

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

RICHARD KNIGHT,
Petitioner,

v.

SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS,
Respondent.

**PETITION FOR WRIT OF CERTIORARI TO
THE SUPREME COURT OF FLORIDA**

CAPITAL CASE

DEATH WARRANT SIGNED
Execution Set: May 21, 2026, at 6:00 p.m.

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May 18, 2026

QUESTION PRESENTED

Capital Case

In *Hurst v. Florida*, this Court found that Florida’s capital sentencing scheme—the one in existence at the time of Richard Knight’s trial—was unconstitutional under the Sixth Amendment because it required the trial judge, not the jury, to make the factual findings to allow the judge to sentence him to death. The Florida Supreme Court initially determined that Mr. Knight’s death sentences were unconstitutional under *Hurst v. Florida*. But the court found the error harmless based on factual determinations of its own, which it then transformed into a finding that the advisory jury seated in Mr. Knight’s trial, in fact, made the requisite findings based on its unanimous recommendations for death.

In *Erlinger v. United States*, this Court reaffirmed the jury’s paramount and exclusive role in factfinding under the Sixth Amendment when determining a criminal defendant’s sentencing exposure. When Mr. Knight brought his *Erlinger*-based challenge to the Florida Supreme Court, however, it decided that *Erlinger* did not apply to Mr. Knight’s case at all and relied on a revised construction of Florida’s capital sentencing statute that cemented the Florida Supreme Court’s intent to nullify this Court’s mandate in *Hurst*.

The Questions Presented are:

1. Whether, after this Court finds a state’s capital sentencing statute unconstitutional, the state’s high court may retroactively apply a revised construction of that statute to find no constitutional error in sentences imposed under the prior, unconstitutional construction.
2. Whether *Erlinger v. United States* allows findings beyond the fact of a prior conviction and the then-existing elements of that offense to be made by a judge, not a jury, in a capital sentencing proceeding if, as the Florida Supreme Court holds, those findings pertain to “selection,” rather than “eligibility,” for the death penalty.

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PARTIES TO THE PROCEEDINGS BELOW

Petitioner, Richard Knight, was the Petitioner in the Florida Supreme Court.

Respondent, Secretary, Florida Department of Corrections, was the Respondent in the Florida Supreme Court.

RELATED PROCEEDINGS

Trial

State v. Knight, No. 01-14055CF10A (Fla. 17th Cir. Ct. Mar. 28, 2007) (entering judgement of conviction and sentences of death).

Direct Appeal

Knight v. State, 76 So.3d 879, No. SC07-841 (Fla. Sept. 28, 2011) (affirming judgement and sentences), *cert. denied*, 566 U.S. 998, No. 11-9329 (May 14, 2012).

Initial State Postconviction Motion and Habeas Petition

Knight v. State, No. 01-14055CF10A (Fla. 17th Cir. Ct. July 30, 2014) (denying initial state postconviction motion).

Knight v. State, 225 So.3d 661, Nos. SC14-1775, SC15-1233 (Fla. Jan. 31, 2017) (affirming denial of initial state postconviction motion and denying petition for writ of habeas corpus), *cert. denied*, 583 U.S. 1184, No. 17-7099 (Mar. 19, 2018).

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Knight v. Fla. Dep't. of Corr., 936 F.3d 1322, No. 18-13390 (11th Cir. Aug. 20, 2019) (affirming denial of 28 U.S.C. § 2254 petition for writ of habeas), *cert. denied*, 141 S.Ct. 274, No. 19-8341 (Oct. 5, 2020).

Second State Habeas Petition

Knight v. Sec'y, Fla. Dep't of Corr., No. SC25-0872, 2026 WL 1133632 (Fla. Apr. 27, 2026) (denying second state petition for writ of habeas corpus).

Successive State Postconviction Motion After Death Warrant

Knight v. State, No. 01-014055CF10A (Fla. 17th Cir. Ct. May 5, 2026) (denying successive state postconviction motion after death warrant signed).

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CITATIONS TO OPINION BELOW

The opinion of the Florida Supreme Court in this cause, is unreported but available at *Knight v. Sec’y, Fla. Dep’t Corr.*, No. SC25-0872, 2026 WL 1133632 (Fla. 2026), and attached as (Pet. App. A).

Citations to the record on direct appeal are: (V-[volume #], [page #]).

STATEMENT OF JURISDICTION

Petitioner invokes this Court’s jurisdiction to grant the Petition for a Writ of Certiorari to the Florida Supreme Court on the basis of 28 U.S.C. § 1257(a) and 2101(d). The Florida Supreme Court issued its decision on April 27, 2026.

