No. _____

In the Supreme Court of the United States

MICHAEL KING,
Petitioner,
v.
STATE OF FLORIDA,
Respondent.

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

PETITION FOR A WRIT OF CERTIORARI

CAPITAL CASE
DEATH WARRANT SIGNED
Execution Scheduled: March 17, 2026, at 6:00 PM ET

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CAPITAL CASE

QUESTION PRESENTED

In 2025, the State of Florida engaged in an unprecedented spree of death warrants, resulting in 19 executions during the calendar year. During the rash of executions, the Florida Department of Corrections ("FDOC") complied with a records request regarding how the agency carried out the administration of its lethal injection protocol. The logs produced pursuant to said records request, indicated concerns regarding whether Florida is carrying out its lethal injection protocol in a manner consistent with the United States Constitution. Florida courts have consistently refused to force FDOC to produce additional records regarding the evidence of the maladministration of the current lethal injection protocols. Thus, Florida capital defendants under warrant have raised challenges to this Court in an effort for federal judicial intervention at the highest level. The following previously executed defendants raised claims to this court based on Eighth Amendment grounds: *Walls v. Florida*, cert denied, No. 25-6357, --- U.S. ----, 2025 WL 3674295 (U.S. December 18, 2025); *Heath v. Florida*, cert denied, No. 25-6746, --- U.S. ----, 2026 WL 363902 (U.S. February 10, 2026); *Trotter v. Florida*, cert denied, No. 25-6853, --- U.S. ----, 2026 WL 504237 (U.S. February 24, 2026). Undeterred, whereas only this Honorable Court has the power and authority to hold Florida accountable, Petitioner raises the following questions presented regarding this deadly serious matter:

1. **Whether the Florida courts' complete refusal to provide additional FDOC records to King, although he was willing to engage in additional negotiation regarding the records**

disclosure in order to protect the concerns of FDOC, resulted in an abuse of discretion in violation of King's due process rights under the Fourteenth Amendment?

2. **Whether the Florida courts erred in opining Petitioner failed to raise a "colorable claim for relief," based on Fourteenth Amendment equal protection grounds, without first holding an evidentiary hearing to establish a factual basis pursuant to precedent from the United States Court of Appeals for the Eleventh Circuit?**

LIST OF PARTIES

All parties appear in the caption on the cover page.

RELATED CASES

Trial and Sentencing

Circuit Court of the Twelfth Judicial Circuit, Sarasota County Florida
Docket Number: 2008-CF-001087
Case Caption: State of Florida v. Michael L. King
Date of Entry of Judgement: Convicted August 28, 2009; Sentenced to Death December 4, 2009.
State v. King, 2008-CF-001087, 2009 WL 8710552 (Fla.12th Cir.Ct. Dec. 4, 2009) (sentencing order)

Circuit Court of the Twelfth Judicial Circuit, Sarasota County Florida
Docket Number: 2008-CF-000936
Case Caption: State of Florida v. Michael L. King
Date of Entry of Judgement: Convicted August 28, 2009; Sentenced to Life – Count 1; 30 years – Count 2 December 4, 2009.
State v. King, 2008-CF-001087, 2009 WL 8710552 (Fla.12th Cir.Ct. Dec. 4, 2009) (sentencing order)

Direct Appeal

Florida Supreme Court
Docket Number: 2009-2421
Case Caption: Michael L. King v. State of Florida
Date of Entry of Judgement: Affirmed February 9, 2012;
King v. State, 89 So.3d 209 (Fla. 2012)
Motion for Rehearing/Clarification Denied May 21, 2012
King v. State, 2012 Fla. LEXIS 1193 (Fla. 2012)

Petition for Writ of Certiorari

United States Supreme Court
Docket Number: 12-5733
Case Caption: Michael L. King v. Florida
Date of Entry of Judgement: Denied October 15, 2012.
King v. Florida, 568 U.S. 964 (2012)

Postconviction Motion to Vacate Judgement and Sentence

Circuit Court of the Twelfth Judicial Circuit, Sarasota County Florida
Docket Number: 2008-CF-001087
Case Caption: State of Florida v. Michael King
Date of Entry of Judgement: Denied August 21, 2014
Unreported

Appeal from Denial of Postconviction Motion to Vacate Judgement and Sentence

Florida Supreme Court
Docket Number: 2014-1949
Case Caption: Michael L. King v. State of Florida
Date of Entry of Judgement: Sentence affirmed January 26, 2017.
King v. State, 211 So.3d 866 (Fla. 2017)
Motion for Rehearing Denied March 13, 2017
King v. State, 2017 WL 961818 (Fla. 2017)

Federal Habeas Corpus Petition

United States District Court of Appeals, Middle District of Florida, Tampa Division
Docket Number: 8:17-cv-985-T-33TGW
Case Caption: Michael L. King v. Secretary, Department of Corrections
Date of Entry of Judgement: Denial affirmed, February 5, 2018
King v. Sec'y, Dep't of Corr., No. 8:17-cv-985-T-33TGW, 2018 WL 10715468 at *1 (M.D. Fla. Feb. 5, 2018)

Appeal from Denial of Petition of Federal Habeas Corpus

United States Court of Appeals, Eleventh Circuit
Docket Number: 18-11421
Case Caption: Michael King v. Secretary, Department of Corrections
Date of Entry of Judgement: Denial affirmed October 25, 2019.
King v. Sec'y, Dep't of Corr., 793 F. Appx. 834 (11th Cir. 2019)

Petition for Writ of Certiorari

United States Supreme Court
Docket Number: 19-8644
Case Caption: Michael L. King v. Mark S. Inch
Date of Entry of Judgement: Petition denied October 5, 2020.
King v. Inch, 141 S. Ct.(Mem.) 303, 208 L. Ed. 2d 55 (2020)

Defendant's Demand for Additional Public Records Florida Department of Corrections

