sec’y, Fla. Dep’t of Corr.*
Court: United States Court of Appeals for the Eleventh Circuit
Docket: 25-11271 (Appeal re 2d Rule 60(b) Motion)
Decided: April 23, 2025
Published: N/A

Caption: *Hutchinson v. Sec’y, Fla. Dep’t of Corr.*
Court: United States District Court for the Northern District of Florida
Docket: 4:25-cv-205
Decided: May 1, 2025 (denying petition)
Published: N/A

Caption: *Hutchinson v. Sec’y, Fla. Dep’t of Corr.*
Court: United States Court of Appeals for the Eleventh Circuit
Docket: 25-11485
Decided: May 1, 2025 (denying COA)

Published: N/A

Certiorari Review

Caption: *Hutchinson v. Florida*
Court: Supreme Court of the United States
Docket: 12-5582 (Appeal re Initial Federal Habeas Petition)
Decided: October 9, 2012
Published: 568 U.S. 947 (2012)

Caption: *Hutchinson v. Florida*
Court: Supreme Court of the United States
Docket: 18-5377 (Appeal re Third Successive State Postconviction Motion)
Decided: October 1, 2018
Published: 139 S. Ct. 261 (2018)

Caption: *Hutchinson v. Florida*
Court: Supreme Court of the United States
Docket: 22-6015 (Appeal re 2d Rule 60(b) Motion)
Decided: January 9, 2023
Published: 139 S. Ct. 261 (2018)

Caption: *Hutchinson v. Florida*
Court: Supreme Court of the United States
Docket: 24-7079
Decided: Pending

Caption: *Hutchinson v. Florida*
Court: Supreme Court of the United States
Docket: 24-7084
Decided: Pending

Caption: *Hutchinson v. Florida*
Court: Supreme Court of the United States
Docket: 24-7087
Decided: Pending

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Petitioner Jeffrey Hutchinson, a death-sentenced Florida prisoner scheduled for execution on May 1, 2025, respectfully requests that the Court grant this petition for a writ of certiorari and stay his execution pending a decision on the merits. A separate application for a stay of execution accompanies this request.

DECISION BELOW

The Eleventh Circuit's decision is available at *Hutchinson v. Secretary*, Case 25-11485 (11th Cir. May 1, 2025). It is also included in the Appendix (App.) at 1a.

JURISDICTION

The Eleventh Circuit's order was entered on May 1, 2025. This Court has jurisdiction under 28 U.S.C. § 1254(1).

CONSTITUTIONAL PROVISIONS INVOLVED

The Eighth Amendment provides:

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

The Fourteenth Amendment provides in relevant part:

No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

INTRODUCTION

Jeffrey Glenn Hutchinson is scheduled to die tonight, but he has no rational understanding of why. Suffering from Delusional Disorder, Mr. Hutchinson fervently believes that his death sentence is attributable to a government conspiracy to silence him because he knows unsavory military secrets. Mr. Hutchinson's persecutory belief

system well predates the crimes for which he stands to die, having taken root upon his return from serving on the front lines of the Gulf War, being documented over a period of nearly thirty years, and persisting to the present day. Unable to surface from these longstanding fixed delusions, Mr. Hutchinson is incompetent to be executed under the Eighth and Fourteenth Amendments to the United States Constitution, as interpreted by this Court's precedent in *Ford v. Wainwright*, 477 U.S. 399 (1986), *Panetti v. Quarterman*, 551 U.S. 930 (2007), and *Madison v. Alabama*, 586 U.S. 265 (2019).

Yet, due to a fundamental misapplication of this Court's precedent, the state courts have paved the way for Mr. Hutchinson's unconstitutional execution. Florida's method for determining competency to be executed, previously found to be insufficiently protective in *Ford*, is once again out of constitutional lockstep in the wake of *Panetti* and *Madison*. The state courts unreasonably applied federal law by basing their determination of Mr. Hutchinson's competency on his factual understanding of his death sentence.

STATEMENT OF THE CASE¹

A. Relevant procedural history

After his death warrant was signed on March 31, 2025, Mr. Hutchinson's counsel initiated competency proceedings pursuant to Fla. Stat. § 922.07, by submitting a letter to Governor DeSantis stating a reasonable basis to believe Mr. Hutchinson's execution is unconstitutional under *Ford* and *Panetti*. PCR6. 523-24.