CONSTITUTIONAL PROVISIONS INVOLVED

“In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury.” U.S. Const. amend. VI.

“Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.” U.S. Const. amend. VIII.

“No State shall . . . deprive any person of life, liberty, or property, without due process of law.” U.S. Const. amend. XIV, § 1.

Relevant statutory provisions are attached. (Appendix D).

STATEMENT OF THE CASE

A. LEGAL BACKGROUND

Under Florida’s capital sentencing statute, death eligibility is dependent upon the finding of certain statutorily defined facts in addition to the guilty jury verdict or plea. FLA. STAT. § 921.141 (1996). At the time of Mr. Knight’s 2006 trial, Florida’s capital sentencing scheme permitted an advisory jury to return only a recommendation as to penalty and allowed the judge alone to find the statutorily defined facts necessary to impose a death sentence. *See id.* § 921.141(3). Notwithstanding this Court’s series of decisions undermining

this scheme’s constitutionality, *see, e.g., Apprendi v. New Jersey*, 530 U.S. 466 (2000); *Ring v. Arizona*, 536 U.S. 584 (2002), Florida courts persisted in sentencing defendants, like Mr. Knight, to death based on independent judicial factfinding.

Fourteen years after *Ring*, with no indication that Florida would self-correct, this Court intervened in *Hurst v. Florida*, 577 U.S. 92 (2016). Relying on a straightforward application of *Apprendi* and *Ring*, this Court noted, “Florida does not require the jury to make the critical findings necessary to impose the death penalty . . . Florida requires a judge to find these facts.” 577 U.S. at 97 (citing FLA. STAT. § 921.141(3)). *Id.* at 94. *Hurst* was premised on a plain-text construction of § 921.141(3), identifying these critical findings as follows: “the trial court alone must find ‘the facts . . . that sufficient aggravating circumstances exist’ and ‘that there are insufficient mitigating circumstances to outweigh the aggravating circumstances.’” *Id.* at 100 (citation modified) (quoting FLA. STAT. § 921.141(3)).

In 2020, a newly-constituted Florida Supreme Court revised its construction of the capital sentencing scheme invalidated in *Hurst*. *State v. Poole*, 297 So. 3d 487, 502-03 (Fla. 2020). In *Poole*, the Florida Supreme Court decided the latter finding of “insufficient mitigating circumstances” was “not a fact” after all. 297 So.3d at 503. To avoid the troublesome “and” connecting §§ 921.141(3)(a) and (b) to the prefatory language referring to both as “facts,” *Poole* adopted extra-textual labels for each:

Section 921.141(3) requires two findings. One is an *eligibility* finding, the other a *selection* finding. The eligibility finding is in section 921.141(3)(a): “that sufficient aggravating circumstances exist as enumerated in subsection (5).” The selection finding is in section 921.141(3)(b): “that there are insufficient mitigating circumstances to outweigh the aggravating circumstances.”

297 So.3d at 502 (emphasis added).

To avoid the impact of *Hurst’s* holding on § 921.141(3)(b), the Florida Supreme Court held, “*Hurst v. Florida* is about eligibility, not selection.” 297 So.3d at 501. According to

Poole's revised construction, the “selection finding is not a fact,” because “a subjective determination like the one that section 921.141(3)(b) calls for cannot be analogized to an element of a crime; it does not lend itself to being objectively verifiable.” 297 So.3d at 503. Further, the Florida Supreme Court held: “The selection finding does not ‘expose’ the defendant to the death penalty by increasing the legally authorized range of punishment . . . it is the finding of an aggravating circumstance that exposes the defendant to a death sentence.” 297 So.3d at 503. *Poole* concluded:

This Court clearly erred in *Hurst v. State* by requiring that the jury make any finding beyond the section 921.141(3)(a) eligibility finding of one or more statutory aggravating circumstances. Neither *Hurst v. Florida*, nor the Sixth or Eighth Amendment, nor the Florida Constitution mandates that the jury make the section 941.121(3)(b) [sic] selection finding or that the jury recommend a sentence of death.

297 So.3d at 503.

On June 21, 2024, this Court issued *Erlinger v. United States*, 602 U.S. 821 (2024), wherein this Court delivered its strongest statement to date reaffirming *Apprendi's* role in preserving the jury's authority. *Erlinger* addressed whether, consistent with *Apprendi*, “a judge may decide that a defendant's past offenses were committed on separate occasions under a preponderance-of-the-evidence standard, or whether the Fifth and Sixth Amendments require a unanimous jury to make that determination beyond a reasonable doubt.” 602 U.S. at 825. This Court determined “even seemingly straightforward factual questions,” like the “occasions” inquiry, must be found beyond a reasonable doubt by a unanimous jury. 602 U.S. at 849. The Sixth Amendment and the Fourteenth Amendment Due Process Clause require the same treatment of “virtually ‘any fact’ that ‘increases the prescribed range of penalties to which a criminal defendant is exposed.’” *Erlinger*, 602 U.S. at 834 (quoting *Apprendi*, 530 U.S. at 490).