Circuit Court of the Twelfth Judicial Circuit, Sarasota County Florida
Docket Number: 2008-CF-001087
Case Caption: State of Florida v. Michael King
Date of Entry of Judgement: Denied February 19, 2026.
Unreported

Defendant's Motion for a Stay of Execution

Circuit Court of the Twelfth Judicial Circuit, Sarasota County Florida
Docket Number: 2008-CF-001087
Case Caption: State of Florida v. Michael King
Date of Entry of Judgement: Denied February 27, 2026.
Unreported

Defendant's Successive Rule 3.851 Motion to Vacate Judgment and Sentence

Circuit Court of the Twelfth Judicial Circuit, Sarasota County Florida
Docket Number: 2008-CF-001087
Case Caption: State of Florida v. Michael King
Date of Entry of Judgement: Denied February 27, 2026.
Unreported

Appeal from Denial of Successive Rule 3.851 Motion to Vacate Judgment and Sentence After a Signed Death Warrant and Motion for Stay of Execution

Florida Supreme Court
Docket Number: SC2026-0336
Case Caption: Michael King v. State of Florida
Date of Entry of Judgement: Denied March 10, 2026.
Michael King, Appellant, v. STATE OF FLORIDA, Appellee, App. A.

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TABLE OF AUTHORITIES

Cases

Other Authorities

PETITION FOR WRIT OF CERTIORARI

Michael King respectfully petitions for a writ of certiorari to review a judgment of the Supreme Court of Florida.

DECISIONS AND ORDERS BELOW

The opinion of the Florida Supreme Court is attached as Appendix A. The order of the Twelfth Judicial Circuit of the State of Florida, Sarasota County, (warrant court) is unpublished and attached as Appendix C.

JURISDICTION

The judgment of the Florida Supreme Court was entered on March 10, 2026. This Court has jurisdiction under 28 U.S.C. § 1257(a).

CONSTITUTIONAL PROVISIONS INVOLVED

The Fourteenth Amendment provides, in relevant part:

> No State shall . . . 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.

STATEMENT OF THE CASE

Michael King ("King") is scheduled to be executed on March 17th in Florida State Prison by a Department of Corrections, who has neither acknowledged nor refuted the documented use of lower amounts of rocuronium and potassium acetate than required by the Florida Department of Corrections' lethal injection protocols/procedures during the executions of Thomas Gudinas ("Gudinas") on June 10, 2025 and Anthony Wainwright ("Wainwright") on June 24, 2025. Both of these executed inmates had also been convicted of sexually related offenses, as has King.

Due to redactions, only a glimpse of the drug logs was uncovered during Frank Walls[1] post-warrant litigation in November 2025, which provides documentation of the three drugs used during Florida's three-drug-protocol between January 1, 2025 and September 30, 2025. App. D. The drug logs documented Etomidate, Potassium Acetate, Rocuronium, the three drugs used in the State of Florida's lethal injection protocol, as well as Sodium Chloride, Hydroxyzine, and Lidocaine Hydrochloride. After Florida's governor signed Petitioner's warrant scheduling his execution, Petitioner was prevented from obtaining additional records from FDOC documenting and logging the drugs used for the time period from February 18, 2025 through February 17, 2026. App. G.

The significance of lower doses of Potassium Acetate and Rocuronium cannot be overlooked. Rocuronium is the second drug of the protocol which works as a

[1] *Walls v. Dixon*, No.4:25-cv-0488, ECF 1 (N.D. Fla. Nov. 26, 2025)

paralytic during the execution, prior to the administration of Potassium Acetate which kills the capital defendant.

Petitioner argued to Florida's state courts that FDOC's pattern of protocol deviation caused reason for alarm, indicating the department of corrections had failed to properly comply with their protocols involving inmates convicted of sexually related offense creating a substantial risk they will also violate Petitioner's equal protection rights. Florida Supreme Court denied Petitioner's claim for relief. Appendix A, *Michael King v. State of Florida et al.*, --- So. 3d ---, 2026 WL (Fla. March 2026). This petition follows.

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REASONS FOR GRANTING THIS PETITION

I. KING'S CASE PRESENTS AN EXTREME EXCEPTION TO THE PRESUMPTION AGAINST JUDICIAL INTERVENTION IN THE ELEVENTH HOUR BEFORE AN EXECUTION.

It is the role of the judiciary to ensure challenges to lawfully issued sentences are resolved fairly and expeditiously. *Bucklew v. Precythe*, 587 U.S. 119, 150 (2019). King raises a claim for judicial review which could not have been brought at an earlier time. The limited records giving rise to King's Fourteenth Amendment concerns were only made public in late 2025 in *Walls v. Dixon*, No.4:25-cv-0488, ECF 1 (N.D. Fla. Nov. 26, 2025). Additionally, King could not have known the lethal injection protocols would not be amended in light of the clear maladministration shown in those records until his execution was scheduled. Therefore, it is not an attempt to manipulate the judicial branch to delay his execution.

1. Whether the Florida courts' complete refusal to provide additional FDOC records to King, although he was willing to engage in additional negotiation regarding the records disclosure in order to protect the concerns of FDOC, resulted in an abuse of discretion in violation of King's due process rights under the Fourteenth Amendment?

