

No. \_\_\_\_\_

IN THE SUPREME COURT OF THE UNITED STATES

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RICHARD KNIGHT,  
*Petitioner,*

v.

STATE OF FLORIDA,  
*Respondent.*

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

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CAPITAL CASE

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

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May 19, 2026

**QUESTION PRESENTED**

**Capital Case**

Section 10(i) of Florida's Lethal Injection Protocol authorizes the Florida Department of Corrections execution team to perform central line venous cutdowns in the death chamber without local anesthesia.

The question presented is: Whether performing a central line venous cutdown without local anesthesia violates the Eighth Amendment to the United States Constitution.

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**PARTIES TO THE PROCEEDINGS BELOW**

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

Respondent, State of Florida, was the Appellee 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).

### **Federal Habeas Proceedings**

*Knight v. Jones*, No. 17-61921-Civ-Scola, 2018 WL 11656388 (S.D. Fla. Apr. 30, 2018) (denying 28 U.S.C. § 2254 petition for writ of habeas corpus).

*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.*, 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).

*Knight v. State*, No. SC26-0718, 2026 WL 1361316 (Fla. May 15, 2026) (affirming denial of successive state postconviction motion after death warrant signed).

### **CITATIONS TO OPINION BELOW**

The opinion of the Florida Supreme Court in this cause, is available at *Knight v. State*, No. SC26-0718, 2026 WL 1361316 (Fla. May 15, 2026), and attached. (Pet. App. 1a).

Citations to the record on appeal in *Knight v. State*, No. SC26-0718, 2026 WL 136136 (Fla. May 15, 2026), are: (WR. [page #]).

### **STATEMENT OF JURISDICTION**

Petitioner invokes this Court’s jurisdiction to grant this Petition for 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 May 15, 2026.

### **CONSTITUTIONAL PROVISIONS INVOLVED**

“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.

### **STATEMENT OF THE CASE**

On April 22, 2026, Florida Governor Ron DeSantis signed Mr. Knight’s death warrant and the Florida Department of Corrections (“FDOC”) scheduled his execution by lethal injection for May 21, 2026, at 6:00 p.m. Pursuant to FLA. STAT. § 922.105 (2025), FDOC will execute Mr. Knight with its “Execution by Lethal Injection Procedures,” which supersede the prior written protocol dated March 10, 2023. (Pet. App. 30a). Because no transparent procedure controls the signing of death warrants in Florida, there is no way for a Florida capital defendant to know, until a warrant is signed, whether FDOC will use the preexisting lethal injection protocol or a newer, modified protocol to execute him. Likewise, FDOC’s promulgation of the lethal injection protocol is detached from any meaningful democratic oversight—legislative, public, or judicial (WR. 797).

On May 2, 2026, Mr. Knight filed a successive motion for postconviction relief pursuant to FLA. R. CRIM. P. 3.851. (WR. 777-841). Among the claims he raised was a facial challenge, under the Eighth and Fourteenth Amendments, to Section 10(i) of the lethal injection protocol which provides:

If peripheral venous access cannot be achieved, a designated team member will perform **a central venous line placement, with or without a venous cut-down (wherein a vein is exposed surgically and a cannula is inserted)**, at one or more sites deemed appropriate by that team member. If two sites are accessed, each line will be identified with a “1” or a “2,” depending on their identification as the primary and secondary lines.

(Pet. App. 38a) (emphasis added).

Mr. Knight alleged, “FDOC’s performance of a venous cutdown in accordance with Subsection 10(i) of the [Protocol] is ‘sure or very likely to cause serious illness and needless suffering, and give[s] rise to sufficiently imminent dangers.’” (WR. 798) (quoting *Glossip v. Gross*, 576 U.S. 863, 877 (2015)). In a clinical setting, before a venous cutdown, patients receive general or local anesthesia, except in extreme emergencies. The Protocol, however, makes no provision for anesthesia and, accordingly, it authorizes the execution team to perform a surgery that involves the following steps without first administering anesthesia: (1) The individual’s body is moved into a position that allows the vein to be located.<sup>1</sup> HARWOOD-NUSS’ CLINICAL PRACTICE OF EMERGENCY MEDICINE, LWW-EMERG CH 5. (2) A two- or three-centimeter incision is made in the skin over the vein to expose the subcutaneous tissue. *Id.*<sup>2</sup> (3) A curved hemostat is inserted into the incision under the vein. *Id.* The curved

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<sup>1</sup> By the time the execution team is performing this step, Subsection 10(e) and (f) of the Protocol will have required the inmate to be positioned "onto the execution gurney in the execution chamber" and "members of the execution team [to] secure the restraining straps."