B. FACTS AND PROCEDURAL HISTORY

On August 15, 2001, a grand jury in Broward County, Florida, indicted Mr. Knight on two counts of First-Degree Murder. (V-58, 4). Count I pertained to Mr. Knight's cousin, Odessia Stephens, and Count II pertained to Hanessia Mullings, Stephens's daughter. (V-58, 4). Mr. Knight pleaded not guilty on August 23, 2001. (V-58, 6). The State gave notice of its intent to seek the death penalty on October 5, 2001. (V-58, 10).

Mr. Knight has consistently challenged Florida's habitual violation of the Sixth Amendment since this case began. After this Court decided *Ring*, Mr. Knight filed a "Motion to Declare the Florida Death Penalty Statute Unconstitutional Based Upon The Clear Mandate of the United States Supreme Court Decision of *Ring v. Arizona*." (V-62, 802-24). Mr. Knight argued that Florida's diminution of the jury's authority in capital sentencing violated the Sixth Amendment and the Due Process Clause of the Fourteenth Amendment. (V-62, 802-24). Describing Florida's development of its capital sentencing scheme after *Furman v. Georgia*, 408 U.S. 238 (1972), Mr. Knight noted:

The very essence of the Florida process was *the relegation of the jury to a subordinate, advisory, non-factfinding role* in death sentencing, together with reliance on written findings of fact by the trial judge to establish (and to make reviewable [by] the Florida Supreme Court) the factual bases on which a death sentence is authorized and appropriate for each capital defendant's crime.

(V-62, 815) (emphasis added). This advisory role, Mr. Knight argued, violated "the jury fact-finding requirement of *Apprendi*, *Ring*, and the Sixth and Fourteenth Amendments," which "is based on recognition of the importance of interposing independent jurors between a criminal defendant and punishment at the hands of a 'compliant, biased, or eccentric judge.'" (V-62, 819) (quoting *Duncan v. Louisiana*, 391 U.S. 145, 156 (1968)).

After denying Mr. Knight's *Ring* motion, the trial court began jury selection on March 13, 2006, swore in a jury on March 22 and proceeded to the guilt phase on April 3. On April 26, 2006, the jury returned guilty verdicts on both counts. (V-60, 354-55). Accordingly, Mr.

Knight's capital trial proceeded to the penalty phase on May 22, 2006, with a recess from May 23 until July 24.

At the penalty phase's conclusion, the trial court told the jury, "the final decision as to what punishment shall be imposed is the responsibility of the judge." (V-55, 1145). The jury was instructed to "render to the court an advisory sentence based upon your determination as to whether sufficient aggravating circumstances exist to justify the imposition of the death penalty and whether sufficient mitigating circumstances exist to outweigh any aggravating circumstances found to exist." (V-55, 1145-46).

As to Odessia Stephens, the trial court instructed the jury on two aggravating circumstances:

One. The Defendant has been previously or contemporaneously convicted of another capital offense or of a felony involving the threat of violence to some person.

A. The Defendant's contemporaneous conviction for the crime of First Degree Murder of Hanessia Mullings is a capital offense.

Two. The crime for which the Defendant is to be sentenced was especially heinous, atrocious or cruel.

Heinous means extremely wicked or shockingly evil.

Atrocious means outrageously wicked and vial [sic].

Cruel means designed to inflict a high degree of pain with utter indifference to, or even enjoyment of, the suffering of others. The kind of crime intended to be included as heinous, atrocious or cruel is one accompanied by additional acts that show that the crime was conscienceless or pitiless and was unnecessarily tortuous to the victim.

(V-55, 1146-47).

As to Hanessia Mullings, the trial court instructed the jury on four aggravating circumstances as follows:

One. The Defendant has been previously or contemporaneously convicted of another capital offense or of a felony involving the threat of violence to some person.

A. The Defendant's contemporaneous conviction for the crime of First Degree Murder of Odessia Stephens is a capital offense.

Two. The crime for which the Defendant is to be sentenced was committed for the purpose of avoiding or preventing a lawful arrest.

To prove the aggravating circumstance of avoiding lawful arrest by elimination of a witness, when the witness is not a law enforcement officer, it must be clearly shown that the dominant or only motive for the murder was the elimination of the witness.

Three. The crime for which the Defendant is to be sentenced was especially heinous, atrocious or cruel . . .