On April 17, 2025, Governor DeSantis issued an Executive Order appointing a Commission of three psychiatrists to evaluate Mr. Hutchinson. PCR6. 526-27. The Commission returned its findings on April 22, 2025, and the Governor issued an Executive Order adopting the Commission's conclusions the next day, that Mr. Hutchinson is in fact competent to be executed. PCR6. 17-18.

Pursuant to Fla. R. Crim. P. 3.812. Mr. Hutchinson was provided with a hearing on his competency-to-be-executed claim in the Bradford County circuit court

¹ Citations shall be as follows: The abbreviation "R." refers to the first eighteen (18) volumes of the record on direct appeal to the Florida Supreme Court (SC01-0500). "T." refers to the separately paginated trial transcript in volumes nineteen through thirty-two of the record on appeal. "PCR1." refers to the record on appeal from the initial state postconviction appeal to the Florida Supreme Court (SC08-0099). "PCR2." refers to the record on appeal from the successive state postconviction appeal to the Florida Supreme Court (SC17-1229). "PCR3." refers to the record on appeal from the successive state postconviction appeal to the Florida Supreme Court (SC21-0018). "PCR4." refers to the record on appeal from the successive state postconviction appeal to the Florida Supreme Court (SC25-0497). "PCR5." refers to the record on appeal from the successive state postconviction appeal to the Florida Supreme Court (SC25-0517). "PCR6." refers to the current record on appeal. "Supp-PCR6." refers to the current supplemental record on appeal. "ST." refers to the 3.811 status hearing held on April 24, 2025. "CT." refers to the transcript of the 3.811 motion hearing held on April 25, 2025. All other references will be self-explanatory or otherwise explained herein.

on April 25, 2025. Mr. Hutchinson and the State each presented two mental health experts and a number of lay witnesses. The circuit court entered an order finding Mr. Hutchinson competent to be executed on April 27, 2025. PCR6. 958-77. The order was appealed, and the Florida Supreme Court affirmed yesterday, April 30, 2025. *Hutchinson v. State*, No. SC2025-0590 (Fla. Apr. 30, 2025).

Hours later, Mr. Hutchinson filed an emergency petition for a writ of habeas corpus in the Federal District Court for the Northern District of Florida. *Hutchinson v. Dixon*, No. 4:25-cv-00205-MW. ECF. 1. Mr. Hutchinson asserted that he is not competent to be executed, and his execution would violate the Eighth and Fourteenth Amendments to the United States Constitution. ECF. 1. He argued that the state court's ruling was an unreasonable application of clearly established Supreme Court precedent, and its findings were based on an unreasonable determination of the facts. The district court denied the petition this morning, May 1, 2025. ECF. 5. The court also denied a certificate of appealability (COA). ECF 5 at 5.

Mr. Hutchinson appealed to the Eleventh Circuit and filed an emergency application for stay of execution. *Hutchinson v. Sec'y, Fla. Dep't of Corr.*, No. 25-11485-P. CA-ECF. 3, 4. The Eleventh Circuit denied hall relief without discussion less than two hours ago. The court stated,

We construe Mr. Hutchinson's notice of appeal as a motion for a certificate of appealability, and after careful review, we deny the motion because his claims are not debatable largely for the reasons set out by the district court. *See Buck v. Davis*, 137 S.Ct. 759, 774 (2017). We issue this order without further discussion due to the execution being set for 6:00 pm tonight.

Hutchinson v. Secretary, Case 25-11485 (11th Cir. May 1, 2025).

B. Relevant facts

Evidence of longstanding delusional beliefs

Mr. Hutchinson's beliefs about a government conspiracy to silence him due to his advocacy surrounding Gulf War Illness have been a persistent part of his delusional thought processes, spanning many years. Alison Brown, Mr. Hutchinson's first wife, described a stark contrast between his pre- and post-war mental state. Brown stated that "[b]efore the war, [Mr. Hutchinson] had been a calm and mellow guy." PCR6. 633. Once he returned from the Gulf, "he had mood swings, and his behavior was driven by his extreme paranoia." PCR6. 633. Mr. Hutchinson did not sleep due to nightmares, was irritable, and did not trust people. PCR6. 633.

