

No. 25-7408

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**IN THE  
SUPREME COURT OF THE UNITED STATES**

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RICHARD KNIGHT,  
*Petitioner,*

v.

RICKY D. DIXON, SECRETARY,  
FLORIDA DEPARTMENT OF CORRECTIONS,  
*Respondent.*

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

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**BRIEF IN OPPOSITION  
EXECUTION SCHEDULED FOR MAY 21, 2026, AT 6:00 P.M.**

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CAPITAL CASE  
QUESTION PRESENTED

Petitioner Knight brings two questions to this Court for review on the eve of his pending execution for the 2000 brutal murders of Odessia Stephens and her four-year-old daughter Hanessia. Both questions involve this Court's established precedent in capital sentencing and the requirements of *Hurst v. Florida*, 577 U.S. 92 (2006). This case now comes to the Court following the rejection of this claim on successive post-conviction review from the Florida Supreme Court. Knight has previously unsuccessfully sought review in this Court on his *Ring v. Arizona*, 536 U.S. 584 (2002) and *Hurst*-based claims. For this attempt, the State frames the two intertwined questions as follows:

Whether this Court should grant certiorari to review a decision of the Florida Supreme Court rejecting a claim of fact-finding error under *Hurst* and *Erlinger* where that claim was procedurally barred from review in state court and without merit in a case that presents no conflict or unsettled question of law for review.

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## **OPINION BELOW**

The decision below of the Florida Supreme Court appears as *Knight v. Sec'y, Dep't of Corr.*, No. SC2025-0872, 2026 WL 1133632 (Fla. Apr. 27, 2026).

## **JURISDICTION**

Petitioner asserts that this Court's jurisdiction is based upon 28 U.S.C. § 1257. Respondent agrees that the statutory provision sets out the scope of this Court's certiorari jurisdiction. However, this case is inappropriate for the exercise of this Court's discretionary jurisdiction because the Florida Supreme Court's decision does not implicate an important or unsettled question of federal law, nor does it conflict with another state court of last resort, a United States court of appeals, or any relevant decisions of this Court. Sup. Ct. R. 10. Additionally, the Florida Supreme Court's opinion is based on adequate and independent state grounds.

## **CONSTITUTIONAL PROVISIONS INVOLVED**

The State accepts the Petitioner's statement of the constitutional provisions involved.

## **STATEMENT OF THE CASE AND FACTS**

Richard Knight is under an active death warrant based on his April 26, 2006, convictions for the first-degree murders of Odessia Stephens and her four-year-old daughter, Hanessia Mullings. On March 28, 2007, the trial court imposed two death sentences following two unanimous death recommendations. *Knight v. State*, 76 So. 3d 879, 881-84 (Fla. 2011). Over the twenty years since the murders, Knight pursued a direct appeal, a state post-conviction motion with an evidentiary hearing and

appeal, two state habeas corpus petitions, and federal habeas review, none of which were successful. *See Knight v. State*, 225 So. 3d 661 (Fla. 2017), *cert. denied*, 583 U.S. 1184 (2018); *Knight v. Sec'y, Dep't of Corr.*, No. SC2025-0872, 2026 WL 1133632 (Fla. Apr. 27, 2026); *Knight v. Fla. Dep't of Corr.*, 936 F.3d 1322 (11th Cir. 2019), *cert. denied*, 141 S. Ct. 274 (2020).

On April 22, 2026, the Governor signed a death warrant setting Knight's execution for May 21, 2026. Knight's post-warrant litigation followed.

### **Facts of Crime and Penalty Phase**

Knight lived with his cousin, Hans Mullings (Mullings), Mullings' girlfriend, Odessia, and their child, Hanessia. *Knight*, 76 So. 3d at 882. Mullings and Odessia had asked Knight to move out of their apartment numerous times prior to the murders. *Id.*

At approximately 9:00 p.m. on June 27, 2000, shortly before leaving his office to run errands, Mullings spoke to Odessia who said she was going to bed. At that time, Knight was at the apartment with Odessia and Hanessia. *Id.* Near midnight that evening, an "upstairs neighbor heard multiple thumping sounds on the apartment walls and two female voices, one of which was a child crying" which prompted her to call 911 at 12:21 a.m. on June 28, 2000, with the crying continuing after the police arrived. *Id.*