<sup>2</sup> While making this incision, the execution team member must have the requisite knowledge, training, and skill to avoid cutting into the subcutaneous tissue itself. “An incision into the subcutaneous tissue may transect the vein causing significant bleeding,

hemostat is used to perform a blunt dissection, separating the vein from any adjacent nerves, bones, or tissue. *Id.* The jaws of the curved hemostat are opened to lift the vein away from the surrounding tissue. *Id.* A straight hemostat is inserted between the jaws of the curved hemostat below the vein. *Id.* The curved hemostat is removed, leaving the straight hemostat in place and elevating the vein above the incision site. *Id.* Finally, the exposed vein is catheterized. *Id.*

Further, Mr. Knight alleged that without local anesthesia at a minimum, a venous cutdown procedure will unavoidably cause severe pain. (WR. 800). This would remain true even if a qualified vascular surgeon were to perform the procedure. However, the Protocol does not require anyone on the execution team to be a surgeon. Instead, the qualifications required of the execution “team member(s) responsible for achieving and monitoring peripheral venous access” range from certification as a phlebotomist, which is obtainable with only a high school degree, to licensure as a physician or physician's assistant, who do not automatically possess the knowledge, training, or skill necessary to perform a venous cutdown. Alternatively, to be an execution “team member responsible for achieving and monitoring central venous access,” one must be an “advanced practice registered nurse . . . or, a physician or physician's assistant.” None of these credentials guarantee, or even suggest, that an execution team member is competent to perform a venous cutdown. (Pet. App. 49a).<sup>3</sup>

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difficulty visualizing the surgical field, and difficulty finding the ends of the vein which may retract proximally and distally.” *Id.* In other words, if the execution team member cuts too deeply, they will open a vein, causing substantial hemorrhaging and, likely, requiring another incision in a different location.

<sup>3</sup> Central venous line access can be obtained through the subclavian vein, which is located behind the collarbone, or through the jugular vein on either side of the neck. The skill required to perform venous cutdowns at any of these access points far exceeds the skill of an average physician, an experienced nurse, an emergency medical technician, or a phlebotomist. Subclavian and internal jugular cutdowns often require a skilled vascular surgeon. (Pet. App. 49a).

As Mr. Knight alleged, without this high degree of competency, central line venous cutdowns are sure or very likely to cause serious and life-threatening complications, including: torturous pain, severe vascular injury causing life-threatening bleeding and potential death by exsanguination, improper and unverified line placement leading to possible death by paralysis while conscious, tension pneumothorax (collapsed lung) leading to death, air embolism leading to death, and fatal irregular heartbeat leading to death. (Pet. App. 48a).

The death chamber at Florida State Prison, where executions are carried out, is not equipped to handle even the simplest of these complications. (Pet. App. 50a). The Protocol makes no provision for the surgical instruments required to perform the cutdown itself, let alone the equipment required to handle complications during surgery.<sup>4</sup> Resultantly, even simple complications are sure or very likely to result in severe pain and lingering death. Any attempt by the execution team to perform a central line venous cutdown poses an objectively intolerable risk of a human being bleeding to death on the gurney.