King is entitled to due process of law, as established by the Fourteenth Amendment to the United States Constitution. "The fundamental requirement of due process is the opportunity to be heard 'at a meaningful time and in a meaningful manner'." *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976)(quoting *Armstrong v. Manzo*, 380 U.S. 545, 552 (1965)). Because King has been denied access to the records he demanded, his ability to present additional evidence of the State's violation of equal protection, based on the variations of dosages shown in the Walls' records regarding

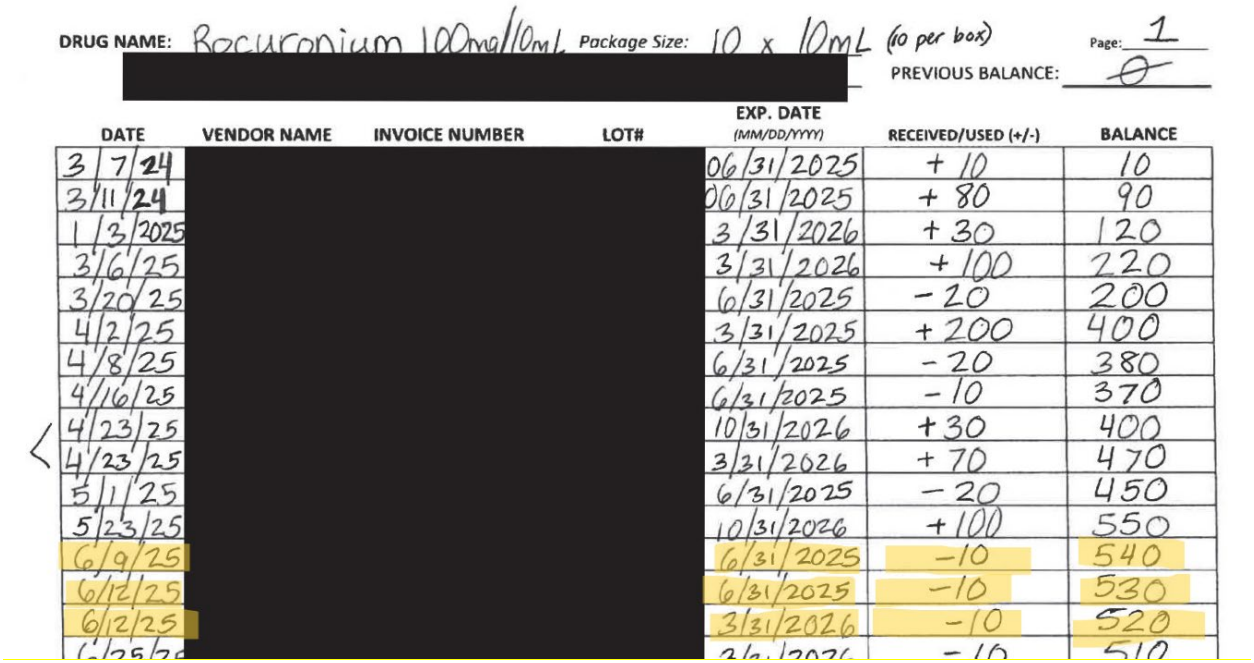
Gudinas and Wainwright, his due process rights have been violated. "[T]he process due in any given instance is determined by weighing 'the private interest that will be affected by the official action against the Government's asserted interest, 'including the function involved' and the burdens the Government would face in providing greater process." *Hamdi v. Rumsfeld*, 542 U.S. 507, 529(2004) (quoting *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976)). "It is axiomatic that due process is flexible and calls for such procedural protection as the situation demands." *Greenholtz v. Inmates of Nebraska Penal and Correctional Complex*, 442 U.S. 1, 13 (1979) (quoting *Morrissey v. Brewer*, 408 U.S. 471, 481 (1972)).

King is not merely speculating about the maladministration of the lethal injection procedures by FDOC, rather he has met his pleading requirement for the records which are the subject of his demand, based on the specific factual basis argued on February 19, 2026. App. F. The trial court abused its discretion in denying King's demand for additional public records pursuant to Rule 3.852, Florida Rules of Criminal Procedure, and in summarily denying his claims without conducting an evidentiary hearing to allow King to present witnesses and evidence in support of his equal protection claim. The standard for granting a demand pursuant to Rule 3.852 Florida Rules of Criminal Procedure is whether the records relate to a colorable claim. A colorable claim is one which is not "wholly insubstantial, immaterial, or frivolous." *Cassim v. Bowen*, 824 F.2d 791, 795 (9th Cir.1987). It has also been defined as being "'strong enough' to have a reasonable chance of being valid," but does not have to result in a successful claim. https://www.law.cornell.edu/wex/colorable_claim

(last accessed 3/11/26). Although the State argued King's claim was based on speculation and conjecture, that is not the standard for granting a demand for additional records, therefore the trial court abused its discretion.

The State, and FDOC, have repeatedly attempted to hide behind a presumption of correctness and claims of historically being able to successfully implement its protocol, without any indication of how they are defining such success. The judicial branch has a duty to King based on the Fourteenth Amendment of the United States Constitution to protect his right to equal protection. King presented evidence to the lower court showing FDOC has not been following its self-imposed protocols regarding the chemical agents used in its lethal injection procedures. As previously argued, the courts have recognized a class of one in these proceedings, but here King has pointed to two previously executed inmates, both convicted of sex offenses, who were treated differently than other executed inmates, and differently than required by the same procedures and protocols. King's claim is for violation of his equal protection rights based on the maladministration of the lethal injection protocols specifically related to the executions of Gudinas on June 10, 2025 and Wainwright on June 24, 2025[2] as shown at App B. at 23-26. As it relates to Gudinas, the following portions of the FDOC records show the logs regarding Rocuronium 100mg/10m vials.