Officer Sachs arrived at 12:29 a.m. and noted lights were on in the master bedroom and hall, and a second bedroom's window was slightly ajar. *Id.* at 882-83. "After knocking and receiving no response," the officer walked around the property

again and saw “that the lights had been turned off and that the previously ajar window was now completely open” with the blinds hanging out the window. *Id.* Shining his flashlight through the dining room window, Sachs saw blood in the dining room and master bedroom and “Hanessia curled in the fetal position against the closet door.” *Id.* Once in the apartment, the officer discovered the apartment doors locked, saw no sign of ransacking, and found Odessia's body in the living room. *Id.*

Upon Officer Mocny’s arrival, she too saw the open window and noted Knight standing near some hedges about one hundred yards from the apartment. *Id.* When Sachs joined Mocny in questioning Knight, the officers observed that Knight was “visibly wet,” and although claiming he had been out jogging, he was wearing dress clothes and shoes and had a “scratch on his chest, a scrape on his shoulder, and fresh cuts on his hands.” *Id.* Knight admitted “he lived in the apartment, but did not have a key to get inside.” *Id.* Blood was visible on his shirt and on a ten-dollar bill in his possession. *Id.*

From the bathroom near Knight’s room, the forensic team “recovered two wet towels, a shirt, boxers, and a pair of jean shorts” all belonging to Knight and containing “numerous bloodstains.” *Id.* Also seized from the apartment were knives, “one from under the mattress in the master bedroom, and another from under Odessia's body.” *Id.* Odessia's blood was found in various places in the master bedroom, on the living room carpet, on the “knives' handles and blades, and on the knife holder in the kitchen” as well as on Knight’s “boxers, shirt, jean shorts, the clothing Knight had been wearing when arrested, and his hand.” *Id.* “Fingernail

scrapings taken from Odessia contained Knight's DNA profile.” *Id.* “Hanessia's blood was found on one of the knives, on Knight's boxers, jean shorts, and on the shower curtain.” *Id.*

Dr. Lance Davis, the medical examiner, determined Odessia suffered twenty-one stab wounds to her neck, chin, and back in addition to “twenty-four puncture or scratch wounds and bruising and ligature marks on her neck.” *Id.* “The bruises appeared to have been made by a belt or similar object” and Odessia “had defensive wounds on both hands and wounds on her leg, chest, back and neck.” *Id.* Although “[s]everal of the knife wounds were fatal, ... none would have resulted in an instantaneous death.” *Id.* Also, Odessia had bruises “from being punched on her scalp and mouth.” *Id.* The doctor testified that Knight’s attack upon Odessia started in the master bedroom and ended in the living room where Odessia had fled. *Id.* It was estimated that “Odessia was conscious for ten to fifteen minutes after the attack.” *Id.* The medical examiner saw “Hanessia on the floor next to the closet door” with “broken knife pieces around her.” *Id.* Hanessia had “four stab wounds in her upper chest and neck” and “[h]er hand had one additional stab wound and numerous defensive wounds.” *Id.* at 882-83. Numerous bruises and scratches were visible on Hanessia's arms and upper body; the bruises on her neck were “consistent with manual strangulation” and those on her arms were “consistent with being grabbed.” *Id.* 883.

According to Stephen Whitsett, he and “Knight were housed together from June 29, 2000, to July 22, 2000, at the Broward County Jail” where Knight confessed to the murders. *Id.* Knight told Whitsett that on the night of the murders he and

Odessia argued and that she no longer wanted to support him and wanted him to move from the apartment the next morning. *Id.* “Knight left the house to go for a walk and he became increasingly angry” only to return and again argue with Odessia. *Id.* Next, Knight retrieved a knife from the kitchen “and began stabbing Odessia” in front of Hanessia. *Id.* After Odessia stopped defending herself and “balled up into a fetal position” Knight started to stab Hanessia only to have the knife break, thus, requiring him to retrieve another kitchen knife to stab Hanessia as she lay near the closet door drowning in her own blood. *Id.* After cutting himself on one of the knives, Knight obtained another kitchen knife and stabbed Odessia in the living room where she had crawled. *Id.* Knight wiped the blood from his hands on the living room carpet. *Id.*

Per Knight’s confession to Whitsett, “after he finished with Odessia, he went to the bathroom, took off the blood soaked shorts and T-shirt, and tossed them under the sink” and then showered and dressed in blue polo pants. *Id.* Knight also admitted that while wiping down the knives he “heard a knock on the door and saw the police outside through the peep hole” prompting him to flee out his bedroom window.” *Id.* “In an attempt to deflect suspicion away from himself, Knight returned to his bedroom window where he saw a female police officer.” *Id.* Upon this evidence, the jury found Knight guilty of both counts of first-degree murder. *Id.*

During the penalty phase, Knight called six witnesses who reported on his childhood, family history, employment, and mental health. *Id.* at 883-84. Based on the guilt and penalty phase presentations, the jury unanimously recommended death for each count of first-degree murder. *Id.* at 884.

