No. _____

IN THE

Supreme Court of the United States

ANDREW RICHARD LUKEHART,

Petitioner,

v.

STATE OF FLORIDA,

Respondent.

On Petition for a Writ of Certiorari to the Supreme Court of Florida

APPLICATION FOR STAY OF EXECUTION

THIS IS A CAPITAL CASE
WITH AN EXECUTION SCHEDULED FOR
TUESDAY, JUNE 2, 2026, AT 6:00 PM

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To the Honorable Clarence Thomas, Associate Justice of the Supreme Court of the United States and Circuit Justice for the Eleventh Circuit:

The State of Florida has scheduled the execution of Petitioner, Andrew Richard Lukehart ("Lukehart"), for **June 2, 2026, at 6:00 p.m.** by Florida's current lethal injection procedures. The Florida Supreme Court denied relief on Lukehart's post-warrant claims for relief on May 27, 2026. Lukehart respectfully requests that this Court stay his execution, pursuant to Supreme Court Rule 23 and 28 U.S.C. § 2101(f), pending consideration of his concurrently filed petition for a writ of certiorari.

STANDARDS FOR A STAY OF EXECUTION

The standards for granting a stay of execution are well-established. *Barefoot v. Estelle*, 463 U.S. 880, 895 (1983). There "must be a reasonable probability that four members of the Court would consider the underlying issue sufficiently meritorious for the grant of certiorari or the notation of probable jurisdiction; there must be a significant possibility of reversal of the lower court's decision; and there must be a likelihood that irreparable harm will result if that decision is not stayed." *Id*. (internal quotations omitted).

PETITIONER SHOULD BE GRANTED A STAY OF EXECUTION

"The proper role of courts is to ensure that method-of-execution challenges to lawfully issued sentences are resolved fairly and expeditiously." *Bucklew v. Precythe*, 587 U.S. 119, 150 (2019). "Courts should police carefully against attempts to use such challenges as tools to interpose unjustified delay." *Id.* Lukehart seeks to **justly** delay his execution so that he may actually receive the full protection of the Eighth

Amendment's prohibition against cruel and unusual punishment and the Fourteenth Amendment's guarantee of due process. Lukehart presents three questions of constitutional significance that only this Court can resolve. Lukehart has exhausted all remedies in state court to no avail.

Courts' equitable discretion in handling stay requests is governed by well-established principles. *See Nken v. Holder*, 556 U.S. 418, 434 (2009). The issuance of a stay is left to this Court's discretion, guided by four factors:

> (1) whether the stay applicant has made a strong showing that he is likely to succeed on the merits; (2) whether the applicant will be irreparably injured absent a stay; (3) whether issuance of the stay will substantially injure the other parties interested in the proceeding; and (4) where the public interest lies.

Nken, 556 U.S. at 434 (quoting *Hilton v. Braunskill*, 481 U.S. 770, 776 (1987)).

It is equally well established that "[d]eath is a punishment different from all other sanctions in kind rather than degree." *Woodson v. North Carolina*, 428 U.S. 280, 303–304 (1976). "For that reason, the equities in a death penalty case will almost always favor the prisoner so long as he or she can show a reasonable probability of success on the merits." *Bucklew v. Precythe*, 587 U.S. 119, 172 (2019) (Sotomayor, J., dissenting) (citing *Nken*, 556 U.S. at 434).

There is a strong likelihood of success on the merits of the issues raised in Lukehart's petition for writ of certiorari. In his first question presented, Lukehart raises the issue of the Florida courts' continued denial of due process to capital defendants under active death warrants by denying them evidentiary hearings on their post-warrant method-of-execution claims. "[F]undamental fairness is the

hallmark of the procedural protections afforded by the Due Process Clause." *Ford v. Wainwright*, 477 U.S. 399, 424 (1986) (Powell, J., concurring in part and in the judgment). Lukehart and all capital defendants in Florida are entitled to due process at every stage of their capital proceedings, including their final chance to litigate for their very lives while under an active death warrant and facing an imminent execution. Yet, the Florida courts continue to deny capital defendants the fundamental fairness that due process requires by pervasively denying them evidentiary hearings on their post-warrant method-of-execution claims. *See Lukehart v. State*, Florida Supreme Court Case No.: SC2026-0736 (May 27, 2026); *see also Cole v. State*, 392 So. 3d 1054 (Fla. 2024); *Tanzi v. State*, 407 So. 3d 385 (Fla. 2025); *Rogers v. State*, 409 So. 3d 1257 (Fla. 2025); *Randolph v. State*, 422 So. 3d 166 (2025).