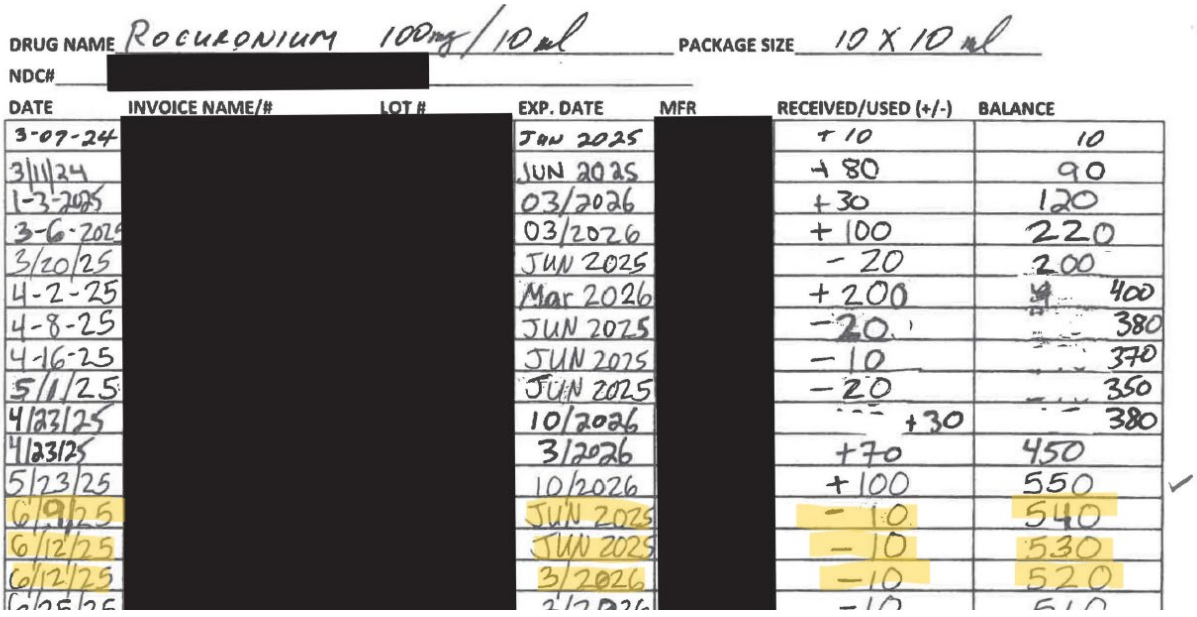
[2] https://deathpenaltyinfo.org/executions/2025



DRUG NAME: Rocuronium 100mg/10mL Package Size: 10 x 10mL (10 per box) Page: 1

[redacted] PREVIOUS BALANCE: 0

DATE	VENDOR NAME	INVOICE NUMBER	LOT#	EXP. DATE (MM/DD/YYYY)	RECEIVED/USED (+/-)	BALANCE
3/7/24	[redacted]			06/31/2025	+ 10	10
3/11/24				06/31/2025	+ 80	90
1/3/2025				3/31/2026	+ 30	120
3/6/25				3/31/2026	+ 100	220
3/20/25				6/31/2025	- 20	200
4/2/25				3/31/2025	+ 200	400
4/8/25				6/31/2025	- 20	380
4/16/25				6/31/2025	- 10	370
4/23/25				10/31/2026	+ 30	400
4/23/25				3/31/2026	+ 70	470
5/1/25				6/31/2025	- 20	450
5/23/25				10/31/2026	+ 100	550
6/9/25				6/31/2025	-10	540
6/12/25				6/31/2025	-10	530
6/12/25				3/31/2026	-10	520
[illegible]				[illegible]	-10	510



DRUG NAME Rocuronium 100mg/10ml PACKAGE SIZE 10 X 10 ml

NDC# [redacted]

DATE	INVOICE NAME/#	LOT #	EXP. DATE	MFR	RECEIVED/USED (+/-)	BALANCE
3-07-24	[redacted]		JAN 2025	[redacted]	+ 10	10
3/11/24			JUN 2025		+ 80	90
1-3-2025			03/2026		+ 30	120
3-6-2024			03/2026		+ 100	220
3/20/25			JUN 2025		- 20	200
4-2-25			Mar 2026		+ 200	400
4-8-25			JUN 2025		-20	380
4-16-25			JUN 2025		- 10	370
5/1/25			JUN 2025		- 20	350
4/23/25			10/2026		+ 30	380
4/23/25			3/2026		+70	450
5/23/25			10/2026		+ 100	550
6/9/25			JUN 2025		- 10	540
6/12/25			JUN 2025		- 10	530
6/12/25			3/2026		-10	520
[illegible]			[illegible]		-10	510

The protocols require 4 syringes, each containing 500mg to be used during a single execution by lethal injection for a total of 2,000mg. Based on these records none was "received/used" on June 10, 2025. Assuming FDOC simply employs sloppy record keeping, and factoring in the amounts "received/used" on June 9, 2025 and June 12,

2025, there was a total of 600mg "received/used" around the date of Gudinas' execution, well below the proscribed amounts in the protocols.

As it relates to Wainwright the following portions of the FDOC records show the logs regarding Potassium Acetate 2mEq/20mL vials.

DRUG NAME Potassium Acetate 2mEq/mL 20mL PACKAGE SIZE 25x20mL [redacted]

DATE	INVOICE NAME/#	LOT #	EXP. DATE	MFR	RECEIVED/USED (+/-)	BALANCE
6/14/23	Balance					361
6/15/23	[redacted]		6/2023	[redacted]	-12	349
7/19/23			06/2023		-2	347
9/3/23			12/2024		-12	335
10/3/23			10/2025		-47	288
10-3-23			12/2024		-12	276
8-29-24			12/2024		-12	264
1-3-2025			12-2024		-64	200
2-13-25			10-2025		-12	188
3/20/25			10-2025		-12	176
3/18/25			11/30/26		+25	201
3/18/25			9/30/26		+50	251
4/7/25			9/30/26		+25	276
4/7/25			4/30/27		+50	326
4/8/25			10-2025		-12	314
4/16/25			9/30/26		-25	289
5/1/25			10-2025		-12	277
5/15/25			10-2025		-12	265
6/12/25			10-2025		-7	258
6/25/25			10-2025		-17	241

