

No. 25A-_____

IN THE
Supreme Court of the United States

MICHAEL H. HUNT,

Applicant,

v.

STATE OF FLORIDA,

Respondent.

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

**APPLICATION FOR EXTENSION OF TIME TO FILE
A PETITION FOR A WRIT OF CERTIORARI**

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CAPITAL CASE

**APPLICATION FOR EXTENSION OF TIME TO FILE A PETITION
FOR A WRIT OF CERTIORARI**

TO: Justice Clarence Thomas, Circuit Justice for the Eleventh Circuit:

Under this Court's Rules 13.5 and 22, Applicant Michael H. Hunt requests an extension of sixty (60) days to file a petition for a writ of certiorari in this case. His petition will seek review of the Florida Supreme Court's decision in *Hunt v. State*, 428 So.2d 43 (Fla. 2025), in which the court upheld his conviction and death sentence. A copy of the decision is attached. App. A. In support of this application, Applicant states:

1. The Florida Supreme Court issued its decision in this case on December 18, 2025, and it denied a timely petition for rehearing on March 5, 2026. Without an extension, the petition for a writ of certiorari would be due on June 3, 2026. *See* App. B. With the requested extension, the petition would be due on August 2, 2026. This Court's jurisdiction is based on 28 U.S.C. § 1257(a).

2. This case involves the constitutionality of a Florida law, enacted in 2023, that makes it easier than before to obtain death sentences.

In 2019, the State charged Applicant with capital murder for his role in the killing of a woman in her home in Panama, Florida. At the time, Florida law precluded the imposition of the death penalty unless the jury unanimously found (a) the presence of at least one aggravating circumstance and (b) that, after considering all of the aggravating and mitigating circumstances, the death

penalty should be imposed. Before trial, however, the state legislature amended that law to “remove[] the requirement for a jury to be unanimous in recommending a death sentence.” App. A at 11. Instead, the 2023 law (still in effect today) provides that it is sufficient if eight of the twelve jurors determine that death is the appropriate sentence. *Id.*; see Fla Stat. § 921.141(2)(c)).

Applicant argued that this new nonunanimity rule violates the Sixth Amendment right to jury trial and the Eighth Amendment’s prohibition against cruel and unusual punishment. He also maintained that applying the new law in his case would violate the Ex Post Facto Clause. The trial court rejected these claims. After a four-day trial, the jury found Applicant guilty of first-degree murder. At the conclusion of the sentencing phase, the jury found unanimously five aggravating circumstances to be present. It then “concluded by a vote of 10-2 that Hunt should be sentenced to death.” App. A. at 15. The trial judge subsequently imposed that sentence. *Id.*

On direct appeal, the Florida Supreme Court affirmed. The majority rejected Applicant’s Sixth and Eighth Amendment arguments based principally on its previous decision in *State v. Poole*, 297 Sp.3d 487 (Fla. 2019). In that case, the Florida Supreme Court held—in the course of reviewing a death sentence imposed under the State’s prior death penalty regime—that neither the Sixth nor the Eighth requires a jury’s determination that the defendant should be sentenced to death to be unanimous. *Id.* at 503-04. Turning to Applicant’s ex post facto argument, the Florida Supreme Court did not disagree that “eliminating

the unanimity requirement makes it more likely that a death sentence will be imposed.” App. A. at 28. But the court reasoned that “merely procedural changes that do not alter the quantum of punishment” do not trigger ex post facto concerns. *Id.* at 31. Because “[t]he penalty” under the new law “remains death regardless of how many jurors are required” to vote for it, Florida’s 2023 nonunanimity rule fell within this test.

Justice Labarga concurred only in the result. He reiterated his views, expressed in his dissenting opinion in *Poole*, that the Sixth and Eighth Amendments require a jury’s determination that the defendant should be sentenced to death to be unanimous. App. A at 38-39; *see also Jackson v. State*, ___ So.3d ___, 2025 WL 3673716, at *21-22 (Fla. 2025) (Labarga, J., concurring in the result). Justice Labarga also lamented that “the statutory amendment requiring only an 8-4 jury vote to recommend that a defendant be sentenced to death renders Florida’s requirement the least demanding nationally and establishes Florida as the state with the least rigorous requirement among states that impose the death penalty.” *Id.* at 38.

3. This case is a serious candidate for plenary review. Like the Florida Supreme Court, the Alabama Court of Criminal Appeals has held that the Constitution does not require jury determinations that death is the appropriate sentence to be unanimous. *See Ex parte Bohannon*, 222 So.3d 525 (Ala. 2016). But in direct contrast, the Delaware Supreme Court has held, in a long and detailed opinion, that the Sixth and Eighth Amendments require such

determinations to be unanimous. *See Rauf v. State*, 145 A.3d 430 (Del. 2016). And the Connecticut Supreme Court has concluded that a death sentence based in part on a nonunanimous jury determination violates the Eighth Amendment. *State v. Daniels*, 542 A.2d 306, 315 (Conn. 1988). Only this Court can resolve this conflict over this extremely important issue.

The question whether dispensing with a unanimity requirement triggers the Ex Post Facto Clause also warrants review. Contrary to the Florida Supreme Court's reasoning, this Court has explained that "simply labeling a law 'procedural'" does not insulate it from the Ex Post Facto Clause. *Collins v. Youngblood*, 497 U.S. 37, 46 (1990). Instead, this Court has indicated that the Clause prohibits states from retroactively applying changes to the "quantity or degree of proof necessary to establish guilt" or impose a punishment. *Carmell v. Texas*, 529 U.S. 513, 530 (2000) (quoting *Hopt v. Utah*, 110 U.S. 574, 589 (1884)). This formulation encapsulates discarding a unanimity requirement in favor of a new law requiring only two-thirds of the jurors to agree a death sentence should be imposed.

4. This application for a 60-day extension seeks to accommodate Applicant's legitimate needs. Applicant has only recently affiliated undersigned counsel at the Stanford Law School Supreme Court Litigation Clinic. The extension is needed for new counsel to fully familiarize themselves with the record, decision below, and relevant case law, and to allow counsel adequate time

to prepare the petition for certiorari. The press of other business and deadlines means these tasks will take several weeks.

Procuring the requested extension here will also enable new counsel to coordinate their filing in this case with a petition for certiorari they will also be filing to challenge the Florida Supreme Court's decision in *State v. Jackson*, ___ So.3d ___, 2025 WL 3673716, at *21-22 (Fla. 2025), *reh'g denied* (Fla. Apr. 7, 2026). In *Jackson*, the Florida Supreme Court rejected the same Sixth and Eighth Amendment claims that Applicant presses here. Synching up those filings will enable this Court to consider both cases on the same schedule.

5. For these reasons, Applicant requests that the due date for his petition for a writ of certiorari be extended to August 2, 2026.

Respectfully submitted,

By: /s/ Jeffrey L. Fisher

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