Unable to cope with his paranoia, Mr. Hutchinson's irrational thinking started to affect his civilian life. Brown described features of his distorted reality as "men . . . [from] Quantico [who] were 'after him' because of what he knew." PCR6. 633-34. Brown recalled that on one occasion, Mr. Hutchinson "ordered [her] and [their] son into the car because he said that the men from Quantico had found [them]. [Mr. Hutchinson] got his shotgun He jumped in and [they] sped away 'so [he] could lose their trail.'" PCR6. 634. Mr. Hutchinson believed that caution was necessary, given "what he knew about the Gulf War—exposure to chemicals or gulf war syndrome"—was causing the government to persecute him. PCR6. 634. Because Mr. Hutchinson's paranoia was so extreme, Brown "went along with him, even if [she] knew it was not anything to be concerned about because he was so certain about what was happening and why." PCR6. 634.

Jennifer Shorts, Mr. Hutchinson's sister, reiterated that his behavior was driven by paranoia. PCR6. 636. Mr. Hutchinson thought someone was trying to break into his house, and he would take different routes in public to elude the person following him. PCR6. 636. Mr. Hutchinson believed the government was behind his surveillance, as it was concerned about what he knew about the war and the possibility he would expose it all. PCR6. 636.

Mr. Hutchinson's delusions were prevalent throughout his relationship with the victim, Renee Flaherty. He became increasingly fearful of Gulf War Illness. R. 797. He was afraid that Renee and the children were getting symptoms, and he was infecting them. R. 797-98. Determined to spread awareness, Mr. Hutchinson posted flyers to promote his 1-800 line. PCR4 201.² He continuously received hang-up calls, which triggered his government conspiracy suspicions. PCR4 211. Mr. Hutchinson's paranoia heightened the week before September 11, 1998, when he saw a black van with tinted windows driving by his house. PCR4 211. He suspected that he and his family's movement were being surveilled. PCR4 211.

After his arrest, Mr. Hutchinson told investigators that government operatives may have been dispatched from Quantico to commit the murders. R. 2. Mr. Hutchinson wrote a number of letters while awaiting trial addressed to "whom it may concern," seeking to bring the truth of the government's attempts at trying to silence him and murder his family. PCR6. 639, 641, 643-44. In one letter, Mr. Hutchinson

² Mr. Hutchinson created a 1-800 line for sick veterans to call and posted flyers around his community. PCR4 201.

stated his belief that he was being railroaded for something he did not do. PCR6. 639; *see also* PCR6. 647-54.

Once in jail, Mr. Hutchinson continued his fixation on Gulf War Illness, and how it affected him and others. Mr. Hutchinson wrote about how he and his military team were sick and dying. PCR6. 639. He believed that Gulf War Illness was transferable and other inmates in the jail exposed to him were getting sick. PCR6. 639;³ *see also* PCR1. 1003. Mr. Hutchinson created leaflets to distribute within the jail. PCR6. 657. He explained that he tried to tell other inmates the truth, but Okaloosa County retaliated against him and was sweeping the whole thing under the rug. PCR6. 639. Mr. Hutchinson noted, “I don’t honestly believe that I will not be swept under the rug by Okaloosa County—but I do believe that they are willing to do anything so they won’t have to defend me (A.K.A. fight the feds). I don’t think that I will get a ‘fair’ trial unless someone important catches this germ[.]” PCR6. 659.

Mr. Hutchinson believed the conspiracy included not only the government, but his attorneys, and the court, as well. On multiple occasions, Mr. Hutchinson stated his attorneys were working “hand-in-hand” with the prosecution. PCR6. 641, 662, 665; *see also* R. 554 (trial counsel Nickolas Petersen and John Harrison moved to withdraw because Mr. Hutchinson thought they were conspiring with the State, and he would no longer speak to them). Mr. Hutchinson claimed his subsequent trial

³ Mr. Hutchinson believed that members of the Public Defender’s Office were given special health insurance coverage in case they got sick as a result of exposure to the illness. PCR6. 643.