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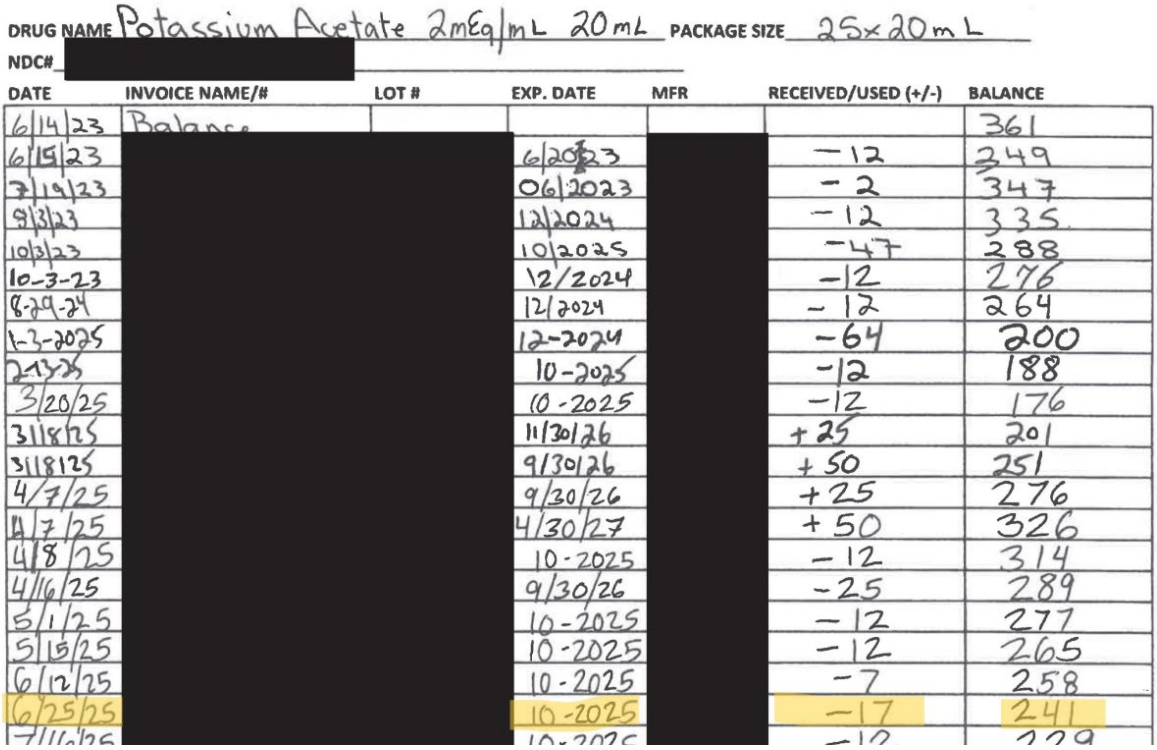

DRUG NAME Potassium Acetate 2mEq/mL 20mL PACKAGE SIZE 25x20mL

NDC# [redacted]

DATE	INVOICE NAME/#	LOT #	EXP. DATE	MFR	RECEIVED/USED (+/-)	BALANCE
6/14/23	Balance					361
6/19/23	[redacted]		6/2023	[redacted]	-12	349
7/19/23			06/2023		-2	347
9/3/23			12/2024		-12	335
10/3/23			10/2025		-47	288
10-3-23			12/2024		-12	276
8-29-24			12/2024		-12	264
1-3-2025			12-2024		-64	200
2-13-25			10-2025		-12	188
3/20/25			10-2025		-12	176
3/18/25			11/30/26		+25	201
3/18/25			9/30/26		+50	251
4/7/25			9/30/26		+25	276
4/7/25			4/30/27		+50	326
4/8/25			10-2025		-12	314
4/16/25			9/30/26		-25	289
5/1/25			10-2025		-12	277
5/15/25			10-2025		-12	265
6/12/25			10-2025		-7	258
6/25/25			10-2025		-17	241
7/16/25			10-2025		-12	229

The protocols require 4 syringes, each containing 120mEq to be used during a single execution by lethal injection for a total of 4800mEq. Based on these records none was "received/used" on June 24, 2025. Again, assuming FDOC simply employs sloppy record keeping, and factoring in the amounts "received/used" on June 25, 2025, there was a total of 34mEq around the date of Wainwright's execution, well below the proscribed amounts in the protocols. The protocols require exact compliance with the dosages for the chemical agents, which have been called into serious doubt by the above records. These are not mere "conclusory grievances," these are serious violations of the protocols set forth by FDOC in order to achieve:

> The foremost objective of the lethal injection process is a humane and dignified death. Additional guiding principles of the lethal injection process are that it should not be of long duration, and that while the entire process of execution should be transparent,

> the concerns and emotions of all those involved must be addressed.[3]

Although the State has claimed King is asking the courts to intervene and micromanage issues within the control of FDOC, King is simply asking for the judicial oversight permitted by this Court in *Lewis v. Casey*, 518 U.S. 343, 349–50 (1996), where you said:

> It is for the courts to remedy past or imminent official interference with individual inmates' presentation of claims to the courts; it is for the political branches of the State and Federal Governments to manage prisons in such fashion that official interference with the presentation of claims will not occur. *350 Of course, the two roles briefly and partially coincide when a court, in granting relief against actual harm that has been suffered, or that will imminently be suffered, by a particular individual or class of individuals, orders the alteration of an institutional organization or procedure that causes the harm. But the distinction between the two roles would be obliterated if, to invoke intervention of the courts, no actual or imminent harm were needed, but merely the status of being subject to a governmental institution that was not organized or managed properly. If—to take another example from prison life—a healthy inmate who had suffered no deprivation of needed medical treatment were able to claim violation of his constitutional right to medical care, see *Estelle v. Gamble,* 429 U.S. 97, 103, 97 S.Ct. 285, 290, 50 L.Ed.2d 251 (1976).

This Court went on to say:

> The remedy must of course be limited to the inadequacy that produced the injury in fact that the plaintiff has established. See *Missouri v. Jenkins,* 515 U.S. 70, 88, 89, 115 S.Ct. 2038, 2049–2050, 132 L.Ed.2d 63 (1995) ("[T]he nature of the ... remedy is to be determined by the nature and scope of the constitutional violation" (citation and internal quotation marks omitted)).