## Procedural History

Following unanimous jury recommendations for each murder and after the August 2006, *Spencer*<sup>1</sup> hearing, on March 28, 2007, the trial court sentenced Knight to death.<sup>2</sup> Knight appealed, raising the following claims: 1) whether it was error for the trial court to deny a motion for a mistrial after a witness commented on Knight's history of violence; 2) whether the court erred in denying a mistrial for the jury potentially seeing Knight in shackles; 3) whether there was a discovery error for the State not to inform Knight that the DNA expert changed his opinion and whether it was error not to grant a mistrial because of it; 4) whether the court erred in not seating a new jury for the penalty phase due to a witness's statement about Knight's background; and 5) Florida's capital sentencing statute is unconstitutional. The Florida Supreme Court affirmed the convictions and sentence. *Knight*, 76 So. 3d at

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<sup>1</sup> *Spencer v. State*, 615 So. 2d 688 (Fla. 1993). During the *Spencer* Hearing, Knight presented additional evidence in mitigation.

<sup>2</sup> In its written order the trial court found the State had proven beyond a reasonable doubt two statutory aggravating circumstances for the murder of Odessia: (1) a previous conviction of another violent capital felony (contemporaneous murder of Hanessia) and (2) especially heinous, atrocious, or cruel (HAC). The court also found three statutory aggravating circumstances for the murder of Hanessia: (1) a previous conviction of another violent capital felony (contemporaneous murder of Odessia); (2) HAC; and (3) victim under twelve years of age. The court found no statutory mitigating circumstances but found eight nonstatutory mitigators of: (1) good upbringing (slight weight); (2) loves his family (moderate weight); (3) went to high school and excelled in art (little weight); (4) was admired by neighborhood children as a youth and was well regarded by the adults (little weight); (5) was a valuable employee in Jamaica (little weight); (6) had part-time employment at the time of the crime (little weight); (7) behaved well in court (little weight); and (8) is capable of forming loving relationships (moderate weight). (ROA 619-43) *Knight*, 76 So. 3d at 884.

881-84 and this Court denied Knight's petition for certiorari on May 14, 2012. *Knight*, 566 U.S. at 998.

Knight filed a motion for post-conviction relief, raising the following claims: 1) ineffective assistance of counsel in the guilt phase for failing to present Dr. Rudin, failing to request a hearing pursuant to *Frye v. United States*, 293 F. 1013 (D.C. Cir. 1923), and failing to challenge the credibility of cellmate, Whitsett<sup>3</sup>; 2) ineffective of assistance of counsel in the penalty phase for failing to effectively investigate and present mitigation evidence; 3) Florida's rule prohibiting interviews of jurors are unconstitutional; and Florida's lethal injection protocol and procedures are unconstitutional. The trial court held an evidentiary hearing on some of the issues, ultimately denying relief. On appeal, this Court affirmed the denial as well as the related petition for a writ of habeas corpus. The issue in the habeas petition was whether appellate counsel was ineffective for not challenging the admission of autopsy photographs and the testimony of an officer about Knight's crime scene statements. *Knight*, 225 So. 3d at 661, *cert. denied*, *Knight v. Florida*, 583 U.S. 1184 (2018).

Knight filed a petition for habeas corpus in the federal district court, Southern District, on September 29, 2017, which was denied on April 30, 2018. *Knight v. Jones*, 2018 WL 11656388 (S.D. Fla. 2018). The federal court also denied his subsequent

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<sup>3</sup> Also in the first issue were claims that the State violated *Brady v. Maryland*, 373 U.S. 83 (1963), by not disclosing impeachment evidence on Kevin Noppinger, jail logs reflecting that Knight had access to a newspaper, and that Whitsett had drawn a map in a previous, unrelated arrest.

motion to alter or amend the judgement on July 25, 2018. *Knight v. Jones*, 2018 WL 11656374 (S.D. Fla. 2018). Knight appealed to the Eleventh Circuit Court of Appeals which affirmed the denial of his federal habeas petition. *Knight*, 936 F.3d at 1322. Subsequently, this Court denied certiorari. *Knight v. Fla. Dep't of Corr.*, 141 S. Ct. 274 (2020).