counsel, Stephen Cobb, deliberately withheld exculpatory DNA evidence “to allow the prosecution to mislead the jury with disinformation and an implausible theory of how the crime occurred.” PCR1. 313. He believed his attorneys, the prosecutor, and the judge all knew the DNA evidence cleared him. PCR6. 669. Mr. Hutchinson stated, “They knew they had no evidence, no witness, no motive and that I would walk if they didn’t ‘bend’ the rules a little.” PCR6. 669. Years later, after learning of his trial judge’s suicide in December 2008, Mr. Hutchinson stated, “I expected a full investigation of my case and several others[,] but the suicide note has either been legally sealed (by the State) or swept under the proverbial rug.” PCR6. 737.

In a document written to his father in 2000, Mr. Hutchinson touched on many facets of his delusional belief, stating the judge was taking bribes; the judge cut a deal with crooked cops in exchange for their testimony; the judge, prosecutor, and defense counsel conspired against him to interfere with court ordered medical tests; witnesses were being coerced; and tapes and other evidence were being tampered with. PCR6. 656.

Mr. Hutchinson compiled a list of those who needed to be informed of systematic genocide that was happening “as a result of the Gulf War disease and subsequent cover-up by the authorities that were originally developed to protect our great country and the people who live here.” PCR6. 658. Mr. Hutchinson’s list included Ross Perot, the World Health Organization, Amnesty International, King Abdul Aziz, the government of Kuwait, Pope John Paul II, Judge Sid White, the

Reverend Jesse Jackson, and England's Prime Minister John Major. PCR6. 658.⁴

As a result of Mr. Hutchinson's behavior, his trial counsel asked the court for a competency determination on December 13, 2000. Cobb stated he observed multiple specific behaviors by Mr. Hutchinson "which suggest Defendant is possibly delusional and incompetent," including: (1) his continuing refusal to speak with his attorney; (2) his "unabated paranoia" regarding the defense team; (3) his paranoia of the court; (4) his "apparently delusional statements, behavior, and actions prior to the incident at 410 John King Road in Crestview, Florida, and afterward, which resulted in the filing of these charges, to wit; belief in a government conspiracy against him, belief in a government cover-up regarding his medical status and the status of other Gulf War veterans, posting of flyers concerning such a conspiracy, conversations with others regarding such conspiracies, statements to each defense team and in the media regarding such conspiracies, Defendant's statements to law enforcement regarding the events of September 11, 1998, as being part of a government conspiracy, irrational behavior regarding self-representation, reckless, inconsistent and self-damaging statements, actions and behaviors with regard to his legal position." R. 1793. In a subsequent filing, counsel stated that Mr. Hutchinson had "hallucinations or delusions which caused [him] to honestly believe things to be facts which were not true or real." R. 1826.

⁴ In a letter to his trial counsel, Mr. Hutchinson also wanted to have the former Speaker of the House of Representatives, Tom Foley, listed as a witness. PCR6. 676. Mr. Hutchinson stated that Foley ordered a congressional investigation, and Mr. Hutchinson was being retaliated against as a result of said investigation. PCR6. 676.

In a January 4, 2001, report, one expert (Dr. V.F. Dillon) stated that Mr. Hutchinson did not have the capacity to disclose to his attorney pertinent facts surrounding the offense, specifically that Mr. Hutchinson “has changed defense counsel a number of times[;] this seems to stem from paranoia and grandiosity”; he did not have the capacity to manifest appropriate courtroom behavior, specifically, he “took issue with the present judge because of perceived bias and a possible conspiracy”; and he did not have the capacity to testify relevantly, because “grandiosity, paranoia, and delusions severely hinder this.” R. 2317-18.

During a January 5, 2001, competency hearing, Dr. Dillon testified that in “my interview with [Mr. Hutchinson], I asked him about certain parts about what had happened that got him into jail, and one answer that I got pretty consistent is that there is a conspiracy. Someone had done this. He did not do this.” R. 3143. When asked at the penalty phase if Dr. Dillon believed Mr. Hutchinson’s story that two other men killed Renee and the children, Dr. Dillon testified, “I believe that’s what he believes.” T. 2395.