In support of his allegations, Mr. Knight proffered the affidavit of Dr. Joel Zivot. (Pet. App. 44a-51a). Therein, Dr. Zivot opined, “a cutdown in the subclavian or internal jugular position is beyond the expertise of anyone on the execution team,” because “cutdowns in those locations often require a skilled vascular surgeon.” (Pet. App. 49a). Florida’s protocol, however, “makes no mention of how it intends to perform venous cutdowns or what specific skills, training, and expertise will be required of those tasked with the job. (Pet. App. 49a). As Dr. Zivot explained in his affidavit:

[] A central line can be placed under the collarbone or in the internal jugular vein on either side of the neck. In all three instances, even separate from the cutdown, the skill required to

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<sup>4</sup> A cutdown requires a special tray of surgical instruments that includes a #15 surgical scalpel, curved hemostats, Metzenbaum scissors, 3.0 or 4.0 silk sutures, retractors, a light source, and possible electrocautery. (Pet. App. 49a).

perform such tasks is well beyond that of an average physician, a skilled and experienced nurse, or an emergency medical technician. Such a task requires someone with the highest level of training and expertise. **Venous cutdowns performed in any of the three locations by anyone without this high degree of competency are sure or very likely to cause serious and life-threatening complications. The execution chamber is in no way equipped to manage even the simplest of these complications.**

(Pet. App. 50a) (emphasis added). “[A] deep slice into the skin of the groin without anesthesia,” Dr. Zivot concluded, “is shocking in its needless cruelty,” because, for example, “the femoral artery and femoral vein are frequently abutting, and the accidental puncturing of the femoral artery would result in rapid and catastrophic bleeding, making vein identification impossible.” (Pet. App. 49a).

Finally, Mr. Knight alleged that the administration of local anesthesia prior to any venous cutdown procedure is a “feasible, readily implemented” alternative to the Lethal Injection Protocol as written that would “significantly reduce a substantial risk of severe pain.” (WR. 800-01) (citing *Glossip*, 576 U.S. at 877). FDOC has the present ability to administer local anesthesia, although the Protocol makes no mention of its use or availability during an execution. *See* (Pet. App. 50a) (“Prior to any skin incision, the use of local anesthesia is paramount. The lethal injection protocol makes no provision for the use of local anesthesia during a venous cutdown. The pain of the knife is not bearable without anesthesia.”).

The Florida trial court denied relief on this claim without affording an evidentiary hearing. (Pet. App. 26a-27a). It found that Mr. Knight’s claim was “untimely and procedurally barred” because it was filed more than 1 year after his convictions and sentences were final on direct appeal. (Pet. App. 26a). It also found the claim legally insufficient because Mr. Knight “failed to identify a known and available alternative method of execution that entails

a significantly less severe risk of pain,” (Pet. App. 27a),<sup>5</sup> and without merit because “the current lethal injection procedures do not present a substantial and imminent risk that is sure or very likely to cause serious illness or needless suffering.” (Pet. App. 27a). The trial court also refused to consider Dr. Zivot’s declaration because it was filed outside of the arbitrary deadline which the court had set for all of Mr. Knight’s under-warrant filings. (Pet. App. 27a).

On appeal, the Florida Supreme Court affirmed the trial court’s summary denial of Mr. Knight’s Eighth and Fourteenth Amendment challenge. (Pet. App. 1a-21a). It agreed with the trial court that Mr. Knight’s challenge was untimely and procedurally barred, *id.* at 17a, and also found it to be without merit, because (1) his allegations failed to establish a substantial and imminent risk that is sure or very likely to cause serious illness and needless suffering and (2) he failed to allege a known and available alternative method of execution that entails a significantly less severe risk of pain. *Id.* at 18a-19a. Despite acknowledging that Mr. Knight’s allegations had been factually supported by Dr. Zivot’s affidavit, *id.* at 15a, the Florida Supreme Court failed to address Mr. Knight’s argument that the trial court had wrongfully refused to consider the affidavit.

After allowing just five days for the parties to brief these issues, the Florida Supreme Court issued its written opinion shortly before the close of business on Friday, May 15, 2026. (Pet. App. 1a).

This Petition now follows.

### **REASONS FOR GRANTING THE WRIT**

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<sup>5</sup> This conclusion is bewildering given that Mr. Knight did proffer a “feasible, readily implemented” alternative: the use of a local anesthetic. (WR. 800-01). Florida conceded that Mr. Knight did make the requisite proffer. *See* (WR. 954-55) (“[Knight] suggests an alternate method could be implemented which includes the administration of a local anesthesia prior to any venous cut-down procedure commences so that there would be a significant reduction in the alleged substantial risk of severe pain.”).

