

IN THE  
SUPREME COURT OF THE UNITED STATES

RICHARD KNIGHT,

*Petitioner,*

*v.*

STATE OF FLORIDA,

*Respondent.*

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

**RESPONSE TO APPLICATION FOR STAY OF EXECUTION  
EXECUTION SCHEDULED FOR MAY 21, 2026, AT 6:00 P.M.**

Richard Knight, a Florida prisoner under an active death warrant with an execution scheduled for May 21, 2026, asks this Court to stay his execution for the brutal double homicide of a mother and her four-year-old daughter committed on June 27, 2000, while it considers whether to grant certiorari. However, the question Knight presents does not warrant a stay under *Barefoot v. Estelle*, 463 U.S. 880, 895 (1983). As thoroughly explained in the accompanying Brief in Opposition to certiorari, Knight’s question does not merit this Court’s review, therefore, this Court should deny the stay.

A stay of execution is not granted as a “matter of course.” It is an equitable remedy, and “equity must remain sensitive to the State’s strong interest in enforcing its criminal judgments without undue interference from the federal courts.” *Hill v.*

*McDonough*, 547 U.S. 573, 583-84 (2006). To obtain a stay, Knight must establish a reasonable probability that four Justices would vote to grant certiorari, a significant possibility of reversal, and a likelihood of irreparable harm. *Barefoot*, 463 U.S. at 895. This Court has further emphasized that last-minute litigation and dilatory claims weigh heavily against equitable relief. *Gomez v. U.S. Dist. Ct. for N. Dist. of Cal.*, 503 U.S. 653, 654 (1992). Knight cannot satisfy these requirements.

Knight's claim involves an Eighth Amendment facial constitutional challenge to one possible aspect of Florida's February 18, 2025, lethal injection protocol, an aspect that has been included in the protocol since August 1, 2007. Not only did the Florida Supreme Court reject this challenge on the state procedural grounds that it was untimely and procedurally barred, but that Knight failed to meet the pleading requirements of *Glossip v. Gross*, 576 U.S. 863 (2015), finding the claim meritless as he offered only "speculative and conclusory allegations" of alleged "substantial risk of serious harm." *Knight v. State*, No. 26-0718, 2026 WL 1361316 (Fla. May 15, 2026). The Florida Supreme Court's decision rests on an independent and adequate state ground establishing that certiorari review is not appropriate. Furthermore, Knight has not shown that the rejection of his Eighth Amendment facial challenge conflicts with a decision of this Court, a federal circuit court, or another state supreme court. There is no basis necessitating this Court's review.

#### Stays of Execution

Stays of executions are not granted as "a matter of course." *Hill v. McDonough*, 547 U.S. 573, 583-84 (2006). A stay of execution is "an equitable remedy" and "equity

must be sensitive to the State’s strong interest in enforcing its criminal judgments without undue interference from the federal courts.” *Id.* at 584. There is a “strong equitable presumption against the grant of a stay where a claim could have been brought at such a time as to allow consideration of the merits without requiring entry of a stay.” *Nelson v. Campbell*, 541 U.S. 637, 650 (2004). Equity must also consider “an inmate’s attempt at manipulation.” *Gomez v. U.S. Dist. Ct. for N. Dist. of Cal.*, 503 U.S. 653, 654 (1992). Equity does not reward last-minute litigation designed to delay the imposition of lawful sentences. *See Nelson*, 541 U.S. at 650 (holding that there is a “strong equitable presumption against the granting of a stay where a claim could have been brought at such a time as to allow consideration of the merits without requiring entry of a stay.”). The dilatory posture of Knight’s claim weighs heavily against a stay.

“Both the State and the victims of crime have an important interest in the timely enforcement of a sentence.” *Calderon v. Thompson*, 523 U.S. 538, 556 (1998). This Court has highlighted the State’s and the victims’ interests in the timely enforcement of the death sentence. *Bucklew v. Precythe*, 587 U.S. 119, 149-151 (2019). The people of Florida, as well as surviving victims and their families, “deserve better” than the “excessive” delays that now typically occur in capital cases. *Id.* at 149. This Court has stated that courts should “police carefully” against last minute claims being used “as tools to interpose unjustified delay” in executions. *Id.* at 150. Also, this Court has stated that last-minute stays of execution should be the “extreme exception, not the norm.” *Id.*

To be granted a stay of execution, Knight must establish three factors: (1) a reasonable probability that the Court would vote to grant certiorari; (2) a significant possibility of reversal if review was granted; and (3) a likelihood of irreparable injury to the applicant in the absence of a stay. *Barefoot v. Estelle*, 463 U.S. 880, 895 (1983). Knight must establish all three factors.