Mr. Hutchinson’s delusions continued throughout his postconviction proceedings as well. In a July 6, 2008, letter, Mr. Hutchinson stated, “[P]ut yourself in my position, wrongfully charged for a terrible crime I did not commit, then wrongfully convicted for it and sent to Death Row to be executed, and all along the way being represented by lawyer[s] who are paid by the State, and are actively helping the State to perpetuate an absolute lie, so they can execute me.” PCR6. 687 (emphasis in original). In a July 23, 2008, letter Mr. Hutchinson complained that his

lawyers were trying to get him killed. PCR6. 691. Mr. Hutchinson stated, “They are the State’s hit team, and they are experts at hiding evidence of innocence.” PCR6. 691.

In a July 30, 2009, letter, Mr. Hutchinson stated, “I really wish people would listen to me, I’ve been saying all along that he [postconviction counsel Clyde Taylor] was working with Bobby [the prosecutor].” PCR6. 700 (emphasis in original). In a September 2009 letter, Mr. Hutchinson stated the only thing his former postconviction attorneys, Baya Harrison and Clyde Taylor, did was assist the prosecutor in continuing to railroad him for a crime they knew he did not commit. PCR6. 705; *see also* PCR6. 647-48 (Mr. Hutchinson stated that postconviction counsel orchestrated a deficient evidentiary hearing with the prosecutor and trial counsel). And in a September 26, 2011, letter Mr. Hutchinson claimed to “have evidence on Clyde Taylor, Baya Harrison, [postconviction counsel] D. Todd Doss and several others—that will prove fraud at the very least, and it could show these same lawyer[s] deliberately withheld evidence and manipulated evidence too.” PCR6. 711.⁵

In a 2010 letter to his brother, Mr. Hutchinson stated, “[I]f you do not hear from me on or before January 15th[,] 2011, you will know that something has

⁵ Mr. Hutchinson believed the conspiracy’s reach extended to the federal courts as well, stating in an August 8, 2009, letter that he sent documents to the federal district court in Panama City, but the Pensacola branch, where the prosecutor in his case knew people, “scooped up” his case instead. PCR6. 727. However, Mr. Hutchinson believed the federal judge in Panama City “smelled a skunk,” and the case was reassigned to Judge Smoak in Panama City, PCR6. 727, presumably to get it away from the crooked prosecutor.

happened to me, you must contact the following [].” PCR6. 737. The list of people Mr. Hutchinson wanted contacted included Tom Foley, the Inspector General, the Governor’s office, Kevin Kline, Nancy Reagan’s office, Command Sergeant Major Jeff Meadows, and attorney Mark Olive. PCR6. 738.

After being appointed federal counsel, Mr. Hutchinson stated in a March 5, 2015, letter, “Finally, after 16 years of wrongfully being incarcerated, I now have lawyer[]s who are not controlled or manipulated by the state; who are actually fighting for me.” PCR6. 719 (emphasis in original). Yet, Mr. Hutchinson’s delusional beliefs persisted, complaining in 2020 that a secret hearing about his case was being held in the state court. PCR6. 722. Mr. Hutchinson believed that one of his federally appointed attorneys [Terri Backhus] along with Clyde Taylor was undermining everything at the state level. PCR6. 704.

Mr. Hutchinson was also consumed by the notion that bank robbers were involved in the plot, and the Government capitalized on their actions. He blamed the FBI for withholding evidence about the bank robberies. *See* PCR6. 722 (“THE FBI WITH[H]ELD THIS EVIDENCE FOR OVER 20 YEARS, SO THEY ARE JUST AS CULPABLE AS THE STATE...AND THEY KNEW IT WOULD EXONERATE ME.”) (emphasis in original). In a 2017 letter, Mr. Hutchinson stated that his attorney indicated the Adamses (Deanne and Creighton) were involved from the beginning and the prosecutor “brought them in” to target him. PCR6. 741; *see also* PCR6. 744 (Mr. Hutchinson stating in a 2017 letter, “Now that we know, their 1st (attempted) bank robbery was before September 11th, 1998, then its very likely Bobby Elmore put the

Adams into position to develop a connection to me very early on.” (emphasis in original).