[3] Ricky D. Dixon, Secretary of FDOC, 2025 in letter dated February 18, 2025 transmitting the FDOC protocols to the governor. App. G.

Id. at 357.

Here, Petitioner is asking for a limited remedy: to be able to review the additional evidence supporting his colorable claim and to be able to present his case for a full and fair determination in the trial court. In fact, King's request was more limited than referenced by the Florida Supreme Court, as King did not ask for training records, although their opinion refers to this type of record as a basis for finding King's demand was overbroad. App. A at 12. King has not asked for an invalidation of the lethal injection protocols, simply an opportunity to present evidence supporting the violation of his due process and equal protection rights and, if necessary, an investigation into FDOC's compliance with its own protocols.

There is precedent for this type of review and investigation by other courts when the executive branch has failed to act to ensure compliance with approved lethal injection protocols in other states. In *Taylor v. Crawford*, No. 05-4173-CV-C-FJG, 2006 WL 1779035, at *4 (W.D. Mo. June 26, 2006), the United States District Court suspended the lethal injection protocol in the State of Missouri when, during discovery, the doctor administering the lethal injection stated he was not aware of the protocol being written down in any form leading to multiple modifications, sometimes based solely on his medical judgment. *Id.* After reviewing the interrogatories and testimony of the doctor, the court determined "the protocol as it currently exists is not carried out consistently and is subject to change at a moment's notice." *Id.* The United States District Court felt this lack of conformity created

constitutional concerns, and so, suspended Missouri's executions by lethal injection until a written protocol could be established and adhered to. *Id.*

The same year, the Federal District Court for the Northern District of California issued a memorandum urging the Governor's office to address problems with the state's lethal injection protocol after considering a 28 § 1983 action alleging California's protocol governing executions by lethal injection violated constitutional protections. *Morales v. Tilton*, 465 F. Supp. 2d 972, 973 (N.D. Cal. 2006). The court did not consider the constitutionality of the lethal injection itself, which was presumptively constitutional, they instead considered the narrower question of: does California's lethal-injection protocol, as actually administered in practice, violate constitutional protections afforded to all death row inmates? They found it did. Among their reasoning, they cited inconsistent and unreliable record keeping, specifying that records of drugs were not logged contemporaneously with their use or logs were incomplete or illegible. They also cited to improper mixing, preparation, and administration of drugs. *Id.*

In other states, similar information has become part of the case record without incident. *See Jordan et al. v. Fisher et al.*, 3:15-cv-00295-HTW-LGI, ECF 310-18 (S.D. Miss. Jun. 4, 2025) (witness' chronology of Mississippi execution in the public record); *Pizzuto v. Derrick, et al.,* 1:21-cv-00359-BLW, ECF 183-6 (D. Id. Mar. 25, 2025) (chain of custody of Idaho lethal injection drugs in the public record); *Nance v. Oliver et al.,* 1:20-cv-00107-JPB, ECF 132 (N.D. Ga. May 16, 2024) (transcripts of depositions of Georgia execution team members in the public record); Petitioners' Original Verified

Petition and Application for Temporary Injunction, Declaratory Relief, and Permanent Injunction, *Ruiz et al., v. Texas Dep't of Criminal Justice et. al.,* D-1-GN-22-007149, Travis County District Court (Dec. 14, 2022) (lab testing results, drug logs, and purchase order forms of Texas lethal injection drugs in the public record); *In re Federal Bureau of Prisons' Execution Protocol Cases*, 1:19-mc-00145-TSC, ECF 69-1 (D. DC Jan. 14, 2020) (certificate of analysis of federal government's supply of compounded pentobarbital in the public record); *Gray v. McAuliffe et al.*, No. 3:16-cv-982-HEH, ECF 21 (E.D. Va. Dec. 23, 2016) (lethal injection drug labels, certificate of analyses, and package inserts for Virginia lethal injection drugs in the public record).

FDOC's records are certainly capable of being produced in response to lethal injection claims. *See Pizzuto v. Tewalt*, 136 F. 4th 855, 867-73 (9th Cir. 2025) (affirming district court's orders requiring Idaho Department of Corrections to share various pieces of information related to drug quality, including types and location of sources, and dates associated with purchase orders and testing results); *Martin*, 1:18-cv-4617, 2021 WL 1186749 at *5 (N.D. Ga. Mar. 30, 2021) (ordering Georgia Department of Corrections to disclose information about how chemicals were "created, stored, and transported" because the prisoner was "attacking the potency of Georgia's compounded pentobarbital."). In *Martin*, operating under a similar secrecy statute which protects the identity of execution suppliers, a compounding pharmacist involved in executions was deposed after the district court balanced Georgia's interest in "enforce[ing] its laws" against the "basic presumption…that the public is entitled to every person's evidence." *Id.* at *2, *9.

Considering authority from other jurisdictions, and Florida's continued refusal to allow legitimate due process, this Court's intervention is paramount. It has only been after full and fair hearings, with presentation of witnesses and evidence, courts have taken action to force compliance with properly drafted and administered regulations and protocols. Petitioner has raised a colorable claim for relief, but Florida is foreclosing record access and factual development.

2. Whether the Florida courts erred in opining Petitioner failed to raise a "colorable claim for relief," based on Fourteenth Amendment equal protection grounds, without first holding an evidentiary hearing to establish a factual basis pursuant to precedent from the United States Court of Appeals for the Eleventh Circuit?

Regarding the status of a class of one, this Court has stated:

> The Equal Protection Clause of the Fourteenth Amendment commands that no State shall "deny to any person within its jurisdiction the equal protection of the laws," which is essentially a direction that all persons similarly situated should be treated alike. *Plyler v. Doe,* 457 U.S. 202, 216, 102 S. Ct. 2382, 2394, 72 L.Ed.2d 786 (1982)."

