No. _____

IN THE SUPREME COURT OF THE UNITED STATES

STEVEN MATTHEW WOLF,

Petitioner,

v.

THE STATE OF FLORIDA,

Respondent.

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

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PETITION FOR WRIT OF CERTIORARI

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CAPITAL CASE

QUESTION PRESENTED

Whether Mr. Wolf was deprived of a jury of his peers as guaranteed by the Sixth and Fourteenth Amendments where the trial court removed a juror who preferred life over death but could follow the law and consider whether death was an appropriate penalty?

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OPINIONS BELOW

The opinion of the Supreme Court of Florida affirming the petitioner's conviction and sentence is reported at 416 So. 3d 1117 and is attached as Appendix A. The Supreme Court of Florida's order denying rehearing, attached as Appendix B, is unpublished. The circuit court's order sentencing the petitioner to death, attached as Appendix C, is unpublished.

JURISDICTION

The Supreme Court of Florida affirmed the petitioner's judgment and sentence on July 10, 2025. The Supreme Court of Florida entered its order denying petitioner's timely motion for rehearing on August 20, 2025. The jurisdiction of this Court is invoked under 28 U.S.C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

> In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

U.S. CONST. amend. VI.

> All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. 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.

U.S. CONST. amend. XIV, § 1.

STATEMENT OF THE CASE

The Petitioner, Steven Matthew Wolf, is a prisoner under sentence of death. The State of Florida charged Mr. Wolf with the murder and sexual battery of Michelle Osborne.

On the first day of jury selection, the trial court opened voir dire on death-penalty issues with an extemporaneous discussion of the process in capital cases. Describing what it means to be a qualified juror, he explained:

> And so you must, if you are going to be on the jury, be open to make a recommendation for death if you believe it's been proven and you believe it's appropriate. Similarly, you must also be willing to recommend a life sentence if you believe that's what's appropriate under the circumstances. You have to be open to both, always remembering that, ultimately, the jurors don't sentence. It's the judge who does that.

Asked for her thoughts on this, Juror 225 indicated she opposed the death penalty, but that did not mean she could not impose it, and she was open to both:

> [Juror 225]: I don't believe in the death penalty. Never say never. I'm open, given this is the first time in this type of a trial for me. But my main reason is because there's been so many that have

> not gone well, not necessarily in this state, but in other states. And I think there's just a real problem institutionally with it.

The judge followed up on this:

> THE COURT: Well, I certainly understand your position. So you might have some difficulty? Even if the State were to prove or establish the aggravating factors and you felt that they outweighed the mitigators and the law supported a recommendation of death, you would hesitate to make such a recommendation because of your feelings and concerns?
>
> [Juror 225]: I would listen to both sides, but I would be extremely careful about recommending death.
>
> THE COURT: Well – and I expect everybody would be careful. But if you mean reluctant, even if it was appropriate, that's different than careful.
>
> [Juror 225]: Correct.
>
> THE COURT: So you would have some concerns? Am I paraphrasing it correctly?
>
> [Juror 225]: Yes.
>
> THE COURT: I appreciate that fact, and I thank you for sharing them with us.

The prosecution suggested Juror 225 should be excused for cause based on her comment, "never say never." The prosecution requested an

individual sequestered examination of the juror because "I think the difference with her is that she's on the fence."

The prosecutor began that examination by asking her if she had said she did not believe in the death penalty.

> [STATE]: … Did you make that statement?
>
> [JUROR 225]: Never say never. I would listen to both sides, but I have some real concerns with it, because I listen to a lot of podcasts, and there have been a lot of issues where people were put to death and they shouldn't have been, or they get botched. I don't know about the State of Florida because I've only lived here for a few years.
>
> [STATE]: How do you personally feel about the death penalty?
>
> [JUROR 225]: I don't really like it. I'm not – obviously, I'm not a proponent of it, but I've never been in a situation like this.
>
> [STATE]: And I think the judge alluded to that it's somewhat unfair in that you had no idea when you were coming down here today that you were dealing with this situation. So it doesn't give you a lot of opportunity to reflect on a lot of the questions that you're being asked.
>
> The concern that I have is whether your interest in this area, having listened to podcasts or other people's opinions or reports of these, as you said, botched executions having taken place, whether that would cause you to be reluctant to impose the death penalty if you otherwise felt it was

appropriate, based on the evidence and the instructions that the judge gave you.

[JUROR 225]: I would listen to the evidence. And I can't tell you for sure, but I'm not the type of person that would say "an eye for an eye," or "a tooth for a tooth."