Testimony of Mr. Hutchinson’s witnesses at the incompetency-to-be executed hearing

The Delusional Disorder that plagued Mr. Hutchinson was witnessed by numerous members of his postconviction legal teams throughout the years, spanning from 2005 to the present time. The witnesses who testified at the 3.812 competency hearing were in universal agreement of Mr. Hutchinson’s delusion: he was being framed by the government for the murder of his family, and it was the government who sent men to his house to commit the crimes because he was raising concerns about Gulf War Illness. CT. at 11, 12, 22, 27-28, 61, 97, 98, 100, 111. Mr. Hutchinson was being framed so he would be sent to death row. CT. at 16.

The delusion about the government conspiracy was consistent and Mr. Hutchinson never wavered. CT. 116, 22-23, 61, 99, 112. The actors involved in the conspiracy were many—state prosecutors, FBI agents, the military, the CIA, and the judge. CT. 61, 100-01. Mr. Hutchinson even believed the prosecutor had somehow co-opted his attorneys and almost all of the witnesses conspired together in order to convict him and then keep him in prison. CT. at 29. Each witness was of the opinion that Mr. Hutchinson truly believed his delusion. CT. at 22-23, 28, 31-32, 33, 62, 99, 112.

Mr. Hutchinson’s two mental health experts, Drs. Barry Crown and Bhushan Agharkar, confirmed the legitimacy of his delusional beliefs, and they diagnosed him with Delusional Disorder during their post-warrant evaluations. CT. 143, 188. Dr.

Crown explained that a Delusional Disorder is “a fixed false belief that will not or cannot be altered by ... facts” that contradict the delusion. CT. 145. “[I]t is a psychos[is], meaning that it’s a split from reality as most of us know it.” CT. 146.

Mr. Hutchinson’s Delusional Disorder is of the persecutory type. CT. 146. Mr. Hutchinson believes that two masked bank robbers were sent by the government to murder his girlfriend and her family. CT. 143. Thus, he believes that he is innocent and was sent to death row as retaliation for speaking out against the government’s activities in the Persian Gulf War. CT. 143, 184. Mr. Hutchinson’s assertion of innocence is unique because it operates in a world detached from reality. CT. 146. It forms the entire scope of his belief system, which has been fixed for nearly three decades. CT. 146.

Mr. Hutchinson’s core delusion is that the United States government seeks to silence him from exposing the truth about wartime government secrets. CT. 143, 189. This fixed, false belief predates the 1998 crime, as evidenced in the record. Yet, as Dr. Agharkar testified, the fact that Mr. Hutchinson has incorporated new information into this core belief over the ensuing decades is quite typical for an individual with Delusional Disorder:

So as he learns new information, he’s going to incorporate it. He’s trying to understand why has this happened? Why are they against me? Or what are they trying to do to me? So as he picks up new information, he will weave that into the narrative because – oh, this is why. Oh, this explains it. Or, look, here’s more evidence that they’re trying to shut me down because they don’t want me to speak the truth. They don’t want the stuff about the Gulf War Illness to come out.

CT. 188.

Based on a reasonable degree of medical certainty, Drs. Agharkar and Crown concluded that Mr. Hutchinson is not competent to be executed. CT. 145, 158, 199. While Mr. Hutchinson understands he is going to be executed and understands the nature and effect of the death penalty, he does not have a rational understanding of why. CT. 156, 198-99.

REASONS FOR GRANTING THE WRIT

THIS COURT SHOULD CONSIDER WHETHER THE STATE COURTS UNREASONABLY APPLIED *PANETTTS* “RATIONAL” UNDERSTANDING INQUIRY

The Eighth Amendment forbids executing the insane. *Ford v. Wainwright*, 477 U.S. 399 (1986). A State therefore must assess and decide a condemned prisoner’s competency to be executed before carrying out that punishment. The *Ford* plurality did not articulate a competency standard, but Justice Powell in concurrence did: “[T]he Eighth Amendment forbids the execution only of those who are unaware of the punishment they are about to suffer and why they are to suffer it.” *Id.*

In *Ford*’s wake, the lower state and federal courts regularly applied Justice Powell’s formulation as the governing standard for determining competency to be executed. *See, e.g., Coe v. Bell*, 209 F.3d 815, 821-22, 826-27 (6th Cir. 2000) (asking whether condemned was “aware of his imminent execution and the reason for it”). Florida courts were among them. In close keeping with Justice Powell’s formulation, the Florida Supreme Court held that “the Eighth Amendment only requires that defendants be aware of the punishment they are about to suffer and why they are to suffer it.” *Provenzano v. State*, 760 So. 2d 137, 140 (Fla. 2000).