On June 20, 2025, Knight filed another state habeas petition with the Florida Supreme Court. There he argued that his jury made no findings of fact as to the existence or sufficiency of specific aggravating or mitigating circumstances and thus violated his constitutional rights in light of *Erlinger v. United States*, 602 U.S. 821 (2024) and that *Erlinger* should be applied retroactively. On April 27, 2026, the Florida Supreme Court denied relief, finding that *Erlinger* is not retroactive, does not apply to post-conviction capital cases, and the capital sentencing factors at issue were not “elements” that required jury findings. *Knight v. Sec'y, Dep't of Corr.*, No. SC2025-0872, 2026 WL 1133632, at \*1 (Fla. Apr. 27, 2026) (citing *Ford v. State*, 402 So. 3d 973, 980-81 (Fla. 2025)). The Court also determined that Knight’s claim failed on the merits since his jury contemporaneously convicted him of the first-degree murder of each victim, thus finding beyond a reasonable doubt that Knight met the aggravator of prior violent felony as to each murder as required under the Sixth Amendment as announced in *State v. Poole*, 297 So. 3d 487, 502-03 (Fla. 2020). See *Knight*, 2026 WL 1133632, at \*2. That Court reiterated that the weighing of aggravation against mitigation was not an “element” requiring unanimity by the jury. *Id.*

### **Successive Post-conviction Litigation (Active Warrant)**

Following the April 22, 2026, signing of Knight's death warrant, the trial court held status hearings daily from April 27 through May 4, 2026. Knight filed four demands for additional public records on April 29, 2026, and the agencies responded the next day. The trial court held a public records hearing on May 1, 2026, and denied those demands. On May 2, 2026, Knight filed his successive post-conviction motion<sup>4</sup> along with motions seeking a stay of execution and requesting that a still unidentified patent print be run through the Automated Fingerprint Identification System (AFIS). On May 4, 2026, the State responded to the three motions and the court held a Case Management/*Huff* Hearing<sup>5</sup> on May 5, 2026. Shortly before the *Huff* Hearing began, Knight filed a motion seeking to add an affidavit by Dr. Zivot in support of Claim Three of the post-conviction relief motion. The court denied all the defense motions, including summarily denying the successive post-conviction relief motion.

Knight appealed to the Florida Supreme Court raising three issues: 1) the lower court erred in summarily denying a discovery request and a potential claim of newly discovered evidence; 2) the denial of a facial claim that Florida Department of Corrections execution protocols are unconstitutional; and 3) the truncated warrant

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<sup>4</sup> There he raised three claims: 1) potential claim of newly discovered evidence of the identity of person who left a patent print, not in blood, on a murder weapon; 2) the compact warrant period is unconstitutional; and 3) the February 18, 2025 lethal injection protocols are unconstitutional based on the inclusion of an alternate venous cut-down procedure should peripheral venous access be impossible.

<sup>5</sup> *Huff v. State*, 622 So. 2d 982, 983 (Fla. 1993).

period violates Knight's Due Process rights in the Constitution. On May 15, 2026, the Florida Supreme Court affirmed the summary denial of Knight's successive motion and discovery motion. *Knight v. State*, 2026 WL 1361316 (Fla. May 15, 2026). The court found Knight's claims without merit and/or procedurally barred and untimely.

The instant certiorari petition is addressed to the Florida Supreme Court's April 27, 2026, denial of the state habeas petition addressing the *Hurst-Erlinger* challenge. A separate certiorari petition has been filed challenging Knight's post-conviction litigation under warrant.

### **REASONS FOR DENYING THE PETITION**

#### **ARGUMENT**

This Court should decline certiorari review of the Florida Supreme Court decision rejecting a claim of fact-finding error under *Hurst* and *Erlinger* where that claim was procedurally barred from review in state court and without merit in a case that presents no conflict or unsettled question of law for review.

Knight argues that his death sentence is unconstitutional under *Hurst v. Florida*, 577 U.S. 92 (2016), and *Erlinger v. United States*, 602 U.S. 821 (2024). This is Knight's second attempt to obtain certiorari review of his *Ring v. Arizona*, 536 U.S. 584 (2002) and *Hurst v Florida* based claims. While Knight's first attempt at review in this Court was meritless and unsuccessful, this attempt has the added hurdle of a procedural bar. It is also plainly meritless. Accordingly, certiorari should be denied.

