No. 25-7408

IN THE SUPREME COURT OF THE UNITED STATES

RICHARD KNIGHT,
Petitioner,

v.

SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS,
Respondent.

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

REPLY IN SUPPORT OF PETITION FOR WRIT OF CERTIORARI

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

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May 20, 2026

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I. FLORIDA'S AFFIRMATIVE MISREPRESENTATIONS

The body of this Reply addresses the folly of Respondent's arguments, but here is a highlight reel of its more blatant misrepresentations and obfuscations, which serve as context for Florida's overall arguments while reinforcing the worthiness of the questions presented and the importance of this Court's intervention.

First, Respondent cites to and argues about the *wrong statutory sentencing scheme*. Mr. Knight was *not* sentenced under the 2021 version of Florida's sentencing scheme. (BIO at 16). He was sentenced under the same capital sentencing scheme this Court struck down as unconstitutional in *Hurst v. Florida,* 577 U.S. 92, 100 (2016).[1] It was under this pre-*Hurst* sentencing scheme that the Florida Supreme Court agreed in 2017 that 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." (Pet. App. 16a).

Second, Respondent tells this Court that Mr. Knight's state habeas petition—the proceeding to which this Petition for Writ of Certiorari is addressed—"failed on the basis of harmless error." (BIO at 15). Untrue. The Florida Supreme Court did not address harmless error, because it nullified this Court's decision in *Hurst v. Florida* and erased its own prior determination that Sixth Amendment error occurred at Mr. Knight's sentencing proceeding. *See* (Pet. App. 16a). This time around the Florida Supreme Court determined that no Sixth Amendment error happened at all because "[t]he jury's finding beyond a reasonable doubt of

[1] Florida re-worked its capital sentencing scheme in the wake of *Hurst v. Florida* and the Florida Supreme Court's decision on remand in *Hurst v. State*, 202 So.3d 40 (Fla. 2016). The statutory language in the post-*Hurst* landscape does, as the Respondent notes, provide that a capitally charged defendant is "ineligible for a sentence of death" unless the jury finds "at least one aggravating factor." (BIO at 16) (citing FLA. STAT. § 921.141(2)(b)(2) (2021)). But this is not the statute under which Mr. Knight was sentenced and is, therefore, irrelevant.

the existence of a statutory aggravating circumstance as to each murder is precisely what the Sixth Amendment requires." (Pet. App. 3a) (citing *State v. Poole*, 297 So.3d 487, 502-03 (Fla. 2020)). The words "harmless error" do not appear in the decision below.

Third, Respondent acknowledges that this Court's decision in *Hurst v. Florida* has been nullified by the Florida Supreme Court's subsequent 2020 decision in *Poole*, embracing the newly constituted Florida Supreme Court's efforts at "correcting" its previous "erroneous . . . assessment of *Hurst v. Florida*." (BIO at 16-17). The Florida Supreme Court has no authority to nullify a decision of this Court in order to rewrite history and determine *now* that Mr. Knight's capital sentencing was not infected with Sixth Amendment error. *See* (Pet. App. 3a); (BIO at 17) ("There was no *Hurst* fact-finding error in Knight's capital sentencing"); *contra* (Pet. App. 17a) ("Knight argues that he was unconstitutionally sentenced to death because his penalty phase jury did not find all of the facts necessary to impose the death penalty. *We agree*.").

II. NO ADEQUATE AND INDEPENDENT STATE LAW GROUNDS EXIST TO THWART THIS COURT'S REVIEW.

Respondent acknowledges, as it must, that if the Florida Supreme Court's decision is "interwoven" with an underlying federal question, then this Court's jurisdiction is appropriate. (BIO at 11). However, Respondent argues that the questions presented by Mr. Knight "do not present federal questions." (BIO at 11.) This position is befuddling given Respondent's argument, utterly reliant on federal constitutional law, that "[t]here was no *Hurst* fact-finding error in Knight's capital sentencing," (BIO at 17), because the Florida Supreme Court found that "[t]he 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." (Pet. App. 3a). This is the textbook definition of a holding that is based on federal law.

The byzantine fashion in which the Florida Supreme Court determined that Mr. Knight's claim was "procedurally barred" reinforces this Court's jurisdiction. The purported procedural bar depended on two antecedent interpretations of federal constitutional law: First, the Florida Supreme Court found Mr. Knight had previously raised a claim based on *Ring v. Arizona*, 536 U.S. 584 (2002), on direct appeal. (Pet. App. 3a). Of course, Mr. Knight's *Ring* challenge was wrongly rejected on direct appeal, as *Hurst v. Florida* established. 577 U.S. at 98 ("The analysis the *Ring* Court applied to Arizona's sentencing scheme applies equally to Florida's."). Second, the Florida Supreme Court determined that it had previously rejected Mr. Knight's claim in the wake of *Hurst v. Florida*. (Pet. App. 3a); *but see*, (Pet. App. 17a). Yet in the very next passage of its opinion, the Florida Supreme Court nullified its prior determination that Sixth Amendment error had occurred at Mr. Knight's sentencing, insisting that its newly minted interpretation of *Hurst v. Florida* meant that his sentencing fully comported with the Sixth Amendment: "[t]he 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." (Pet. App. 3a). These findings belie the notion that the Florida Supreme Court's procedural rulings do not "depend on a federal holding." *Glossip v. Oklahoma*, 604 U.S. 226, 242 (2025).

