

**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**

**RESPONSE TO APPLICATION FOR STAY OF EXECUTION
EXECUTION SCHEDULED FOR MAY 1, 2025, AT 6:00 P.M.**

JAMES UTHMEIER
Attorney General of Florida

CARLA SUZANNE BECHARD*
*Associate Deputy Attorney General
Counsel of Record*

OFFICE OF THE ATTORNEY GENERAL
3507 E. Frontage Rd., Ste. 200
Tampa, Florida 33607
Telephone: (813) 287-7900
Scott.browne@myfloridalegal.com
capapp@myfloridalegal.com

SCOTT BROWNE
Chief Assistant Attorney General

CHRISTINA Z. PACHECO
Senior Assistant Attorney General

COUNSEL FOR RESPONDENT

RESPONSE TO EMERGENCY MOTION FOR STAY OF EXECUTION

On April 29, 2025, Michael Hutchinson, represented by state postconviction counsel, filed in this Court, a petition for writ of certiorari seeking review of a decision from the Florida Supreme Court rendered April 25, 2025, in this active warrant case. On January 18, 2001, the jury convicted Hutchinson of four counts of first-degree murder with a firearm, as indicted. *Hutchinson v. State*, 882 So. 2d 943, 948 (Fla. 2004). This Petition comes to this Court following the denial of Hutchinson's fourth successive motion for post-conviction relief. The petition raises two claims surrounding the due process afforded Hutchinson in his successive state post-conviction proceedings under warrant, primarily based upon the timing set for the warrant and the supposedly lack of notice to Hutchinson that a warrant would be signed in this long final and well litigated case. Hutchinson also adds an ill-defined claim that the Eighth Amendment entitles him to constantly develop, refine, and present additional mitigation evidence decades after his trial and have the state courts weigh such evidence. He asserts that his new or refined mitigation exempts him from the death penalty similar to a claim of intellectual disability under *Atkins v. Virginia*, 536 U.S. 304 (2002).

He also filed an application for a stay of execution based on that petition. This Court, however, should simply deny the petition and then deny the stay.

Stays of Execution

Stays of executions are not granted as "a matter of course." *Hill v. McDonough*, 547 U.S. 573, 583-84 (2006). A stay of execution is "an equitable remedy" and "equity

must be sensitive to the State's strong interest in enforcing its criminal judgments without undue interference from the federal courts." *Id.* at 584. There is a "strong equitable presumption against the grant of a stay where a claim could have been brought at such a time as to allow consideration of the merits without requiring entry of a stay." *Nelson v. Campbell*, 541 U.S. 637, 650 (2004). Equity must also consider "an inmate's attempt at manipulation." *Gomez v. U.S. Dist. Ct. for N. Dist. of Cal.*, 503 U.S. 653, 654 (1992). "Both the State and the victims of crime have an important interest in the timely enforcement of a sentence." *Calderon v. Thompson*, 523 U.S. 538, 556 (1998). This Court has highlighted the State's and the victims' interests in the timely enforcement of the death sentence. *Bucklew v. Precythe*, 587 U.S. 119, 149-151 (2019). The people of Florida, as well as surviving victims and their families, "deserve better" than the "excessive" delays that now typically occur in capital cases. *Id.* at 149. This Court has stated that courts should "police carefully" against last-minute claims being used "as tools to interpose unjustified delay" in executions. *Id.* at 150. This Court has also stated that last-minute stays of execution should be the "extreme exception, not the norm." *Id.*

To be granted a stay of execution, Hutchinson must establish three factors: (1) a reasonable probability that the Court would vote to grant certiorari; (2) a significant possibility of reversal if review was granted; and (3) a likelihood of irreparable injury to the applicant in the absence of a stay. *Barefoot v. Estelle*, 463 U.S. 880, 895 (1983). Hutchinson must establish all three factors.

Probability of This Court Granting Certiorari

As to the first factor, there is little chance that four justices of this Court would vote to grant certiorari review on the issues raised here. This Court's Rule 10 states that certiorari will be granted "only for compelling reasons," which include the existence of conflicting decisions on issues of law among federal courts of appeals, among state courts of last resort, or between federal courts of appeals and state courts of last resort. No such situation exists here. Hutchinson has cited no conflict or unsettled question of law for this Court's review. Indeed, Hutchinson has not even presented a colorable constitutional question for review. This case would be uncertworthy under normal circumstances, much less on the eve of an execution. State post-conviction procedures are largely a matter of state law. Hutchinson has been given all the process he is due – and then some for the death sentences he earned by murdering three children under ten years of age.