This Court found that standard constitutionally deficient in *Panetti*, 551 U.S. at 962. “Reject[ing] the standard followed by the Court of Appeals,” this Court explained that a condemned prisoner’s mere awareness of “the State’s announced reason for a punishment or the fact of an imminent execution” does not satisfy the Eighth Amendment. *Id.* at 960, 959. The prisoner must have a “rational understanding” of the fact of and reason for his execution. *Id.* at 959. As the *Panetti* Court explained, whether an inmate “suffers from a severe, documented mental illness that is the source of gross delusions preventing him from comprehending the meaning and purpose of the punishment to which he has been sentenced” must be considered when evaluating whether the inmate possesses the requisite rational understanding of what will imminently befall him. *Id.* at 960.

Despite the clear language from *Panetti*, the state courts and the State’s experts in Mr. Hutchinson’s case repeatedly applied the standard in an unreasonable manner. They either omitted or confused the significance of “rational understanding.” In actuality, the faulty instruction started with the Governor’s Executive Order appointing three experts to evaluate Mr. Hutchinson. The Order stated, “The Commission shall examine JEFFREY GLENN HUTCHINSON to determine whether he understands the nature and effect of the death penalty and why it is to be imposed upon him.” PCR6. 527. Thereafter, in the Commission’s April 24, 2025, response to the Governor, the experts stated they were making the determination of “whether Mr. Hutchinson rationally understands the nature and effect of the death penalty and why it is to be imposed on him.” PCR6. 19. In conclusion, the Commission found

that Mr. Hutchinson “fully understands the nature and effect of the death penalty and why it is to be imposed on him.” PCR6. 20.

The State’s experts continued to mangle the *Panetti* standard during their testimony at the competency hearing. Dr. Werner alternated between utilizing and omitting the “rational understanding” portion of the analysis. PCR6. 224-26. When Dr. Werner did address it, there was no recognition that “[a] prisoner’s awareness of the State’s rationale for an execution is not the same as a rational understanding of it.” *Panetti*, 551 U.S. at 959. Instead, Dr. Werner expressed the exact opposite, stating that Mr. Hutchinson “doesn’t agree with it, but he fully understands that he was found guilty by a jury of his peers based on the evidence that was presented at trial. ... He fully rationally understands all of that[.] ... [H]e says that he’s innocent, but he understands . . . that he will be executed for his murder convictions.” CT. 225-26. Thus, Dr. Werner simply inserted the word “rational” in her finding that Mr. Hutchinson is factually aware of his impending execution.

Dr. Myers fared no better as he also utilized the old *Ford* “factual awareness” standard while conflating it with the phrase “rational understanding.” Dr. Myers stated that the standard used to find Mr. Hutchinson competent was “[does] he understand the nature of the death penalty and why it was being imposed on him.” CT. 249. Dr. Myers defined rational understanding as “not just parroting what somebody’s told him. He understands exactly what he’s facing. And he’s . . . very sad about . . . the potential loss of his future if he is executed because he’s got a lot to live for were he to get out of prison.” CT. 281. After further clarification, Dr. Myers stated

he did not have any concern that Mr. Hutchinson did not rationally understand the reason for his execution because “[h]e knows what the [death penalty] is. He knows why it’s been imposed on him. And he’s not giving up on trying to convince anybody who will listen that he’s not responsible for it.” CT. 281.

Following in the footsteps of the Governor and the Commission, the circuit court likewise employed a faulty standard.⁶ It held that Mr. Hutchinson “does not meet the criteria for incompetency at the time of execution” because he (1) “does not lack the mental capacity to understand the fact of the pending execution”; (2) “does not lack the mental capacity to understand the reason for the pending execution”; and (3) “understands that his execution is imminent and the reason why he is to be executed.” PCR6. 975-76.