Four. The victim of the capital felony was a person less than 12 years of age.

(V-55, 1147-49).

As to mitigation, the trial court instructed the jury that it could consider:

One. The crime for which the defendant is to be sentenced was committed while he was under the influence of extreme mental or emotional disturbance;

Two. The capacity of the defendant to appreciate the criminality of his conduct or to conform his conduct to the requirements of law was substantially impaired;

Three. The age of the defendant at the time of the crime;

Four. Any of the following circumstances that would mitigate against the imposition of the death penalty.

A. Any other aspect of the defendant's character, record, or background.

B. Any other circumstance of the offense.

(V-55, 1150).

The jury recommended by a vote of 12-0 that the court should sentence Mr. Knight to death on both counts. (V-55, 1164-65). The jury's advisory recommendation reflected no findings of fact as to the existence or sufficiency of specific aggravating or mitigating circumstances. (V-60, 491-92). Rather, as to both Stephens and Mullings, the jury delivered only the following statement: "[A] majority of the jury, by a vote of 12 to 0, advise and

recommend to the court that it impose the death penalty upon Richard Knight.” (V-60, 491-92). Thereafter, the trial court issued a sentencing order in which it “[gave] individual consideration to each aggravating and mitigating factor presented by the parties” and found the facts necessary to sentence Mr. Knight to death. (V-61, 631-43). On September 28, 2011, the Florida Supreme Court affirmed Mr. Knight’s convictions and sentences of death, rejecting a constitutional challenge to the Florida capital sentencing scheme based on *Ring*. *Knight v. State*, 76 So. 3d 879, 889 (Fla. 2011), *cert. denied*, 566 U.S. 998 (2012).

This Court decided *Hurst v. Florida* while Mr. Knight’s initial postconviction motion was pending on appeal in the Florida Supreme Court. After two rounds of supplemental briefing, that court found Mr. Knight’s death sentences violated *Hurst*. 225 So.3d at 682. However, this error was “harmless beyond a reasonable doubt,” because, according to the Florida Supreme Court, “the jury unanimously found all of the necessary facts for the imposition of death sentences by virtue of its unanimous recommendations.” *Knight v. State*, 225 So.3d 661, 683 (Fla. 2017). Two justices dissented. *Id.* at 684-85. Justice Perry wrote: “By ignoring the record and concluding that all aggravators were unanimously found by the jury, the majority is engaging in the exact type of conduct the United States Supreme Court cautioned against.” *Id.* at 684-85. Justice Quince agreed “that ‘the majority’s reweighing of the evidence . . . to support its conclusion’ contravenes our decision in *Hurst v. State* . . . and is the conduct the United States Supreme Court reproached in *Hurst v. Florida* . . .” 225 So.3d at 684.

Thereafter, Mr. Knight sought federal habeas corpus relief, which was denied by both the district court and the Eleventh Circuit Court of Appeals. *Knight v. Sec’y, Fla. Dep’t. Corr.*, 936 F.3d 1322 (11th Cir. 2019), *cert. denied*, 141 S. Ct. 274 (2020).

C. DECISION SOUGHT TO BE REVIEWED

On June 20, 2025—well before his death warrant was signed—Mr. Knight filed a

petition for writ of habeas corpus in the Florida Supreme Court, challenging that court’s prior harmless error determination in light of *Erlinger*. (Pet. App. E). Specifically, Mr. Knight argued:

Erlinger washed away any remnant of support for this Court’s harmless error analysis in *Davis*. This conclusion follows from two propositions established in *Erlinger*. First, *Apprendi* secures the jury’s factfinding authority against erosion, not because the jury is a superior factfinder, but because the jury’s ability to check governmental power hinges on its ability to control the verdict. And second, *Apprendi*’s operative rule cannot bend to allow judicial factfinding on even “seemingly straightforward factual questions,” which are often less “straightforward” and more consequential than they appear.

(Pet. App. 36a-37a). Further, Mr. Knight argued:

The factual findings implicit in the occasions inquiry, which *Erlinger* found too “intensely factual” and consequential to remove from the jury’s purview, pale in comparison to the findings necessary to sustain Knight’s death sentence. Under the applicable capital sentencing scheme, Knight’s death eligibility depended on the existence of “sufficient aggravating circumstances” and “insufficient mitigating circumstances to outweigh the aggravating circumstances.” . . . Under the plain text of these provisions, the Circuit Court could not sentence Knight to death based solely on the jury’s verdict. . . To the contrary, § 775.082(1) required the Court to enter life sentences without the opportunity for parole unless it “alone . . . [found] ‘the facts . . . [t]hat sufficient aggravating circumstances exist’ and ‘[t]hat there are insufficient mitigating circumstances to outweigh the aggravating circumstances.’”