[STATE]: Okay. Only you can answer these questions for us. And we are so dependent on your honesty and straightforwardness in answering our questions. My perception of what you're saying is that you have reservations about your ability to vote for it, even though you might otherwise feel it's appropriate because of what the –

[JUROR 225]: If, ultimately, he was executed, that execution might be botched or might be inappropriate for some reason. That, and I've heard that it's actually – how do we say this – a life sentence, I think, is a little bit easier on the community and the taxpayer, just because of all the appeals that go on.

[STATE]: You mean kind of financial implications?

[JUROR 225]: Well, both, yeah. I'm in finance so –

[STATE]: I guess the ultimate question is, all of the considerations that you have as it pertains to the death penalty or related to the death penalty, would they impair your ability to recommend the death penalty if you otherwise felt it was appropriate?

> [JUROR 225]: I'm not going say a definite "yes" because I think I would want to listen to both sides, but I just think it would be better not to have a death penalty.

Defense counsel asked Juror 225 to consider cases where a defendant is guilty of first-degree murder: "Not cases where there was an intentional murder, not an accident or mistake, and the defendant was not insane, or intellectually disabled." Juror 225 answered, "I still think a life sentence is an option." Asked what evidence she would need to hear, Juror 225 replied:

> [JUROR 225]: I don't know what I'm going to hear, but, I mean, I think there have been some cases where I thought, "Okay. Makes sense." But I still don't like it.
>
> [DEFENSE]: Now, do you understand, in the State of Florida, you just have to consider the death penalty. Can you consider the death penalty as an appropriate penalty?
>
> [JUROR 225]: Yes.
>
> [DEFENSE]: It's never required. The death penalty is never required, as Judge Jones alluded. It's an individual moral decision whether or not to give death. And you're okay with that?
>
> [JUROR 225]: Yes.
>
> [DEFENSE]: And you get to decide if you were on the jury what's mitigating. Can you do that?

[JUROR 225]: Mm-hmm.

[DEFENSE]: And mitigation.

[STATE]: Was that a yes? I'm sorry.

[JUROR 225]: Yes. I'm sorry.

Later, the defense directly asked if Juror 225 could consider the death penalty:

> [DEFENSE]: And, again, just so we're clear, you could consider the death penalty, and there have been cases where you're like – I don't want to put words in your mouth.
>
> [JUROR 225]: Right, because cases that you hear about on TV or, you know, podcasts so –

The judge followed up about Juror 225's podcast-listening:

> THE COURT: … You mentioned you listen to podcasts, ma'am. Is this podcasts that involve murder cases, or criminal justice, or the death penalty?
>
> [JUROR 225]: Everything. It's across the board, music, art and entertainment, sometimes book reviews.
>
> THE COURT: But it did come up in the context of counsel's question.
>
> [JUROR 225]: Just recently, I heard a podcast with WLRN, exposé on some cases in Mississippi.
>
> THE COURT: So murder or death penalty cases?
>
> [JUROR 225]: Death penalty cases, yeah.

The State moved to excuse Juror 225 for cause, "based on the statements she's made, which I think established a reluctance on her part to consider it equally with a recommendation of life as well." Defense counsel objected, quoting *Witherspoon v. Illinois*, 391 U.S. 510, 522 (1968), and pointed out that Juror 225 had said there were some cases where it would be appropriate. The judge granted the State's cause challenge:

> I appreciate your argument, but she was just really in distress, in my view. And you – yes, she said she could consider it after she talked about botched executions, after she talked about her general opposition to it, after she told us her reluctance to do it. I guess she didn't mouth the phrase, "I can consider it," but I don't believe that that is a meaningful willingness to genuinely consider both options. I think she had an absolute prejudice against the death penalty, which is fine, but I don't think it withstands a cause challenge.

The jury found Mr. Wolf guilty and rendered a unanimous recommendation in favor of the death penalty. The circuit court sentenced Mr. Wolf to death, and Mr. Wolf appealed.

