No. 24A1044

IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM 2024

JEFFREY GLENN HUTCHINSON,

Petitioner,

v.

STATE OF FLORIDA,

Respondent.

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

---

REPLY IN SUPPORT OF
APPLICATION FOR STAY OF EXECUTION

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

In arguing against a substantial likelihood of success on the merits, Respondent characterizes Mr. Hutchinson's[1] due process claim as "generally complain[ing] about the warrant process" and alleges "he did not have a right under the United States to even raise this challenge." Response at 4. Respondent misleads on this point, purporting to cite supportive cases but ignoring that once the State chooses to provide a right, due process applies. *See, e.g.*, *Evitts v. Lucey*, 469 U.S. 387,

[1] Respondent erroneously refers to Mr. Hutchinson as "Michael Hutchinson". Response at 2.

401 (1985) ("In short, when a State opts to act in a field where its action has significant discretionary elements, it must nonetheless act in accord with the dictates of the Constitution—and, in particular, in accord with the Due Process Clause.").

Additionally, Respondent's contention that "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[,]" Response at 4, troublingly suggests that individuals convicted of aggravated crimes have less of a right to due process than those convicted of less serious offenses. This should be rejected, along with Respondent's contention that "[i]n 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." Response at 6. In fact, case law is clear that this stay factor "is necessarily present in capital cases." *Wainwright v. Booker*, 473 U.S. 935, 935 n.1 (1985); *see also Hutchinson v. Sec'y, Fla. Dep't of Corr.*, No. 3:13-cv-128-MW, ECF No. 98 at 17 (N.D. Fla. Apr. 16, 2025) ("[T]his Court agrees with Mr. Hutchinson that he would suffer irreparable injury if he was executed without being afforded an opportunity to be heard" on the underlying merits if procedural requirements were satisfied). That Mr. Hutchinson "automatically…satisfied" this factor is not a reason to discount it.

Finally, Respondent contends that "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." Response at 7. But Mr. Hutchinson addressed this in his application for a stay. Stay App. at 8. The "last-

minute" nature of his stay application is not due to any delay tactic of Mr. Hutchinson. Rather, it is attributable to Florida's own action in signing the death warrant—thereby cutting off his litigation midstream—the normal course of Mr. Hutchinson's then-pending postconviction litigation would have "allow[ed] consideration of the merits without requiring entry of a stay." *Nelson v. Campbell*, 541 U.S. 637, 650 (2004). The State is the cause of the exigency. A stay is justified.

The Court should grant a stay of execution.

/s/ Chelsea Shirley
Chelsea Shirley
Counsel of Record
Lisa Fusaro
Alicia Hampton
Office of the Capital Collateral Regional Counsel – Northern Region
1004 DeSoto Park Drive
Tallahassee, FL 32301
(850) 487-0922
Chelsea.Shirley@ccrc-north.org

Counsel for Petitioner

DATED: APRIL 30, 2025