A. Adequate and independent state law grounds

Knight's successive habeas petition raising the *Hurst/Erlinger* claim was found procedurally barred by the Florida Supreme Court under Florida's well-established re-litigation bar precedent.

Further, despite Knight's argument to the contrary, his Erlinger claim is a repackaged version of *Ring* and *Hurst* arguments that he has previously raised and that we have previously rejected. ... As such, Knight's claim is procedurally barred. "[H]abeas corpus is not to be used 'for obtaining additional appeals of issues which were raised, or should have been raised, on direct appeal or which were waived at trial or which could have . . . or have been, raised in' prior postconviction filings." *Baker v. State*, 878 So. 2d 1236, 1241 (Fla. 2004) (quoting *Mills v. Dugger*, 574 So. 2d 63, 65 (Fla. 1990)).

*Knight v. Sec'y, Dep't of Corr.*, No. SC2025-0872, 2026 WL 1133632, at \*1 (Fla. Apr. 27, 2026).

This Court lacks jurisdiction over cases that do not present federal questions. 28 U.S.C. § 1257; *Johnson v. Williams*, 568 U.S. 289, 309 (2013) (Scalia, J., concurring) (noting that 28 U.S.C. § 1257 imposes a federal-question requirement as a condition of this Court's appellate jurisdiction). In *Michigan v. Long*, 463 U.S. 1032 (1983), this Court explained that it lacks jurisdiction over a case if a state court's decision rests upon two grounds: a state law ground and a federal ground, provided the state law ground is independent and adequate itself. *Id.* at 1038, n.4 (quoting *Fox Film Corp. v. Muller*, 296 U.S. 207, 210 (1935)). Provided the state law is not "interwoven" with federal law, this Court's jurisdiction "fails." *Id.* (citing *Enterprise Irr. Dist. v. Farmers' Mut. Canal Co.*, 243 U.S. 157, 164 (1917)); see also *Foster v. Chatman*, 578 U.S. 488, 497 (2016) (noting that this Court lacks jurisdiction to review

a state court judgment if that judgment rests on state law citing *Harris v. Reed*, 489 U.S. 255, 260 (1989)).

The Florida Supreme Court found the *Hurst* claim procedurally barred. The court was interpreting Florida law which prohibits re-litigation of previously rejected claims. There is no federal constitutional aspect to such determination. *See Johnson v. Lee*, 578 U.S. 605, 609 (2016) (acknowledging that state post-conviction court is generally not used to litigate claims that were or could have been raised at trial or direct appeal and finding that the procedural bar “qualifies as adequate to bar federal habeas review”). The procedural bar determination was not interwoven with federal constitutional law. This is an independent and adequate ground to deny review and this Court should decline certiorari.

B. No conflict with this Court’s jurisprudence.

Knight attempts to revitalize his claim by citing this Court’s recent decision in *Erlinger*. However, the Florida Supreme Court noted that that while Knight cited *Erlinger* in his state petition, it was merely a repackaged *Ring/Hurst* claim. The court analyzed his renewed claims as follows:

As an initial matter, we have previously distinguished *Erlinger* from cases similar to Knight's. In *Ford v. State*, 402 So. 3d 973, 980-81 (Fla. 2025), we observed:

*Erlinger* does not apply to this case. It involved the federal Armed Career Criminal Act (ACCA), 18 U.S.C. § 924(e)(1), which imposes enhanced, lengthy, mandatory minimum prison terms on certain defendants who have committed three violent felonies or serious drug offenses on separate occasions. *Erlinger*, 602 U.S. at 825. The question presented in *Erlinger* was “whether 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.” *Id.* The Court concluded that a jury must resolve the “ACCA's occasions inquiry unanimously and beyond a reasonable doubt.” *Id.* at 835. But *Erlinger* was a direct-appeal case—not a [collateral] case like Ford's—and it involved required jury findings regarding an element. Based on these fundamental distinctions, it is clear that *Erlinger* provides no support for vacating Ford's death sentences.

What is more, this Court has held that *Erlinger* does not apply retroactively. *See Wainwright v. State*, 411 So. 3d 392, 401 (Fla. 2025) (“And even if *Erlinger* announced a new rule that might serve as a vehicle for Wainwright to overcome this procedural bar, *Erlinger* does not apply retroactively.”).

*Knight*, No. SC2025-0872, 2026 WL 1133632, at \*1.