III. THE RESPONDENT, LIKE THE FLORIDA SUPREME COURT IN *POOLE*, IMPROPERLY RELIES ON THIS COURT'S DECISION IN *MCKINNEY V. ARIZONA* TO THE EXCLUSION OF *APPRENDI* AND ITS PROGENY.

The Respondent argues that Mr. Knight's petition fails to "account for this Court's most relevant decisions" and, thus, "[does] not warrant this Court's serious consideration." (BIO at 20). The omission the Respondent cites as fatal, curiously, is *McKinney v. Arizona*, 589 U.S. 139 (2020). The Respondent has confused the issue, assigning exorbitant weight to *McKinney* and even suggesting "judges, including *appellate judges*, may perform the weighing function and *may also be the ultimate sentencer*." (BIO at 19). *McKinney* is only

tangentially relevant here. *Apprendi*,[2] *Ring*, *Hurst*, *Erlinger*,[3] and Mr. Knight's claim all addressed unconstitutional factfinding conducted in the first instance by trial courts during sentencing proceedings, not reweighing by appellate courts. *McKinney* addressed the explicitly narrow issue of whether "after the Ninth Circuit identified an *Eddings*[4] error, the Arizona Supreme Court could not itself *reweigh* the aggravating and mitigating circumstances." 589 U.S. at 142 (emphasis added).

In *McKinney*, a jury convicted the petitioner on two counts of First-Degree Murder. *Id.* at 141. The trial judge found two aggravating circumstances applied to each murder, weighed them against the mitigating circumstances, and sentenced the petitioner to death. *Id*. Six years before this Court decided *Ring*, the Arizona Supreme Court affirmed the petitioner's convictions and sentences on direct appeal. 589 U.S. at 141. Twenty years later, the Ninth Circuit Court of Appeals found, "the Arizona courts had failed to properly consider McKinney's posttraumatic stress disorder and had thereby run afoul of this Court's decision in *Eddings*." *Id.* at 142. On remand from the Ninth Circuit, the Arizona Supreme Court rejected Mr. McKinney's argument "that he was entitled to resentencing by a jury." *See id.* Instead, "the court itself reviewed the evidence in the record and reweighed the relevant aggravating and mitigating circumstances," ultimately re-imposing death. *Id.*

This Court granted certiorari and held, "state appellate courts may conduct a *Clemons*[5] reweighing of aggravating and mitigating circumstances, and may do so in collateral proceedings as appropriate and provided under state law." *McKinney*, 589 U.S. at

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[2] *Apprendi v. New Jersey*, 530 U.S. 466 (2000).

[3] *Erlinger v. United States*, 602 U.S. 821 (2024).

[4] *Eddings v. Oklahoma*, 455 U.S. 104 (1982).

[5] *Clemons v. Mississippi*, 494 U.S. 738 (1990).

147. Distinguishing *Ring* and *Hurst* from *Clemons* and *McKinney*, this Court noted, "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." 589 U.S. at 145. The Respondent takes this quotation out of context. (BIO at 18).

The quotation addresses whether the Constitution requires aggravating and mitigating circumstances to be weighed by a jury, not a judge, regardless of context or effect. 589 U.S. at 144 (noting applicability of rule "in an ordinary sentencing proceeding"). The answer is no—*unless* the balance of aggravation and mitigation is a "fact on which the legislature conditions an increase in [the] maximum punishment." *See* 589 U.S. at 144 (quoting *Apprendi*, 530 U.S. at 481) (noting judges may consider "various factors relating both to offense and offender . . . *within the range prescribed by statute*"). As Justice Scalia noted in *Schriro v. Summerlin*, 542 U.S. 348, 354 (2004), this Court's "holding that, because *Arizona* has made a certain fact essential to the death penalty, that fact must be found by a jury, is not the same as *this Court* making a certain fact essential to the death penalty." Neither *Ring* nor *Hurst* exceeded their scope by categorically mandating that a jury must weigh aggravating and mitigating circumstances. *See Ring*, 536 U.S. at 606-07 (distinguishing narrowing elements necessary to comport with Eighth Amendment from the Sixth Amendment jury factfinding requirements applicable thereto).

Notwithstanding the Respondent's obfuscation, Florida's Legislature codified the facts "essential to the death penalty." *Summerlin*, 542 U.S. at 354. Florida's Legislature empowered judges, not juries, to find those facts. FLA. STAT. § 921.141 (1996). When this Court's decision in *Ring* plainly vitiated this sentencing scheme, *see* 577 U.S. at 621-22, Florida clung to it rather than adjust. The record plainly shows that Florida sentenced Mr.

Knight to death in violation of the Sixth Amendment and Due Process Clause. (Pet. App. 17a). The Respondent cannot obfuscate that fact. It is equally clear that Florida sustained Mr. Knight's death sentences through rote application of a cursory harmless error analysis identical to that which sustains the sentences of more than twenty others. (Cert. Pet. at 11 n.1). If Florida executes Mr. Knight on May 21, 2026, it will have done so through attrition, not constitutional process.

CONCLUSION

For the reasons set forth herein and those in his Petition, Mr. Knight urges this Court to grant a stay of execution, grant certiorari, and review the decision of the Florida Supreme Court.

Respectfully submitted,

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