Like the State’s experts, when the circuit court did insert the “rational understanding” language, it utilized it in an inappropriate manner. The circuit court stated that if it were to find Mr. Hutchinson has 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.” PCR6. 975. The circuit court found that Mr. Hutchinson is “rational” because he “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.” PCR6. 975. It concluded that “[t]here is no credible evidence that in his current mental state Mr. Hutchinson believes himself

⁶ The circuit court found “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.” PCR6. 974.

unable to die or that he is being executed for any reason other than the murderers he was convicted of by a jury of his peers.” PCR6. 975. The circuit court failed to understand that knowledge of your pending death and conviction is not enough to meet a “rational understanding” under *Panetti*.

Rather than correcting the unreasonable application of *Panetti*, the Florida Supreme Court wholly endorsed the distorted analysis of its predecessors. After citing to the standard set forth in *Panetti* and *Madison*, the Florida Supreme Court erroneously found that the lower court “stated and applied the correct legal standards in determining that Hutchinson was sane or competent to be executed.” *Hutchinson*, No. SC2025-0590, slip op. at 9. The Florida Supreme Court relied on the fact that the lower court cited to *Owen v. State*, 363 So. 3d 1025 (Fla. 2023), and it “indirectly quoted” principles from *Panetti* and *Madison*. *Id.* In finding that the lower court’s determinations were supported by legally sufficient evidence, the Florida Supreme Court concluded:

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.

Hutchinson, No. SC2025-0590, slip op. at 13 (emphasis in original).

Upon review of the state courts’ determinations, the district court conducted no analysis of the *Panetti* standard. Instead, the court stated in conclusory fashion that “the state trial court applied the correct standard,” and the Florida Supreme

Court did “not misapply federal law in refusing to weigh the [expert] testimony on appeal.” ECF. 5 at 3. The Eleventh Circuit on appeal gave even less consideration, issuing its denial “without further discussion due to the execution being at 6:00 pm tonight.” *Hutchinson*, Case 25-11485 at 1.

Contrary to the district court’s minimal ruling, the Florida Supreme Court’s determination constitutes an unreasonable application of clearly established federal law. Under *Panetti*, the Eighth Amendment requires a condemned inmate to not only have a *factual* understanding of the death penalty and the reasons for it, but also a *rational* understanding of the purpose of the punishment unaffected by delusional beliefs. *See, e.g., Commonwealth v. Banks*, 29 A.3d 1129, 1145-46 (Pa. 2011) (applying *Panetti* and concluding that although the defendant “recognize[d] his responsibility for most of the murders,” “underst[ood] that he was sentenced to death,” and “appear[ed] to understand what the execution entails and . . . that he would die as a result of it,” the defendant “had a significant number of fixed delusions relating to his crime and punishment” that precluded any finding that he had a “rational understanding of the death penalty or the reasons for it”).

As with the Governor, the Commission, and the circuit court, the Florida Supreme Court made no attempt to discern, as *Panetti* requires, whether the record also supports a conclusion that Mr. Hutchinson possesses a rational understanding that he is to be killed because he has been convicted of murder, rather than, as he believes, because there is a government conspiracy to silence him. This error is abundantly clear when compared to the factual findings on which the Fifth Circuit

relied in *Panetti*: “First, [*Panetti*] is aware that he committed the murders; second, he is aware that he will be executed; and third, he is aware that the reason the State has given for the execution is his commission of the crimes in question.” *Panetti*, 551 U.S. at 956 (citing *Panetti v. Dretke*, 448 F.3d at 817). The facts cited by the Florida Supreme Court fall even further short of establishing Mr. Hutchinson’s “rational understanding” of his impending execution than those on which the Fifth Circuit relied.

In light of the unreasonable application of *Panetti* by the Florida Supreme Court—and every state actor before it—de novo review should be conducted, and Mr. Hutchinson should be found incompetent to be executed. The only experts who opined on whether Mr. Hutchinson has a “rational understanding” within the meaning of *Panetti* were Drs. Crown and Agharkar. They affirmatively stated that Mr. Hutchinson does not.

CONCLUSION

The Court should grant the petition for a writ of certiorari and review the decision of the Eleventh Circuit.

Respectfully submitted,

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