The Florida Supreme Court also found Knight’s claims were plainly meritless:

Moreover, Knight's claim also fails on the merits. Knight's jury contemporaneously convicted him of the first-degree murders of the victims. In doing so, as to each murder, the jury found beyond a reasonable doubt that Knight “was previously convicted of another capital felony or of a felony involving the use or threat of violence to the person.” § 921.141(5)(b), Fla. Stat. (2000). The jury's finding beyond a reasonable doubt of the existence of a statutory aggravating circumstance as to each murder is precisely what the Sixth Amendment requires. *See State v. Poole*, 297 So. 3d 487, 502-03 (Fla. 2020) (“Under longstanding Florida law, there is only one eligibility finding required: the existence of one or more statutory aggravating circumstances.”).

Finally, to the extent Knight argues that a jury was required to find that sufficient aggravating factors existed to impose the death penalty and mitigating circumstances were insufficient to outweigh the aggravating factors, we have stated:

Under the principles established in *Apprendi*, *Ring*, and *Hurst v. Florida*, only one of the findings we identified in *Hurst v. State*—the finding of the existence of an aggravating circumstance—qualifies as an element, including for purposes of our state constitution. There is no

basis in state or federal law for treating as elements the additional unanimous jury findings and recommendation that we mandated in *Hurst v. State*.

*Id.* at 505. This further distinguishes *Erlinger*, which involved required jury findings regarding an element.

*Knight*, No. SC2025-0872, 2026 WL 1133632, at \*2. The Florida Supreme Court correctly interpreted *Erlinger* and *Hurst*.

Knight asserts that *Erlinger* mandates another look at his previously rejected *Hurst* claim. However, as the Florida Supreme Court found, his reliance on *Erlinger* is misplaced. In *Erlinger* this Court addressed the federal Armed Career Criminal Act (ACCA), which provides for an enhanced prison sentence when a defendant has three or more prior convictions for qualifying offenses that were “committed on occasions different from one another.” *Erlinger*, 602 U.S. at 825 (quoting 18 U.S.C. § 922(g)). Finding that the case was “as nearly on all fours with *Apprendi [v. New Jersey]*, 530 U.S. 466 (2000),] and *Alleyne [v. United States]*, 570 U.S. 99 (2013),] as any we might imagine,” this Court held that whether the prior offenses “occurred on at least three separate occasions” is a factual issue that must be decided by a jury, rather than a judge, before an ACCA enhancement can be applied. *Id.* at 834-35. That conclusion, this Court explained, flowed from *Apprendi*’s holding that “[v]irtually ‘any fact’ that ‘increase[s] the prescribed range of penalties to which a criminal defendant is exposed’ must be resolved by a unanimous jury beyond a reasonable doubt (or freely admitted in a guilty plea).” *Id.* at 834 (quoting *Apprendi*, 530 U.S. at 490). *Erlinger*

did not address capital sentencing.<sup>6</sup> Indeed, this Court expressly limited its holding to the ACCA, stating, “While recognizing Mr. Erlinger was entitled to have a jury resolve the ACCA’s occasions inquiry unanimously and beyond a reasonable doubt, we decide no more than that.” (quoting *Erlinger*, 602 U.S. at 835).

Notably, Knight’s second attempt to raise fact-finding error in state court failed on the basis of harmless error. His attempt to revisit this claim is even less persuasive now as later developments in the law revealed that there was no *Ring/Hurst* error in the first place. Assuming for a moment Knight can properly revisit this procedurally barred claim, it would fail on the merits. In *State v. Poole*, 297 So. 3d 487, 507-08 (Fla. 2020), *cert. denied* 141 S. Ct. 1051 (2021), the Florida Supreme Court receded from *Hurst v. State*<sup>7</sup> “except to the extent it requires a jury unanimously to find the existence of a statutory aggravating circumstance beyond a reasonable doubt.” The court upheld Poole’s death sentences, despite his jury’s 11-to-1 recommendation in favor of death, because the same jury during the guilt phase had found Poole guilty of other crimes that satisfied the contemporaneous violent felony aggravator. *Poole*, 297 So. 3d at 493, 508. The court explained in *Poole*, the Supreme Court has never receded from its holding in *Spaziano v. Florida*, 468 U.S. 447, 465 (1984) that “the Sixth Amendment ... does not require any jury recommendation of death, much less

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<sup>6</sup> Knight’s reliance on *Maye v. State*, No. SC23-1184, 2026 WL 1346031 (Fla. May 14, 2026), is unavailing because *Maye* addressed a procedural rule defining what sentencing challenges may be raised at any time under Fla. R. Crim. P. 3.800 and has no application at all in capital cases. Rule 3.800(b).