(Pet. App. 51a).

The Florida Supreme Court ordered a response, which the State filed on July 8, 2025. After Mr. Knight filed a reply on July 31, 2025, the habeas action remained pending until Governor Ron DeSantis signed Mr. Knight’s death warrant, on April 22, 2026. Five days later, the Florida Supreme Court issued a written decision denying Mr. Knight’s petition and allowing no rehearing. (Pet. App. 1a).

The Florida Supreme Court’s misapprehension of Mr. Knight’s case—and of *Erlinger*’s

import—is apparent on the face of its sparsely worded decision. First, the Florida Supreme Court said *Erlinger* is not retroactively applicable. The court reached this conclusion in reliance on two cases that became final before this Court decided *Ring*. (Pet. App. 2a) (citing *Wainwright v. State*, 411 So. 3d 392 (Fla. 2025); *Ford v. State*, 402 So. 3d 973 (Fla. 2025)). Second, the Florida Supreme Court found that Mr. Knight’s claim was merely a “repackaged version of *Ring* and *Hurst* arguments that he has previously raised and that we have previously rejected.” (Pet. App. 3a). Not so. Mr. Knight raised new arguments that *Erlinger* vitiated the harmless error analysis applied by the Florida Supreme Court to sustain his death sentences in *Knight*, 225 So.3d at 683. *See* (Pet. App. 91a). Third, the Florida Supreme Court rejected the “merits” of Mr. Knight’s claim by *sua sponte* changing what his claim actually was. (Pet. App. 3a).

Contrary to the court’s decision, Mr. Knight was not “arguing that his death sentences are unconstitutional under the Sixth and Fourteenth Amendments.” *See* (Pet. App. 91a). That issue was already settled in Mr. Knight’s favor. *Knight*, 225 So.3d at 683. His actual claim pertained to the Florida Supreme Court’s constitutionally infirm harmless error analysis. Despite this, the words “harmless error” do not appear in the Florida Supreme Court’s decision, which purportedly addressed the merits of Mr. Knight’s petition arguing “*Erlinger* establishes that [the Florida Supreme Court’s] harmless error determination was itself error.” *See* (Pet. App. 92a).

This petition follows.

REASONS FOR GRANTING THE WRIT

I. THE FLORIDA SUPREME COURT’S DECISION EFFECTIVELY NULLIFIES *HURST V. FLORIDA*.

The Constitution of the United States “and the laws of the United States which shall be made in pursuance thereof . . . shall be the supreme law of the land; and the judges in

every state shall be bound thereby, anything in the constitution or laws of any state to the contrary notwithstanding.” U.S. Const. art. VI, cl. 2 (citation modified). Consistent with the Supremacy Clause, this Court plays a critical role in preserving “the constitutionally mandated balance of power . . . adopted by the Framers to ensure the protection of our fundamental liberties.” *Gregory v. Ashcroft*, 501 U.S. 452, 459 (1991) (citation modified). On all questions of federal law, this Court’s “decisions are final and obligatory on all other judicial tribunals, state as well as federal.” *Green v. Neal’s Lessee*, 31 U.S. 291, 298 (1832). Although state courts may “examine” and “determine” federal questions, their “decision[s] must conform to [those] of the supreme court, or the corrective power may be exercised.” *Id.* This Court has admonished the states, “the Supremacy Clause cannot be evaded by formalism.” *Haywood v. Drown*, 556 U.S. 729, 742 (2009).

In the decade following *Hurst*, the Florida Supreme Court has evaded this Court’s mandate through the rote application of irrational procedural rules. Initially, the Florida Supreme Court accepted the premise that “the facts that must be found by a jury under *Hurst v. Florida*” were “those highlighted in [FLA. STAT. §] 921.141(3)(a)-(b): that *sufficient aggravating circumstances* exist *and* the existing *aggravation outweighs the presented mitigation*.” *Jackson v. State*, 213 So.3d 754, 784 (Fla. 2017). Accordingly, the Florida Supreme Court held hundreds of death sentences unconstitutional, including Mr. Knight’s, because a judge alone found the facts required by FLA. STAT. § 921.141(3)(a)-(b). *Knight*, 225 So.3d at 682 (agreeing Mr. Knight “was unconstitutionally sentenced to death because his penalty phase jury did not find all of the facts necessary to impose the death penalty”); see *Florida Death-Penalty Appeals Decided in Light of Hurst*, Death Penalty Info. Ctr. (visited May 16, 2026), <https://deathpenaltyinfo.org/stories/florida-death-penalty-appeals-decided-in-light-of-hurst>.