Among other errors, Mr. Wolf argued that the trial court violated *Wainwright v. Witt*, 469 U.S. 412, 423 (1985), and *Witherspoon* in striking Juror 225. The Florida Supreme Court rejected this argument:

Prospective Juror 225 gave equivocal or even evasive answers when asked whether she could recommend the death penalty if she felt it was appropriate. She answered affirmatively when asked whether she would be reluctant to recommend the death penalty even if she found it to be otherwise appropriate. When asked whether her exposure to podcasts, opinions, or reports discussing "botched" executions would cause her to be reluctant to impose the death penalty if she otherwise felt it was appropriate, she responded that she was unsure but indicated a hesitation to recommend death. She specifically expressed concern that Wolf's "execution might be botched or might be inappropriate for some reason." When asked whether her concerns about "botched" executions and the financial implications of the death penalty on the taxpayers would impair her ability to recommend the death penalty if she otherwise felt it was appropriate, she refused to give a definite answer and reiterated that it would be better not to have a death penalty. Incongruently, when asked whether she could "consider the death penalty as an appropriate penalty," she answered, "Yes."

In granting the cause challenge, the trial court found that it was not "a close call." The court noted that Prospective Juror 225 "was just really in distress" when being questioned about the death penalty. Although she said she could consider the death penalty, the court did not believe that she had "a meaningful willingness to genuinely consider both options" and instead had an "absolute prejudice against the death penalty."

In their totality, Prospective Juror 225's responses established a reasonable doubt as to

> whether her views on the death penalty would substantially impair her ability to perform her duties as a juror. While the prospective juror ultimately stated that she could "consider" the death penalty, she consistently expressed reservations about her ability to recommend it—based on what she had heard about it from podcasts or other people's opinions or reports—even if it were otherwise justified. And we will not disturb the trial court's credibility finding regarding her lack of a meaningful willingness to genuinely consider both a life sentence and a death sentence. The "distress" observed by the trial court cannot be gleaned from the record, which demonstrates the importance of this Court's deference to the trial court, which is able to see and hear the way the prospective juror answered the questions. Under these circumstances, we cannot conclude that the trial court abused its discretion or committed manifest error in excusing Prospective Juror 225 for cause.

Wolf v. State, 416 So. 3d 1117, 1128 (Fla. 2025).

REASONS FOR GRANTING THE PETITION

I. The trial court erred in striking Juror 225 based on her reservations about the death penalty.

A court may not exclude a juror simply because she favors life over death. *See Witherspoon v. Illinois*, 391 U.S. 510, 522 (1968). The only question for the trial judge is whether the juror can "conscientiously apply the law and find the facts," or whether her views would "prevent or substantially impair the performance of [her] duties." *Wainwright v. Witt*, 469 U.S. 412, 423-24 (1985). The exclusion of Juror 225 denied Steven Wolf his right to trial by an impartial jury of his peers, in violation of the Sixth and Fourteenth Amendments, and the Florida Supreme Court was required to reverse for a new sentencing trial. *See Gray v. Mississippi*, 481 U.S. 648 (1987).

Juror 225's statements did not rise to this level. To be sure, she opposed the death penalty, but this is not the standard. She did not "believe in the death penalty," but she was "open, given this is the first time in this type of trial." Significantly, she did not express a moral or religious objection. She was concerned about how the death penalty was administered. "But my main reason is because there's been so many that have not gone well …" She had heard about botched executions.

She thought that the death penalty was poor policy – "a life sentence, I think, is a little bit easier on the community and the taxpayer, just because of all the appeals that go on." She would not say that these concerns would impair her ability to recommend the death penalty, she could consider both sides, but it would be better if the death penalty was not law. "I'm not going to say a definite 'yes' because I think I would want to listen to both sides, but I just think it would be better not to have a death penalty."

There were cases where Juror 225 thought the death penalty "Makes sense," but she still didn't like it. And she agreed that she could "consider the death penalty as an appropriate penalty."

The trial court and the Florida Supreme Court appear to have operated under the understanding that a juror was disqualified if her views of the death penalty might influence her decision-making at all. But this is not so. In *Adams v. Texas*, 448 U.S. 38, 46-47 (1980), this Court rejected the argument that a juror could be excluded where her "views might influence the manner in which [she] performs [her] role without exceeding" the guided discretion provided by law.

The Florida courts' reliance on the fact Juror 225 was "distressed" just demonstrates the error: "[N]either nervousness, emotional involvement, nor inability to deny or confirm any effect whatsoever is equivalent to an unwillingness or an inability on the part of the jurors to follow the court's instructions and obey their oaths, regardless of their feelings about the death penalty."

Juror 225 stated that she could follow the law in deciding the appropriate penalty. She may not have been able to deny or confirm whether her views would have "any effect whatsoever." The Court should grant certiorari to decide whether this is enough under *Wainright*, or whether *Adams* remains good law on this point.

CONCLUSION

For the foregoing reasons, the petition should be granted.

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November 18, 2025

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