<sup>7</sup> *Hurst v. State*, 202 So. 3d 40 (Fla. 2016).

a unanimous one.” *Poole*, 297 So. 3d at 504. Rather, this Court in *Hurst v. Florida* “overruled *Spaziano* only to the extent it allows a judge, rather than a jury, to find a necessary aggravating circumstance.” *Id.* Knight’s jury convicted him of both murders, which establishes the qualifying aggravators for each murder, i.e., the “previously convicted of another capital felony or a felony involving the use or threat of violence” and satisfies the dictates of *Hurst*. He, therefore, became eligible for a death sentence based on the jury’s unanimous decision.

The explicit text of Florida's death penalty statute provides that a Florida capital defendant is “eligible” for a death sentence if the penalty phase jury unanimously finds “at least one aggravating factor.” § 921.141(2)(b)(2), Fla. Stat. (2021). The Florida Supreme Court has read the state's death penalty statute to require only that the jury find one aggravating factor unanimously at the beyond a reasonable doubt standard of proof for a Florida capital defendant to be eligible for the death penalty. *Poole*, 297 So. 3d at 505; *McKenzie v. State*, 333 So. 3d 1098, 1105 (Fla. 2022) (declining to revisit what was settled in *Poole* which was “only the existence of a statutory aggravating factor must be found beyond a reasonable doubt”), *cert. denied*, 143 S. Ct. 230 (2022). The Florida Supreme Court has also interpreted the statutory phrase “whether sufficient aggravating factors exist,” to mean “one or more” aggravators. *Poole*, 297 So. 3d at 502 (citing § 921.141(3)(a), Fla. Stat. and quoting prior cases). Knight’s allegation that the Florida Supreme Court has “bucked” this Court’s mandate in *Hurst* in its decision in *Poole* and subsequent cases misunderstands *Poole*’s analysis of *Hurst*, as well as *Hurst* itself and

subsequent precedent. The state court's correction of the erroneous *Hurst v. State* assessment of *Hurst v. Florida* does not render its decision in Knight's case arbitrary, especially since it is in line with this Court's decision in *McKinney*. (Pet. 12-13).

There was no *Hurst* fact-finding error in Knight's capital sentencing. The jury made the necessary findings of fact when it convicted Knight of qualifying violent felonies, double first-degree murders. The Florida Supreme Court has consistently held that a defendant is eligible for the death penalty when the jury, during the guilt phase, unanimously finds the defendant guilty of other crimes that satisfy the prior or contemporaneous violent felony aggravator. *See Herard v. State*, 390 So. 3d 610, 622-23 (2024); *see* § 921.141(5)(b), Fla. Stat. (1997) (identifying as an aggravator: "The defendant was previously convicted of another capital felony or of a felony involving the use or threat of violence to the person.").

Knight's challenge to the Florida court's *Davis v. State*, 207 So.3d 142 (Fla. 2016), harmless error analysis is unsupportable given a correct reading of *Hurst v. Florida*. As the Florida Supreme Court stated in its rejections of Knight's original *Ring/Hurst* challenge: "We also decline to vacate Knight's death sentence because we find that this is one of the **rare** cases in which the *Hurst v. Florida* violation is harmless beyond a reasonable doubt. *See Davis v. State*, 207 So.3d 142, 175 (Fla. 2016)." *Id.* at 682. (emphasis added). Moreover, the harmless error analysis the Florida Supreme Court used to resolve Knight's case does not conflict with any precedent of this Court or any State Supreme or federal Circuit court.

The Florida Supreme Court’s view of *Ring/Hurst* claims was validated by this Court’s opinion in *McKinney v. Arizona*, 589 U.S. 139, 144 (2020), which stated: “Under *Ring* and *Hurst*, a jury must find the aggravating circumstance that makes the defendant death eligible. But importantly, in a capital sentencing proceeding just as in an ordinary sentencing proceeding, a jury (as opposed to a judge) is not constitutionally required to weigh the aggravating and mitigating circumstances or to make the ultimate sentencing decision within the relevant sentencing range.”