City of Cleburne, Tex. v. Cleburne Living Ctr., 473 U.S. 432, 439 (1985). This Court later held:

> Our cases have recognized successful equal protection claims brought by a "class of one," where the plaintiff alleges that she has been intentionally treated differently from others similarly situated and that there is no rational basis for the difference in treatment. See *Sioux City Bridge Co. v. Dakota County*, 260 U.S. 441, 43 S. Ct. 190, 67 L. Ed. 340 (1923); *Allegheny Pittsburgh Coal Co. v. Commission of Webster Cty.*, 488 U.S. 336, 109 S. Ct. 633, 102 L.Ed.2d 688 (1989). In so doing, we have explained that "'[t]he purpose of the equal protection clause of the Fourteenth Amendment is to secure every person within the State's jurisdiction against intentional and arbitrary discrimination, whether occasioned by express terms of a statute or by its

> improper execution through duly constituted agents.'" *Sioux City Bridge Co.*, supra, at 445, 43 S. Ct. 190 (quoting *Sunday Lake Iron Co. v. Township of Wakefield*, 247 U.S. 350, 352, 38 S. Ct. 495, 62 L. Ed. 1154 (1918)).

Vill. of Willowbrook v. Olech, 528 U.S. 562, 564 (2000). *See also Clubside, Inc. v. Valentin*, 468 F.3d 144, 159 (2d Cir. 2006) (requiring an "extremely high degree of similarity" between the plaintiff and those similarly situated). Petitioner is at risk of being treated differently as compared to similarly situated capital defendants, based on his conviction of a sex crime. Though King has a liberty interest in his life, which he argues is a fundamental right requiring a strict scrutiny analysis, Florida does not, and would not, have even a "rational basis" for deviating from its lethal injection protocol:

> Alternatively and perhaps even more effectively, Plaintiff argues that he constitutes a "class of one" and that the pattern and practice of core deviations are impermissible because they lack any rational basis. The Sixth Circuit has explained the class of one approach:
>
> When a plaintiff does not allege that the government's actions burden a fundamental right or target a suspect class, the plaintiff is said to proceed on a so-called "class of one" theory and must prove that the government's actions lacked any rational basis. *Radvansky,* 395 F.3d at 312. Under rational basis scrutiny, government action amounts to a constitutional violation only if it "is so unrelated to the achievement of any combination of legitimate purposes that the court can only conclude that the government's actions were irrational." *Warren v. City of Athens,* 411 F.3d 697, 710 (6th Cir.2005). A "plaintiff may demonstrate that the government action lacks a rational basis ... either by negativing every conceivable basis which might support the government action, or by demonstrating that the challenged government action was motivated by animus or ill-will." *Id.* at 711; *see also TriHealth, Inc.,* 430 F.3d at 788 (citing *Warren,* 411 F.3d at 710).

> Under rational basis review, the defendant "has no obligation to produce evidence to sustain the rationality of its actions; its choice is presumptively valid and 'may be based on rational speculation unsupported by evidence or empirical data.' " *Id.* at 790 (quoting *Fed. Comm. Comm'n v. Beach Comm., Inc.,* 508 U.S. 307, 315, 113 S.Ct. 2096, 124 L.Ed.2d 211 (1993)). The burden falls squarely to the plaintiff, who must overcome the presumption of rationality by alleging that the defendant acted in a manner clearly contrary to law. *Id. Club Italia Soccer & Sports Org., Inc.,* 470 F.3d at 298. Plaintiff has produced sufficient evidence to persuade this Court that he has a strong likelihood of prevailing on his class of one claim.
>
> Plaintiff has demonstrated that the only rationale for core deviations that eliminate safeguards and introduce greater uncertainty into the execution process is to simply complete the executions at all or nearly all costs. Mere pursuit of administrative convenience that risks flawed executions is not a legitimate state interest. *Rinaldi v. Yeager,* 384 U.S. 305, 310, 86 S.Ct. 1497, 16 L.Ed.2d 577 (1966). Completing executions in a constitutional manner is a legitimate state interest. Completing them in a manner that ensures their human nature is as well. There can be protocol deviations that will further both of these and other valuable, legitimate interests. But core deviations that introduce uncertainty and eliminate safeguards meet neither of these state interests nor any other combination of legitimate interests of which this Court can conceive.

Cooey v. Kasich, 801 F. Supp. 2d 623, 653 (S.D. Ohio 2011). In denying relief on equal protection grounds, the Florida Supreme Court relied on *DeYoung v. Owens,* 646 F.3d 1319, 1327 (11th Cir. 2011). App A at 15. *DeYoung* is distinguishable in many aspects.

> DeYoung's equal protection claim asserts, essentially, that Georgia's written lethal injection protocol is insufficiently specific and thus the GDOC deviates from it on an *ad hoc* basis, leading to disparate treatment for different inmates. DeYoung has not shown a substantial likelihood of success on the merits of this claim.
>
> First, as the district court correctly noted, there is no support for DeYoung's "novel proposition" that the Equal Protection Clause

> requires a written execution protocol sufficiently detailed to ensure that every execution is performed in a precisely identical manner. Moreover, our review of the Georgia lethal injection protocol reveals it to be highly detailed as to nearly every aspect of the execution process.
>
> Second, the "deviations" DeYoung cites that lead to the disparate treatment of which he complains are all ways by which the GDOC provides *more* protection for an inmate and the execution process than the written protocol provides.[7] The State has a legitimate interest in ensuring that its executions occur in a thorough manner with maximum inmate safeguards, and the alleged deviations from the written protocol are rationally related to that interest. DeYoung has not shown a substantial likelihood of success on his equal protection claim.

Id. at 1328. Unlike in *DeYoung*, King is not challenging the protocol as written. Instead, King is making his equal protection claim based on deviations in the protocol that have already taken place, based on a reading of the records provided by FDOC. Also, in *DeYoung*, the deviations found by the court were determined to work to the benefit of the petitioner since they, in theory, provided more protection and safeguards during the execution process. However, the issues at bar relating to improper dosages, particularly, an insufficient amount of the drugs used for lethal injection, would clearly provide *less*, rather than *more* protection. Moreover, the court in *DeYoung* had the benefit of an evidentiary record, which is all King is asking for at this juncture, the right to public records and an evidentiary hearing.

