No. 25A693

In the

Supreme Court of the United States

FRANK A. WALLS, *Petitioner*,

v.

STATE OF FLORIDA, *Respondent*.

ON PETITION FOR A WRIT OF CERTIORARI
TO THE FLORIDA SUPREME COURT

RESPONSE TO APPLICATION FOR STAY OF EXECUTION
EXECUTION SCHEDULED FOR December 18, 2025, at 6:00 p.m

RESPONSE TO APPLICATION FOR A STAY OF THE EXECUTION

On December 15, 2025, Frank Walls, represented by Capital Collateral Regional Counsel – Middle (CCRC-M), filed a petition for a writ of certiorari in this Court raising two questions in this active warrant case. Walls also filed an application for a stay of the execution for this Court to decide his pending petition. This Court, however, should simply deny the petition for the reasons given in the State's brief in opposition and then deny the stay.

Stays of Executions

Stays of executions are not granted as "a matter of course." *Hill v. McDonough*, 547 U.S. 573, 583-84 (2006). Rather, a stay 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 a 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. The 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 repeatedly stated that last minute stays of execution should be the "extreme exception, not the norm." *Barr v. Lee*, 591 U.S. 979, 981 (2020) (vacating a lower court's grant of a stay of a federal execution quoting *Bucklew*, 587 U.S. at 151).

Three Factors Required for a Stay

To be granted a stay of execution in this Court, Walls 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). He must establish all three *Barefoot* 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 of either of the two questions raised in the petition. As explained in detail in the accompanying brief in opposition, neither of the questions is worthy of certiorari review.

Regarding the first question involving an intellectual disability claim based on *Atkins v. Virginia*, 536 U.S. 304 (2002), and *Hall v. Florida*, 572 U.S. 701 (2014), there is little or no probability of this Court granting certiorari review because this Court lacks jurisdiction over the first question.

The Florida Supreme Court found the intellectual disability claim to be procedurally barred. *Walls v. State*, No. SC2025-1915, 2025 WL 3550358, at *5 (Fla. Dec. 11, 2025) (citing *Walls v. State*, 361 So. 3d 231, 233 (Fla. 2023)). "In the context of direct review of a state court judgment, the independent and adequate state ground doctrine is jurisdictional." *Glossip v. Oklahoma*, 604 U.S. 226, 242 (2025) (quoting *Coleman v. Thompson*, 501 U.S. 722, 729 (1991)). The procedural bar was clear from the face of the Florida Supreme Court's opinion and is solely a matter of state law. The Florida Supreme Court's analysis regarding the procedural bar mentioned only state law; it was not intertwined with federal law in any manner. So, the procedural bar is jurisdictional and this Court lacks jurisdiction over the first question.

This Court previously denied review of the *Atkins/Hall* claim after the second evidentiary hearing. *Walls v. Florida*, 144 S. Ct. 174 (2023) (No. 22-7866). Walls' attempt to obtain this Court's review does not gain strength from repetition. To the contrary, this second attempt has the added hurdle of a procedural bar which is an adequate and independent reason to deny review. The issue is even less worthy of this Court's consideration now when it involves a jurisdictional procedural bar and is being raised during warrant litigation.

Nor is there a reasonable probability that the Court would vote to grant certiorari review of the second question raised in the petition. As explained in the accompanying brief in opposition, Walls points to no case from this Court or any other appellate court holding a state constitution's conformity clause requiring strict adherence to this Court's caselaw in that area of law violates the Supremacy Clause of the federal constitution. There is no conflict on the matter.

There is a low probability of this Court granting certiorari review of either of the two questions. Walls fails the first *Barefoot* factor of which alone is sufficient reason to deny his request for a stay because he is required to establish all three factors.

Probability of this Court granting relief on the merits

As to the second factor, there is little possibility of Walls prevailing on the merits of either of two questions, if this Court were to grant review.

Walls would not prevail on the merits of his *Atkins* claim. Walls definitively and conclusively fails the third prong of Florida's statutory test for intellectual disability, which requires onset of the condition under the age of 18 years old, as established at two evidentiary hearings. Walls' three IQ scores as a minor were 88, 102, and 101. (2022 Succ. PCR at 427, 506, 544, 554, 563, 773, 777, 782-83, 808-09, 854, 1043, 1089, 1202, 1252). The average of Walls' IQ scores as a minor is 97. Walls' intellectual functioning as a child was normal. The State runs no risk whatsoever of executing an intellectually disabled defendant.

Nor would this Court order a third evidentiary hearing be conducted based on *Hall* or ignore the threshold issue of the retroactivity of *Hall*. The Florida Supreme Court's held that *Hall* is not retroactively applicable to Walls. The Florida Supreme Court determination that *Hall* is not retroactive comports with this Court's retroactivity jurisprudence of *Teague v. Lane*, 489 U.S. 288 (1989), and its recent progeny. It also comports with the federal circuit courts and state supreme courts which have uniformly held *Hall* is not retroactive. Retroactivity would be fatal to Walls prevailing on the merits of any argument based on *Hall*.

There is also little possibility of Walls prevailing on the merits of his Supremacy Clause challenge to Florida's constitutional conformity clause requiring Florida courts to strictly adhere to the Court's Eighth Amendment jurisprudence. If this Court were to grant review, it is highly likely to hold that a State having a conformity clause in its state constitution requiring its own state courts to not expand the state's constitution cruel and unusual punishment provision beyond this Court's does not violate the federal Supremacy

Clause.

The citizens of Florida are entitled to amend their own state constitution to limit their own state courts. *Cf. James v. Valtierra*, 402 U.S. 137, 140 (1971) (finding the Supremacy Clause challenge regarding a state constitutional provision based on a referendum to be "unpersuasive").

Walls does not have a "significant" possibility of prevailing in this Court on the merits, if this Court were to grant review. Walls also fails the second *Barefoot* factor.

Irreparable injury

As to the third factor of irreparable injury, none is identified in his application for a stay. While the execution will result in Walls' 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 for normal civil litigation, which is not a natural fit in capital cases. *Barefoot*, 463 U.S. at 895-96 (citing *Times-Picayune Pub. Corp. v. Schulingkamp*, 419 U.S. 1301, 1305 (1974) (Powell, J., in chambers)). In the capital context, more should be required to establish irreparable injury than the execution itself. Walls has identified no irreparable harm that is not a direct consequence of his valid, constitutional, and long-final death sentence.

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). Without finality, "the criminal law is deprived of much of its deterrent effect." *Calderon v. Thompson*, 523 U.S. 538, 555-56 (1998). And finality in a capital case is the execution. These murders occurred in 1987 and Walls' convictions and death sentence for the murders of a young couple have been final since 1995. Walls fails the third *Barefoot*

factor as well the other two factors.

Accordingly, this Court should deny the application for a stay.

Respectfully submitted,

JAMES UTHMEIER
ATTORNEY GENERAL OF FLORIDA

/s/ Scott A. Browne

Scott A. Browne
Chief Assistant Attorney General
Counsel of Record

Charmaine Millsaps
Special Counsel Assistant Attorney General

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

COUNSEL FOR RESPONDENT