**I. THE FLORIDA SUPREME COURT’S DECISION IGNORES THIS COURT’S ESTABLISHED AND BINDING EIGHTH AND FOURTEENTH AMENDMENT PRECEDENT.**

The Eighth Amendment and the Due Process Clause of the Fourteenth Amendment prohibit “execution by a state in a cruel manner.” *Louisiana ex rel. Francis v. Resweber*, 329 U.S. 459 (1947); see, *Robinson v. California*, 370 U.S. 660, 666 (1962). “State efforts to implement capital punishment must certainly comply with the Eighth Amendment, but what that Amendment prohibits is wanton exposure to objectively intolerable risk, not simply the possibility of pain.” *Baze v. Rees*, 553 U.S. 35, 61-62 (2008) (plurality) (citation modified) (emphasis added) (quoting *Farmer v. Brennan*, 511 U.S. 825, 846 n.9 (1994)). An execution procedure violates this prohibition if: (a) it is “sure or very likely to cause serious illness and needless suffering, and give rise to sufficiently imminent dangers;” and, (b) an alternative method exists “that is feasible, readily implemented, and in fact significantly reduces a substantial risk of severe pain.” See *Glossip v. Gross*, 576 U.S. 863, 877 (2015) (citation modified) (quoting *Baze*, 553 U.S. at 52).

The Florida Supreme Court wrote that the Protocol “address[es] achieving the venous access necessary to carry out an execution.” (Pet. App. 15a). But the Protocol, in reality, contains no specific provisions for doing so if something goes awry. For example, the court noted that the Protocol provides that “[i]f peripheral [venous] access is unattainable” in order to carry out the execution, “the medical team *may* attempt to achieve central venous access . . . *if necessary*.” (Pet. App. 15a) (emphasis added). That is all the Protocol says about what will happen if peripheral venous access is “unattainable.” Further, the court never addressed Mr. Knight’s allegations that the “medical team,” which is selected by the warden at Florida State Prison, *id.*, is not required to include a surgeon. Instead, the qualifications required of the execution “team member(s) responsible for achieving and monitoring peripheral venous access” range from certification as a phlebotomist, which is obtainable with only a high school

degree, to licensure as a physician or physician's assistant. Alternatively, to be an execution “team member responsible for achieving and monitoring central venous access,” one must be an “advanced practice registered nurse . . . or, a physician or physician's assistant.” None of these credentials guarantee, or even suggest, that an execution team member is competent to perform a venous cutdown. (Pet. App. 49a). Rather, it was enough for the Florida Supreme Court that the prison’s Warden is obliged to “select personnel with sufficient training and experience to perform the technical procedures necessary to carry out an execution, including the mixing of the chemicals and placement of the venous access lines.” (Pet. App. 16a).

But Mr. Knight alleged otherwise. Central venous line access can be obtained through the subclavian vein, which is located behind the collarbone, or through the jugular vein on either side of the neck. These procedures are not envisioned by Florida’s Protocol; at best the Protocol merely accounts for the possibility that central venous access may need to be done without explaining how or by whom. The skill required to perform venous cutdowns at any of these access points far exceeds the skill of an average physician, an experienced nurse, an emergency medical technician, or a phlebotomist. (Pet. App. 49a). Subclavian and internal jugular cutdowns often require a skilled vascular surgeon. Without this high degree of competency, central line venous cutdowns are sure or very likely to cause serious and life-threatening complications, including: torturous pain, severe vascular injury causing life-threatening bleeding and potential death by exsanguination, improper and unverified line placement leading to possible death by paralysis while conscious, tension pneumothorax (collapsed lung) leading to death, air embolism leading to death, and fatal irregular heartbeat leading to death. (Pet. App. 48a). These allegations were more than sufficient to make out a *prima facie* case under *Baze* and *Glossip* to warrant an evidentiary hearing.