In *Arthur v. Thomas*, 674 F.3d 1257 (11th Cir. 2012), the Eleventh Circuit Court addressed an equal protection claim by an Alabama death row inmate, following its decision in *DeYoung*, and found the petitioner only had to show enough facts to

constitute a plausible equal protection claim and had done so by alleging "Alabama has substantially deviated from is execution protocol." *Id*. at 1263. *Arthur* alleged significant deviations from the established execution protocol and that court found as follows:

> In light of Arthur's other allegations regarding the veil of secrecy that surrounds Alabama's execution protocol, it is certainly not speculative and indeed plausible that Alabama will disparately treat Arthur because the protocol is not certain and could be unexpectedly changed for his execution. (Footnote omitted.)

Id. The Court then remanded the case for further factual development. A remand is what Petitioner is requesting in this case, which is on point with *Arthur*. The Florida Supreme Court further held misplaced reliance on *Ferguson v. Warden*, 493 F. App'x 22, 26 (11th Cir. 2012), App. A at 16, which was based on Fourteenth Amendment analysis following the review of an evidentiary record. In *Ferguson*, the Court had the benefit of sworn "declarations" submitted by witnesses to the relevant lethal injection procedures, and a sworn response from an official with FDOC. Thus, there was a record to support the Fourteenth Amendment analysis in *Ferguson*. That is all King is requesting at this juncture, the opportunity to obtain records and to create evidentiary support for his equal protection concerns, which is clearly a colorable claim for relief.

Also, though denied the necessary records to make a claim of disparate treatment with 100% certainty, the Florida Supreme Court erred in opining King failed to make a substantive allegation that administration of the protocol will result in disparate treatment from other similar situated individuals. App. A at 16. King

specifically made the allegation in his Initial Brief to the Florida Supreme Court, App B. at 9, 22-26. The allegation was preserved in the circuit court and specifically argued at the case management conference. App. E at 15-19, 23-24. This issue is well preserved for this Court's review.

Ohio provides this Court with guidance regarding these records, in relation to King's equal protection rights:

> This is not to say that the core deviations and underlying policy of failing to adhere to the most fundamental or core written protocol practices rationally relates to the asserted goal of humane executions. Whatever intentions the governmental actors hold, core deviations that bypass protections cannot and do not logically further the goal of humane executions. Sometimes the core deviations do not adversely affect that goal in demonstrable action, and sometimes they can puncture the goal. In both cases, there is no connection between goal and practice. The explanation or asserted goal does not align with the policy of permissible core deviations and the periodic implementation of that policy. Under rational basis scrutiny, **Defendants' core deviations are revealed to be irrational. They are arbitrary and capricious. They are unconstitutional.**
>
> What the foregoing analyses teach is that Plaintiff is likely to prevail on his Equal Protection claim. Such a conclusion is mandated under the evidence presented when viewed in light of the rights the execution process implicates and the haphazard application of that process in which Ohio engages. A death warrant cannot trump the Constitution. That latter document is not an inconvenience to be worked around or ignored. It is the most fundamental expression of the principles, rights, and obligations that define this country, and no governmental actor should ever disregard its dictates and prescriptions in this or any other context to fulfill any sense of perceived duty. It is wholly lawful to execute capital inmates. It is wholly unlawful to even attempt to do so in a manner that violates the Constitution.
>
> Defendants' steadfast refusal to recognize core deviations as problematic subverts the purpose of the written protocol and defies the point of the protections that the Fourteenth

> Amendment provides to all citizens. Defendants mistake semantics for propriety and in doing so conflate situational dedication to a governmental function with their overarching duty to follow the law. They posit that because their own written protocol is merely a set of guidelines subject to context-dependent variable implementation, any departure is not a deviation but actually continued application of the protocol. This approach misreads the protocol and ignores equal protection. A deviation is a deviation, and to claim otherwise is either delusional or disingenuous. Ohio can and should easily do better.

Cooey v. Kasich, 801 F. Supp. 2d 623, 654-55 (S.D. Ohio 2011). Florida can and should "do better" as well, but this Court's intervention is necessary to force compliance with the Constitution. Again, in *Cooey*, there was a testimonial record for the Court to consider. *Id.* at 625.

Florida continues to block King, and other death row inmates, from access to full and transparent records regarding FDOC's compliance with its self-imposed protocols and procedures. In addition to the cases referenced above, in *Taylor v. Dixon*, No.3:26-cv-00469, ECF 1 (N.D. Fla. Mar. 5, 2026), FDOC in response to Taylor's request for documents similar to those requested by King, FDOC denied to provide any records whatsoever, now claiming there are no available records which could be produced without being completely redacted. FDOC provided no explanation for its change in adherence to the narrowly tailored secrecy interest regarding identifying information of the executioners and manufacturers/suppliers of the lethal injection drugs. *Id.* This new refusal to provide any information to death sentenced inmates further places King's constitutional are at peril. After releasing the limited records which have raised concerns for numerous death sentenced inmates, and at

least one justice with this Court (*Trotter v. Florida*, 607 U.S. ___, Case No. 25-6853 (25A926) (Feb. 24, 2026) (Sotomayor, J., respecting the denial of the application for stay of execution and denial of certiorari). Florida continues to engage in rote denial of records and the opportunity to pursue colorable claims for relief, while proceeding with a near record number of executions. Florida cannot provide oversight for its own unconstitutional behavior. This Court must intervene and grant the writ.

CONCLUSION

This Court should grant this petition to resolve the conflicting holdings of this Court and resolve how this Court's precedent applies to maladministration challenges amounting to cruel and unusual punishment. It is this Court and this Court alone that can resolve such a conflict.

Respectfully submitted,

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Dated