Nonetheless, fewer than half of Florida’s death sentences were vacated. The Florida Supreme Court denied relief in the remaining cases on one or both of the following grounds: (1) *Hurst* did not apply retroactively to death sentences that became final before this Court decided *Ring* on June 24, 2002, *Mosley v. State*, 209 So.3d 1248, 1283 (Fla. 2016); or (2) “any *Hurst v. Florida* error was harmless beyond a reasonable doubt,” because “the jury unanimously found all of the necessary facts for the imposition of death sentences by virtue of its unanimous recommendations,” *Davis v. State*, 207 So.3d 142, 175 (Fla. 2016).

In every case that, like Mr. Knight’s, was final after *Ring* with a unanimous advisory jury recommendation for death, the Florida Supreme Court denied relief solely on the basis of *Davis*’s harmless error analysis. Notwithstanding differences in the jury instructions, the number of aggravators, or the complexity of aggravators *inter alia*, the Florida Supreme Court made rote findings of harmless error and denied relief.¹ These findings of harmlessness required massive logical leaps. The factual findings implicit in the occasions inquiry, which *Erlinger* found too “intensely factual” and consequential to remove from the jury’s purview, pale in comparison to the aggravating circumstances the trial judge made here.

To illustrate, the trial judge in Mr. Knight’s case found that both offenses were

¹ *Anderson v. State*, 257 So.3d 355, 356 (Fla. 2018) (noting consistent reliance “on *Davis* to deny *Hurst* relief to defendants who have received a unanimous jury recommendation of death”); *Conahan v. State*, 258 So.3d 1237, 1238 (Fla. 2018); *Cozzie v. State*, 225 So.3d 717, 733 (Fla. 2017); *Crain v. State*, 246 So.3d 206, 209-10 (Fla. 2018); *Davis*, 207 So.3d at 174-75; *Everett v. State*, 258 So.3d 1199, 1200 (Fla. 2018); *Franklin v. State*, 236 So.3d 989, 992 (Fla. 2018); *Grim v. State*, 244 So.3d 147, 148 (Fla. 2018); *Guardado v. Jones*, 226 So.3d 213, 215 (Fla. 2017); *Johnston v. State*, 246 So.3d 266, 266 (Fla. 2018); *Kaczmar v. State*, 228 So.3d 1, 8-9 (Fla. 2017); *Knight*, 225 So.3d at 682-83; *Lowe v. State*, 259 So.3d 23, 64-65 (Fla. 2018); *Middleton v. State*, 220 So.3d 1152, 1184-85 (Fla. 2017); *Morris v. State*, 219 So.3d 33, 46 (Fla. 2017); *Oliver v. State*, 214 So.3d 606, 617-18 (Fla. 2017); *Reynolds v. State*, 251 So.3d 811, 814-18 (Fla. 2018); *Smithers v. State*, 244 So.3d 152, 153 (Fla. 2018); *Tanzi v. State*, 251 So.3d 805, 806 (Fla. 2018); *Taylor v. State*, 246 So.3d 204, 205-06 (Fla. 2018); *Truehill v. State*, 211 So.3d 930, 956-57 (Fla. 2017); *Tundidor v. State*, 221 So.3d 587, 607-08 (Fla. 2017).

“especially heinous, atrocious, or cruel.” (V-61, 632); FLA. STAT. § 921.141(5)(h). To make these findings, the judge evaluated “the means and manner in which death [was] inflicted and the immediate circumstances surrounding the death” to determine whether it was “conscienceless or pitiless and unnecessarily tortuous to the victim.” (V-61, 632) (citing *Nelson v. State*, 748 So. 2d 237 (Fla. 1999)). This led the judge to make additional findings as to both *actus reus* and *mens rea* that could not be gleaned from the jury’s verdict. For instance, the trial court evaluated the scene and testimony to determine *inter alia* whether defensive wounds were sustained, the length of time victims remained conscious, and even whether a victim tried to yell. (V-61, 633). There was no indication that the jury accepted any of these facts as true, but each was used to justify heightened punishment. With the exception of the “evading arrest” aggravator, the remaining aggravators were essentially automatic. However, the trial judge still needed to make additional findings as to whether these aggravators were “sufficient” to warrant Knight’s death sentences. Again, the jury’s verdict required no such findings. Likewise, even if these aggravators were sufficient, FLA. STAT. § 921.141(3)(b) still required the trial judge affirmatively find that there were “insufficient mitigating circumstances to outweigh the aggravating circumstances.” This, too, could not be done without judicial factfinding beyond the jury’s verdict.