The Florida Supreme Court rejected Mr. Knight’s constitutional challenge with the rote conclusion that his allegations “do not rise to the level of an Eighth Amendment

violation,” because they did not establish a colorable claim under *Glossip*. (Pet. App. 19a). Mr. Knight’s allegations were specific and directed to the one part of the Protocol concerning the potential need for central venous access by way of a surgical cutdown. They were neither “speculative” nor “conclusory” and were in fact supported by a declaration from a well-qualified expert whose opinions the Florida courts refused to consider. (Pet. App. 27a, 44a-51a). The Florida Supreme Court simply refused to engage with Mr. Knight’s constitutional challenge in any meaningful way. *Cf. Howlett by and through Howlett v. Rose*, 496 U.S. 356, 380 (1990) (“A State may adopt neutral procedural rules to discourage frivolous litigation of all kinds, as long as those rules are not pre-empted by a valid federal law. A State may not, however, relieve congestion in its courts by *declaring a whole category of federal claims to be frivolous*. Until it has been proved that the claim has no merit, *that judgment is not up to the States to make.*”) (emphasis added).

**MR. KNIGHT’S CHALLENGE WAS TIMELY MADE.**

Respondent will assuredly argue to this Court that Mr. Knight’s constitutional challenge should not be heard by this Court because the challenge he makes is untimely. Respondent would be wrong.

No testimony was heard, nor evidence admitted, to establish the date on which Mr. Knight received actual or constructive notice of the current Protocol. The Florida Supreme Court simply assumed that because the Protocol was dated February 18, 2025, Mr. Knight could have learned about it that day. (Pet. App. 17a-18a). This assumption is not supported by the record, which does not show that Mr. Knight received actual notice of the Protocol on February 18, 2025. Neither the State nor any agency adduced evidence showing that Mr. Knight was personally served a copy of the Protocol or otherwise apprised of the new Protocol on February 18, 2025. Rather, the record only reflects that, on February 18, 2025, FDOC Secretary, Ricky D. Dixon, certified to Governor Ron DeSantis that he had reviewed the

Protocol and confirmed that FDOC was “prepared to administer an execution by lethal injection.” (Pet. App. 43a).

Likewise, the record does not establish that Mr. Knight reasonably could have learned of the Protocol on February 18, 2025. The Florida courts considered no testimony or evidence establishing that the Protocol was publicized anywhere on February 18, 2025. Further, FDOC’s “policies and procedures . . . for execution of persons sentenced to death” are exempt from Florida’s Administrative Procedure Act. FLA STAT. § 922.105(7) (2005); *see* FLA. STAT. § 120.54 (2016), and thus continue to be “shroud[ed] . . . in secrecy.” *Trotter v. Florida*, 146 S. Ct. 755, 756 (2026) (Sotomayor, J. respecting the denial of certiorari and stay of execution). Accordingly, the notice, hearing, and publication requirements that would ordinarily apprise affected parties of agency rulemaking were inoperative. In the absence of formal rulemaking, public process, or evidence establishing a date and manner of publication, the record provides no support for the Florida courts’ assumption that Mr. Knight reasonably could have learned of the Protocol on February 18, 2025.

The Florida Supreme Court also determined the venous cutdown provision in the Protocol “long predates the February 18, 2025, adoption of the current procedures” and, thus, Mr. Knight’s challenge was untimely. (Pet. App. 18a). Although FDOC’s prior lethal injection procedures have authorized venous cutdowns, none have established the specific steps that an execution team must follow to perform one. The complexity of performing a venous cutdown far exceeds that of any other task contemplated by the Protocol. Yet unlike these simpler tasks, which are broken down into extremely specific steps performed by designated individuals, the Protocol provides no meaningful procedure controlling the performance of venous cutdowns. *Compare*, § 9(f)(1), Lethal Injection Protocol (establishing twelve-step procedure for preparing primary and backup etomidate injections by specifying: syringe volume, etomidate suspension milligram/milliliter ratio, total volume of etomidate

suspension, cannula gauge, cannula length, syringe labelling convention, order of syringe placement on stand, and stand labelling convention), *with* § 10(i), Lethal Injection Protocol (providing for central venous line placement with venous cutdown by specifying “a vein is exposed surgically and a cannula is inserted”).