#### Probability of This Court Granting Certiorari

As to the first factor, there is little chance that four justices of this Court would vote to grant certiorari review on the issue raised here. Knight has cited no conflict or unsettled question of law for this Court's review. In fact, the decision Knight asks this Court to consider was found untimely and procedurally barred by the Florida Supreme Court. The claim was untimely because it was filed more than a year after the February 18, 2025, protocols were adopted. The claim was also determined to be procedurally barred because Knight had challenged Florida's lethal injection protocols previously in his 2013 original postconviction motion but failed to challenge the cut-down section challenged in his post-warrant litigation. Such independent and adequate state procedural grounds are strong indications that certiorari should be denied and thus the stay should be denied. Knight fails the first *Barefoot v. Estelle* factor, which alone is sufficient to deny the motion for a stay.

Even without reliance on this independent and adequate state ground to deny certiorari, the granting of certiorari is unlikely because the Florida Supreme Court found that Knight's claim was meritless. That determination was based on the fact that Knight's allegations failed to "(1) establish that the method of execution presents

a substantial and imminent risk that is sure or very likely to cause serious illness and needless suffering and (2) identify a known and available alternative method of execution that entails a significantly less severe risk of pain” as required by *Glossip*, 576 U.S. at 877. *Knight*, 2026 WL 1361316 at \*7. The Florida Supreme Court found Knight offered only “speculative and conclusory allegations” of alleged “substantial risk of serious harm.” *Id.* at \*7. Such pleading insufficiencies do not warrant certiorari consideration and show that it is unlikely certiorari would be granted.

#### Significant Possibility of Reversal

As to the second factor, there is not a significant possibility of reversal on the issue raised by Knight. Notably, the cut-down section of the protocol Knight challenges was included since August 1, 2007, see *Lightbourne v. McCollum*, 969 So. 2d 326, 328-29, 331 (Fla. 2007), *cert. denied*, 553 U.S. 159 (2008), and the current protocol contains the same provision. Yet, Knight not only failed to challenge the lethal injection protocol during his direct appeal and original post-conviction litigation but waited more than fourteen months until after his death warrant was signed to make a facial challenge to the 2025 protocols. The time-bar imposed by the Florida Supreme Court is an independent and adequate basis for the decision below. As noted above, the claim was also found to be procedurally barred and meritless due to Knight’s failure to meet the pleading requirements and *Glossip* standard. This Court does not grant review where the decision below rests on independent and adequate state law, one that would not support reversal on the merits. Likewise,

review is not likely given the speculative and conclusory allegations raised in state court. Thus, Knight fails this factor as well.

### Irreparable Injury

As to the third factor of irreparable injury, there is none. While the execution will result in Knight's death, that is the inherent nature of a death sentence. The factors for granting a stay are taken from the standard for granting a stay as applied to normal civil litigation, which is not a natural fit in capital cases. In the capital context, more should be required for irreparable injury rather than the execution itself. Otherwise, this factor would automatically be satisfied in every capital case. In other contexts, this Court has clarified that the "purpose of such a stay is to prevent the execution date from 'interfer[ing] with the orderly processing of a petition on direct review by this Court.'" *Rodriguez v. Texas*, 515 U.S. 1307 (1995). And in *Williams v. Missouri*, 463 U.S. 1301, 1301-02 (1983), this Court explained that a stay would be warranted to prevent a defendant from being executed before having the opportunity to fully present his claim that his death sentence was unconstitutionally imposed. But those situations do not exist here. Likewise, this is not a case in which denying his stay would result in the execution of a defendant who should not be executed. Knight faces no actual identifiable harm by the denial of his motion for stay under these circumstances. In fact, Knight did not plead below that he would be subject to the possible alternate protocol of a venous cut-down procedure. His challenge is a pure facial one. Again, a challenge he could have raised as early as August 2007.

Moreover, this Court has stated in the capital context that “the relative harms to the parties” must still be considered, including “the State’s significant interest in enforcing its criminal judgments.” *Nelson*, 541 U.S. at 649-50 (emphasis added). Here, Knight does not provide any unique or special argument as to why a last-minute stay is warranted in his specific case that outweighs the State’s interest in enforcing the law. Without finality, “the criminal law is deprived of much of its deterrent effect.” *Calderon v. Thompson*, 523 U.S. 538, 555-56 (1998). And real finality is the execution. Because Knight points to no specific argument in support of this factor other than the imposition of his lawful sentence, he fails this prong as well.

Knight fails to meet any of the three factors for being granted a stay of execution. Therefore, the application for a stay of execution should be denied

Respectfully submitted

JAMES UTHMEIER  
ATTORNEY GENERAL OF FLORIDA

/s/ SCOTT A. BROWNE  
SCOTT A. BROWNE  
Chief Assistant Attorney General  
*Counsel of Record*

LISA-MARIE LERNER  
SENIOR ASSISTANT ATTORNEY GENERAL

LESLIE T. CAMPBELL  
SENIOR ASSISTANT ATTORNEY GENERAL

Office of the Attorney General  
3507 E. Frontage Rd., Ste. 200  
Tampa, Florida 33607  
Telephone: (813) 287-7900  
scott.browne@myfloridalegal.com  
capapp@myfloridalegal.com