Despite denying relief in each of these cases, the Florida Supreme Court consistently found that constitutional error, in fact, occurred. *See e.g., Mosley*, 209 So.3d at 1283. It has acknowledged, “defendants who were sentenced to death based on a statute that was actually rendered unconstitutional by *Ring* should not be penalized.” *Id.* at 1283. But now, the Florida Supreme Court has bucked this Court’s mandate by retroactively applying a revised construction of the capital sentencing scheme to find *no constitutional error* occurred, even where defendants, like Mr. Knight, were sentenced under the construction *Hurst* invalidated.

See *Poole*, 297 So.3d at 502-03.

Hurst v. Florida was predicated on the Florida Supreme Court's authoritative interpretation of Florida's capital sentencing statute. 577 U.S. at 99-100; see also, *Green*, 31 U.S. at 296-97 (noting "in cases depending on the statute of a state, the federal courts adopt the construction of the state"). This Court noted, "[a]s described above and by the Florida Supreme Court, the Florida sentencing statute does not make a defendant eligible for death until 'findings by the court that such person shall be punished by death.'" 577 U.S. at 99-100 (quoting FLA. STAT. § 775.082(1) (2000)). Specifically, under Florida law, "the trial court *alone* must find 'the facts . . . that sufficient aggravating circumstances exist' and 'that there are insufficient mitigating circumstances to outweigh the aggravating circumstances.'" 577 U.S. at 100 (citation modified) (quoting FLA. STAT. § 921.141(3)). This statutory construction provided the "premise on which the Court disposed of the case." *NAACP v. Alabama ex rel. Patterson*, 360 U.S. 240, 243 (1959).

Florida cannot now retroactively (and arbitrarily) apply a new construction of its capital sentencing scheme to avoid this Court's mandate. Certainly, the Florida Supreme Court could re-interpret state statute to conform with *Hurst's* mandate. See *Green*, 31 U.S. at 298-99 (noting "but its decision must conform to that of the supreme court"); see e.g., *Hurst v. State*, 202 So.3d 40 (Fla. 2016) (revising capital sentencing scheme on remand). But it is another matter entirely to apply that revised interpretation to persons whose rights both this Court and the Florida Supreme Court have already adjudicated. The Florida Supreme Court "is foreclosed from re-examining the grounds of [this Court's] disposition" in *Hurst*. See *NAACP*, 360 U.S. at 244 (holding "whatever was before the Court, and is disposed of is considered as finally settled").

The Florida Supreme Court has done precisely that by applying *Poole* retroactively to

disclaim error. The court is peddling a fiction. *Poole's* revised construction of Florida's sentencing scheme was issued 14 years after Mr. Knight was sentenced to death. It has no bearing on whether the Sixth Amendment required a jury, not a judge, to making the findings required by FLA. STAT. § 921.141(3)(b) at Mr. Knight's capital sentencing proceedings. This Court already decided that question in Mr. Knight's favor. *Hurst*, 577 U.S. at 100. The Florida Supreme Court lacks the authority to nullify that decision.

II. THE FLORIDA SUPREME COURT'S FAILURE TO GIVE EFFECT TO *ERLINGER V. UNITED STATES* SIGNALS FLORIDA'S PERSISTENT DIMINUTION OF THE JURY'S ROLE AND NON-COMPLIANCE WITH *APPRENDI*, *RING*, AND *HURST*.

The procedural safeguards secured by the Due Process Clause and the Sixth Amendment are axiomatic. The State must “prove its charges.” *Erlinger*, 602 U.S. at 832; *Sullivan v. Louisiana*, 508 U.S. 275, 277-78 (1993) (noting “the prosecution bears the burden of proving all elements of the offense charged”). It must do so “beyond a reasonable doubt.” *Erlinger*, 602 U.S. at 832; *In re Winship*, 397 U.S. 358, 364 (1970). And the State's proof must convince “a unanimous jury.” *Erlinger*, 602 U.S. at 832; *Ramos v. Louisiana*, 590 U.S. 83, 93 (2020).

The Framers' enshrined these fundamental safeguards in the Constitution to constrain governmental authority at every level. Together, “by requiring the Executive Branch to prove its charges to a unanimous jury beyond a reasonable doubt,” the Sixth Amendment and the Due Process Clause “seek to mitigate the risk of prosecutorial overreach and misconduct.” *Erlinger*, 602 U.S. at 832 (citation modified) (citing *The Federalist* No. 83, p. 499 (C. Rossiter ed. 1961)). Correspondingly, the Sixth Amendment and Due Process Clause limit judicial authority “by requiring a unanimous jury to find every fact essential to an offender's punishment.” 602 U.S. at 832 (citation modified). This “ensur[es] that the punishments courts issue are . . . premised on laws adopted by the people's elected representatives and facts found by members of the community.” 602 U.S. at 832 (quoting

Blakely v. Washington, 542 U.S. 296, 307 (2004)).