The existence or non-existence of a venous cutdown protocol is a material fact in dispute. In the Florida trial court, FDOC argued “the Department is entitled to the presumption that we’re following our rules to the letter.” (WR. 906). In response, Mr. Knight argued “there is no protocol for performing the venous cutdown procedure, at least not one that we have been provided. If there is one, then we need to be provided it. But [FDOC is] not entitled to a presumption that they’re going to perform a protocol correctly when that protocol does not exist.” (WR. 913).

Finally, the Florida courts treated the effective date of the Protocol and prior cutdown provisions as dispositive of timeliness. This was error. As Mr. Knight argued below, the timeliness of this claim does not depend on the Protocol’s effective date. (WR. 910). The Florida Supreme Court has repeatedly found, “when an inmate presents an Eighth Amendment claim which is based primarily upon facts that occurred during a recent execution, the claim is not procedurally barred.” *Schwab v. State*, 969 So. 2d 318, 321 (Fla. 2007); *Rogers v. State*, 409 So. 3d 1257, 1267 (Fla. 2025) (noting the court has “generally held that method-of-execution claims are procedurally barred unless the method itself changes or new facts about the current method arise during a prior execution”).

In *Buenoano v. State*, 565 So. 2d 309, 310 (Fla. 1990), “Judy A. Buenoano, a prisoner under sentence of death and the Governor’s death warrant, appeal[ed] from a summary denial of relief in the circuit court on a motion filed pursuant to rule 3.850.” “The crux” of Buenoano’s claim “relate[d] to the circumstances surrounding the recent execution of Jesse Tafero,” during which “smoke and flames instantaneously spurted from his head for a

distance of as much as twelve inches.” *Id.* at 310. More specifically, the claim rested on two factual predicates. *Id.* at 311. Buenoano alleged “the defect in the electrode [had] not been remedied” and “Tafero’s execution demonstrated that [FDOC] [was] incompetent to carry out executions.” *Id.* at 311 (emphasis added). Although it declined to remand for an evidentiary hearing in a divided ruling, the Florida Supreme Court found the claim was not procedurally barred because it was predicated on facts that “occurred only recently during Tafero’s execution.” *Id.* at 311.

In *Schwab*, 969 So. at 321, the Florida Supreme Court rejected the State’s “conten[tion] that Schwab’s challenge to Florida’s method of execution [was] procedurally barred because Schwab should have raised it within one year of the time that lethal injection became a method of execution.” The court found that Schwab had raised “a claim that did not exist when lethal injection was first authorized,” because he “relie[d] on the execution of Angel Diaz and allege[d] that the newly created lethal injection protocol [did] not sufficiently address the problems which occurred in the case of Diaz.” *Id.* at 321.

Mr. Knight’s claim is predicated on the circumstances surrounding FDOC’s performance of venous cutdowns during recent executions and the qualifications of the execution team members performing said cutdowns. In the Florida trial court, counsel for Mr. Knight alleged in good faith: “We believe that at least one of our clients, prior clients, did have to have a cut-down.” (WR. 915). Mr. Knight was denied any opportunity to develop this claim or substantiate this good faith belief, because the lower court withheld access to public records. Further, as was argued below, without access to public records, Mr. Knight cannot assess “the remedial actions that have been taken after [cutdown procedures] have occurred, and whether or not those remedial actions actually accomplish the goal of preventing either the need for a venous cut-down or [of] making sure that proper anesthesia was used.” (WR. 912). In other words, without public records, it is impossible to ascertain any remedial actions

taken by FDOC incident to a venous cutdown. *See Schwab*, 969 So. 2d at 321 (finding no procedural bar where claim related to remedial actions taken after botched lethal injection); *Buenoano*, 565 So. 2d at 310 (finding no procedural bar where claim related to remedial actions taken after botched electrocution). Again, Florida cannot continue to maintain its execution procedures “shroud[ed] . . . in secrecy,” *Trotter*, 146 S. Ct. at 756, while at the same time arguing that Mr. Knight cannot establish a sufficient factual predicate to have his federal constitutional claims heard.

Mr. Knight’s facial constitutional challenge was timely made and no procedural or other impediment advanced by Florida can serve to thwart this Court’s review.

**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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