

IN THE
Supreme Court of the United States

MICHAEL JAMES JACKSON,

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**

Cecilia D. Wang
Evelyn R. Danforth-Scott
AMERICAN CIVIL LIBERTIES
UNION FOUNDATION
425 California Street
Suite 700
San Francisco, CA 94104

Cassandra Stubbs
AMERICAN CIVIL LIBERTIES
UNION FOUNDATION
201 West Main Street
Suite 402
Durham, NC 27701

Megan D. Byrne
AMERICAN CIVIL LIBERTIES
UNION FOUNDATION
125 Broad Street, Floor 18
New York, NY 10004

Jeffrey L. Fisher
Counsel of Record
Easha Anand
Brian H. Fletcher
STANFORD LAW SCHOOL
SUPREME COURT
LITIGATION CLINIC
559 Nathan Abbott Way
Stanford, CA 94305
(650) 724-7081
jlfisher@law.stanford.edu

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 James Jackson requests an extension of thirty (30) 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 *Jackson v. State*, ___ So.3d ___, 2025 WL 3673716 (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 April 7, 2026. Without an extension, the petition for a writ of certiorari would be due on July 6, 2026. *See* App. B. With the requested extension, the petition would be due on August 5, 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 2007, Applicant was convicted of two counts of first-degree murder and other crimes for his role in the abduction and killing of an elderly couple. At the time, Florida law directed the judge in capital cases to determine whether (a) at least one aggravating circumstance existed; and (b), if so whether the death

penalty should be imposed. The judge answered yes to both questions and sentenced Applicant to death.

Following this Court's decision in *Hurst v. Florida*, 577 U.S. 92 (2016), and the Florida Supreme Court's decision on remand, *see Hurst v. State*, 202 So.3d 40 (Fla. 2016), the state legislature amended the law to require juries to make both of those findings unanimously before a judge could consider imposing a capital sentence. The following year, a Florida court granted Applicant post-conviction relief, ruling that he was entitled to a new sentencing proceeding.

Before Applicant could be resentenced, however, the Florida law changed again. In 2023, the state legislature rescinded the requirement for a jury to be unanimous in recommending a death sentence. 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. *See Fla Stat. § 921.141(2)(c)*.

Applicant argued, as relevant here, that this new nonunanimity rule violates the Sixth Amendment right to jury trial and the Eighth Amendment's prohibition against cruel and unusual punishment. The trial court rejected these claims. After the new sentencing hearing, the jury found unanimously eight aggravating circumstances to be present for each murder. It then determined by a vote of 8-4 that Applicant should be sentenced to death for each offense. App. A. at 8. The trial judge subsequently imposed that sentence.

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.

Justice Labarga concurred only in the result. He reiterated his views, expressed in a 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 66-69. Justice Labarga also “underscore[d] that the 8-4 threshold” in the State’s 2023 law “renders Florida *the* absolute outlier among states that impose the death penalty.” *Id.* at 66. That is because “only Alabama and Florida permit a nonunanimous jury recommendation of death” to trigger a capital sentence, and Alabama requires at least 10 of the 12 jurors to do so. *Id.* at 68 (citing Ala. Code § 13A-5-46(f)).

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.

Furthermore, the Florida Supreme Court's decision is wrong. "At the beginning of our Republic and throughout most of its history, defendants did not go to the gallows unless juries said they should. And the role of juries was especially important when a defendant's life was in the balance, because it made sure a defendant would suffer the ultimate punishment only if twelve members of the community deliberated together and unanimously concluded that should be so." *Rauf*, 145 A.3d at 436 (Strine, C.J., concurring in the majority per curiam opinion and speaking for a majority of the Court). This Court's modern Sixth and Eighth Amendment jurisprudence reinforces these tenants. *See id.* at 454-79; *Ramos v. Louisiana*, 590 U.S. 83 (2020).

4. This application for a 30-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 *Hunt v. State*, 428 So.2d 43 (Fla. 2025), *reh'g denied* (Fla. Mar. 5, 2026). In *Hunt*, 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 5, 2026.

Respectfully submitted,

By: /s/ Jeffrey L. Fisher

Cecilia D. Wang
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425 California Street
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Stanford, CA 94305
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