None of these safeguards can function if the government simply places critical facts beyond the jury's control. See 602 U.S. at 833-34 (surveying "sentencing innovations" that unconstitutionally removed facts from the jury's purview). To prevent the state and federal governments from doing so, *Apprendi* drew a clear line in the sand: Under the Due Process Clause of the Fourteenth Amendment "and the notice and jury trial guarantees of the Sixth Amendment, any fact (other than prior conviction) that increases the maximum penalty for a crime must be charged in an indictment, submitted to a jury, and proven beyond a reasonable doubt." *Apprendi*, 530 U.S. at 476 (quoting *Jones v. United States*, 526 U.S. 227, 243 n.6 (1999)).

Recognizing that any ambiguity in this rule would invite creeping and flagrant violations alike, *Apprendi*'s progeny have weeded out any remaining uncertainty. *Blakely*, 542 U.S. at 308 (rejecting "the claim that the Framers would have left the definition of the scope of jury power up to judges' intuitive sense of how far is too far"); see e.g., *Ring*, 536 U.S. 584 (holding aggravating factors in capital sentencing are elements of heightened offense that must be found by the jury); *United States v. Booker*, 543 U.S. 220 (2005) (applying *Apprendi* to prohibit judicial factfinding under Federal Sentencing Guidelines as to amount of cocaine involved in offense and circumstances surrounding arrest); *Southern Union Co. v. United States*, 567 U.S. 343 (2012) (holding imposition of criminal fine calculated based on judicial factfinding as to duration of offense violated *Apprendi*); *Alleyne v. United States*, 570 U.S. 92 (2013) (requiring jury to find facts that increase a defendant's mandatory minimum sentence); *Hurst*, 577 U.S. 92 (holding Florida's capital sentencing scheme violated *Apprendi* notwithstanding presence of advisory jury); *United States v. Haymond*, 588 U.S. 634 (2019) (plurality) (requiring jury to find facts that trigger new mandatory minimum prison terms at

parole revocation hearings); *Erlinger*, 602 U.S. 821 (requiring jury to find whether prior offenses were committed on separate occasions).

Nevertheless, the Florida Supreme Court continues to undermine the right to trial by jury by inventing such unprincipled distinctions as *Poole*'s "eligibility" and "selection" labels. 297 So.3d at 501. This elevation of semantics over substance violates "the fundamental meaning of the jury-trial guarantee of Sixth Amendment . . . that all facts essential to imposition of the level of punishment that the defendant receives—whether the statute calls them elements of the offense, sentencing factors, or Mary Jane—must be found by the jury beyond a reasonable doubt." *Ring*, 536 U.S. at 610 (Scalia, J., concurring). And it has further eroded the jury trial right by resorting to its own appellate factfinding in deeming Sixth Amendment error "harmless"—the sort of non-jury factfinding the Florida Supreme Court engaged in here, is equally as pernicious under the Sixth Amendment, as this Court in *Erlinger* makes clear, as trial judge's factfinding which exposed Mr. Knight to a greater punishment than authorized by Florida's capital sentencing scheme, as this Court made clear in *Hurst*.

Just this week, the Florida Supreme Court overruled its own precedent to avoid granting relief in postconviction cases asserting *Apprendi* error in non-capital sentencing proceedings under Florida's Prison Releasee Reoffender statute. *Maye v. State*, No. SC23-1184, 2026 WL 1346031 at *4 (Fla. May 14, 2026) (holding procedural instrument for challenging "illegal sentence" inapplicable "because *Apprendi* claims are subject to harmless error review").

Dissenting, Justice Labarga warned:

Originally designed as a narrow, pragmatic tool to conserve judicial resources, the harmless error doctrine has unfortunately grown into a frequent, powerful barrier for appellants. It encourages prosecutor misconduct, particularly during the

closing argument . . . And, as in this case, *it erases constitutional law by skipping the error identification step.*

Id. at *14 (Labarga, J., dissenting).

Florida has given no indication that it will self-correct. To the contrary, the Florida Supreme Court persists in blatantly “ignoring 24 years of unambiguous directives from the Supreme Court.” *Id.* at 15 (Labarga, J. dissenting). Its decision in Mr. Knight’s *Erlinger*-based habeas petition cements its intransigence in following this Court’s directives.

Respectfully, this Court should intervene.

CONCLUSION

This Court should grant a stay of execution, grant this writ of certiorari, and review the decision of the Florida Supreme Court.

Respectfully submitted,

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