This Court does not undertake review of state law and procedures. The first two claims Hutchinson brings to this Court are almost exclusively matters of state law. Hutchinson generally complains about the warrant process and comes to this Court from his fifth collateral attack on his convictions and death sentences. He did not have a right under the United States Constitution to even raise this challenge. *Pennsylvania v. Finley*, 481 U.S. 551, 557 (1987); *Murray v. Giaratano*, 492 U.S. 1, 10 (1989) (holding that, in the capital context, "[s]tate collateral proceedings are not constitutionally required as an adjunct to the state criminal proceedings and serve a different and more limited purpose than either the trial or appeal") Therefore,

Hutchinson's federal due process claim violation based upon the warrant schedule in his successive state collateral proceedings rests upon a very thin constitutional premise. The same is true for the discretion afforded by the Governor in setting warrants under Florida law. Hutchinson's case has long been final on state and federal review. He can hardly complain about the setting and timing of a warrant – all of which are matters of state law. There is no conflict or unsettled question of law implicated in the rejection of these issues in state court below.

Likewise, Hutchinson fails to offer any compelling reasons for this Court to extend *Atkins* for a non-intellectually disabled defendant based on his health issues related to military service. He cites to no case from this Court or any other court in which a court has held that the Eighth Amendment demands such application. And, the Florida Supreme Court rejected this claim as procedurally barred under its well-established rules of criminal procedure. Thus, Hutchinson fails this factor as well.

There is little probability that the Court would vote to grant certiorari review under these circumstances. Hutchinson fails the first factor, which is alone sufficient to deny the motion for a stay.

Significant Possibility of Reversal

As to the second factor, there is not a significant possibility of reversal on any of the issues raised by Hutchinson. As noted, these are largely matters of state law and Hutchinson offers no persuasive, much less compelling reasons for this Court to reverse the Florida Supreme Court on these issues. Similarly, there is very little

chance this Court would extend the Eighth Amendment in the manner Hutchinson seeks in his Petition. Consequently, Hutchinson fails this factor.

Irreparable Injury

While the execution will result in Hutchinson's death, that is the inherent nature of a death sentence. The factors for granting a stay are taken from the standard for granting a stay as applied to normal civil litigation, which is not a natural fit in capital cases. In the capital context, more should be required for irreparable injury rather than the execution itself. Otherwise, this factor would automatically be satisfied in every capital case. In other contexts, this Court has clarified that the "purpose of such a stay is to prevent the execution date from 'interfer[ing] with the orderly processing of a petition on direct review by this Court.'" *Rodriguez v. Texas*, 515 U.S. 1307 (1995). And in *Williams v. Missouri*, 463 U.S. 1301, 1301-02 (1983), this Court explained that a stay would be warranted to prevent a defendant from being executed before having the opportunity to fully present his claim that his death sentence was unconstitutionally imposed. But those situations do not exist here. Likewise, this is not a case in which denying his stay would result in the execution of a defendant who should not be executed. Hutchinson faces no actual identifiable harm by the denial of his motion for stay under these circumstances.

Moreover, this Court has stated in the capital context that "the *relative* harms to the parties" must still be considered, including "the State's significant interest in enforcing its criminal judgments." *Nelson*, 541 U.S. at 649-50 (emphasis added).

Here, Hutchinson does not provide any unique or special argument as to why a last-minute stay is warranted in his specific case that outweighs the State's interest in enforcing the law. As the Eleventh Circuit has noted regarding stays of execution, they amount to a commutation of a death sentence to a life sentence for the duration of the stay. *Bowles v. DeSantis*, 934 F.3d 1230, 1248 (11th Cir. 2019) (citing *Bucklew v. Precythe*, 587 U.S. 119, 149-151 (2019)). Without finality, "the criminal law is deprived of much of its deterrent effect." *Calderon v. Thompson*, 523 U.S. 538, 555-56 (1998). And real finality is the execution. Because Hutchinson points to no specific argument in support of this factor other than the imposition of his lawful sentence, he fails this prong as well.

Hutchinson fails to meet any of the three factors for being granted a stay of execution. Therefore, the application for a stay of execution should be denied.

CONCLUSION

This Court should deny certiorari.

Respectfully submitted,

JAMES UTHMEIER
FLORIDA ATTORNEY GENERAL



CARLA SUZANNE BECHARD
Associate Deputy Attorney General
Counsel of Record

SCOTT BROWNE
Chief Assistant Attorney General

CHRISTINA Z. PACHECO
Senior Assistant Attorney General

Office of the Attorney General
3507 East Frontage Road, Suite 200
Tampa, Florida 33607
CarlaSuzanne.Bechard@myfloridalegal.com
(813) 287-7900