Since this is a long final case, this Court’s procedural decision in *Erlinger* would not even apply to Knight. While Knight cites an alleged Eighth Amendment violation in his sentencing, he only truly argues a Sixth Amendment violation under *Ring* and *Hurst*. He cites no lower court conflict that is worthy of this Court’s consideration, much less one that merits a stay on the eve of an execution in a long final case. The federal courts that considered the retroactivity of *Erlinger* have agreed that it is a new procedural rule which is not retroactive on collateral review. *See eg. Gann v. United States*, 2026 WL 886616, at \*11 (E.D. Tenn. Mar. 30, 2026) (collecting cases finding *Erlinger* not retroactive); *Cuyler v. United States*, No. CR 120-036, 2025 WL 1136295, at \*6–7 (S.D. Ga. Mar. 21, 2025), report and recommendation adopted, No. CR 120-036, 2025 WL 1136296 (S.D. Ga. Apr. 16, 2025) (collecting cases finding *Erlinger* not retroactive). Knight has not identified a conflict among federal circuit courts or state supreme courts on this issue.

There is no conflict between this Court’s Sixth Amendment or Eighth Amendment jurisprudence and the Florida Supreme Court’s decision in this case. As

a Sixth Amendment claim, it is meritless under this Court’s decision in *McKinney*. As this Court explained, the Sixth Amendment right-to-a-jury trial provision only requires jury findings regarding the aggravating circumstances, not performing the weighing or making the final decision. This Court stated that capital defendants are entitled to a jury determination of at least one aggravating circumstance for the defendant to be eligible for a death sentence. *McKinney*, 589 U.S. at 141, 144. But this Court also explained that defendants are not constitutionally entitled to a jury determination of weighing or to a jury determination of the “ultimate sentencing decision.” *Id.* at 144. This Court stated that “States that leave the ultimate life-or-death decision to the judge may continue to do so.” *Id.* at 145. Neither *Ring* nor *Hurst* requires jury weighing of the aggravation against the mitigation. *Id.* at 145. Constitutionally, judges, including appellate judges, may perform the weighing function and may also be the ultimate sentencer.

Not surprisingly, this Court has repeatedly denied review of similar challenges to the role of the jury in weighing and recommending death in Florida post-*Hurst*.<sup>8</sup> This Court has repeatedly observed that it is aggravators that are elements of the greater offense of capital murder. *Ring*, 536 U.S. at 609 (stating that because

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<sup>8</sup> *Randolph v. Florida*, 142 S. Ct. 905 (2022); *Craft v. Florida*, 142 S. Ct. 490 (2021); *Doty v. Florida*, 142 S. Ct. 449 (2021); *Wright v. Florida*, 142 S. Ct. 403 (2021); *Craven v. Florida*, 142 S. Ct. 199 (2021); *Santiago-Gonzalez v. Florida*, 141 S. Ct. 2828 (2021); *Bright v. Florida*, 141 S. Ct. 1697 (2021); *Newberry v. Florida*, 141 S. Ct. 625 (2020); *Rogers v. Florida*, 141 S. Ct. 284 (2020). This Court has also denied certiorari review in a case presenting the underlying question of whether the Sixth and Eighth Amendments require that a jury find that the aggravators outweighed the mitigators. See *Poole v. Florida*, 141 S. Ct. 1051 (2021).

aggravating factors “operate as the functional equivalent of an element of a greater offense” of capital murder, “the Sixth Amendment requires that they be found by a jury”); *Sattazahn v. Pennsylvania*, 537 U.S. 101, 111 (2003) (plurality opinion) (explaining, that “for purposes of the Sixth Amendment’s jury-trial guarantee, the underlying offense of ‘murder’ is a distinct, lesser included offense of ‘murder plus one or more aggravating circumstances’” which “increases the maximum permissible sentence to death” and therefore, a jury, and not a judge, must find the existence of any aggravating circumstances beyond a reasonable doubt). So, because it is the aggravator that increases the penalty to death, it is only the aggravating factor that must be found by the jury, under this Court’s Sixth Amendment jurisprudence.

Knight’s petition does not cite, acknowledge, or attempt to distinguish *McKinney*. Petitions for writ of certiorari which do not account for this Court’s most relevant decisions do not warrant this Court’s serious consideration.

The Sixth Amendment does not require jury sentencing in capital cases according to this Court’s longstanding precedent. There is no conflict between this Court’s Sixth Amendment jurisprudence and the Florida Supreme Court’s decision in this case. Accordingly, certiorari should be denied.

## CONCLUSION

Respondent respectfully requests that this Honorable Court deny the petition for a writ of certiorari.

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