Lukehart raised meritorious Eighth Amendment as-applied and facial challenges to lethal injection following the signing of his May 1, 2026, active death warrant based on, anesthesiologist, Dr. Joel Zivot's expert opinions that Florida's "Etomidate protocol" would cause needless pain and suffering specifically for Lukehart and for all capital defendants experiencing the protocol. Lukehart's Eighth Amendment method-of-execution claims were premised on the Florida Department of Corrections' current lethal injection procedures promulgated on February 18, 2025; Lukehart's severe kidney disease for which he suffered a medical emergency in January of 2026; and Dr. Zivot's review of Lukehart's recent medical records, the post-execution autopsy records of the nineteen Florida executions that occurred in 2025, and heavily redacted FDOC lethal injection drug logs obtained by counsel for

the now-deceased Frank Walls in *Walls v. Dixon*, No. 4:25-cv-0488, ECF 1 (N.D. Fla. Nov. 26, 2025). In his first method-of-execution claim, Lukehart raised an as-applied challenge to the constitutionality of Florida's lethal injection procedures based on Lukehart's severe kidney disease. Lukehart submitted an affidavit by defense expert Dr. Joel Zivot, M.D., who opined that the interaction of Lukehart's severe kidney disease and Florida's lethal injection protocol would cause an exaggerated negative consequence on Lukehart's heart and lungs, making his own death more painful and cruel.

In his second method-of-execution claim, Lukehart raised a facial challenge to the constitutionality of Florida's lethal injection based on Dr. Zivot's findings that the protocol, as designed, creates an objectively intolerable risk of needless pain and suffering. Florida's lethal injection procedures, also called the "Etomidate protocol," call for the sequential intravenous injection of the following drugs: 1) 200 milligrams of etomidate, 2) 1000 milligrams of rocuronium bromide, and 3) 240 milliequivalents of potassium acetate. Dr. Zivot opined that the sequential use of the analgesic drug etomidate followed by the paralytic drug rocuronium bromide guarantees that inmates will experience a painful and terrifying death by internal suffocation as the rocuronium bromide prevents the inmate from breathing by paralyzing the diaphragm, which prevents air from being moved in and out of the lungs. Dr. Zivot's review of the post-execution autopsy records of the nineteen executions that took place in Florida in 2025 showed evidence of pulmonary edema, or blood-filled lungs

with frothy bloody fluid, in fifteen of the nineteen cases. Dr. Zivot opined that the sensation of fluid in the lungs is akin to the feeling of drowning or waterboarding.

Despite the compelling evidence that there is an imminent risk that Florida's Etomidate protocol will cause Lukehart needless pain and suffering, the Florida courts denied Lukehart due process and abdicated their responsibility to ensure that Florida's method of lethal injection comports with the Eighth Amendment by refusing to hold an evidentiary hearing on either of Lukehart's method-of-execution claims. This Court has demanded that factfinding procedures in capital proceedings aspire to a heightened standard of reliability. *See Ford v. Wainwright*, 477 U.S. 399, 411 (1986) (citing *Spaziano v. Florida*, 468 U.S. 447, 456 (1984)). The need for heightened reliability "is a natural consequence of the knowledge that execution is the most irremediable and unfathomable of penalties; that death is different." *See Ford*, 477 U.S. at 411 (citing *Woodson v. North Carolina*, 428 U.S. 280, 305 (1976)). Despite the obvious need for heightened reliability in the factfinding procedures caused by the finality of Lukehart's active warrant litigation, the Florida courts refused to engage in full and fair factfinding on Lukehart's claims, and so therefore the outcome of his warrant litigation does not have the heightened reliability that it is due.

While the Florida courts abdicated their responsibility in Lukehart's case to ensure his execution comports with the Eighth Amendment, many other jurisdictions are upholding their responsibility by holding full and fair evidentiary hearings on their capital defendants' post-warrant method-of-execution claims. *See Black v. Strada*, 721 S.W.3d 223 (Tenn. 2025) (Tennessee capital defendant); *Barber v.*

Governor of Alabama, 73 F.4th 1306 (11th Cir. 2023) (Alabama capital defendant); *Atwood v. Shinn*, No. CV-22-00860-PHX-MTL (JZB), 2022 WL 1970017 (D. Ariz. June 4, 2022) (Arizona capital defendant); *In re Ohio Execution Protocol Litig.*, 946 F.3d 287 (6th Cir. 2019) (Ohio capital defendant); *Williams v. Kelley*, No. 5:17-CV-00103-KGB (E.D. Ark. 2017) (Arkansas capital defendant). Lukehart's case is the ideal vehicle for this Court to resolve the constitutional issues caused by the Florida courts' pervasive denial of evidentiary hearings on method-of-execution claims, and Lukehart has made a strong showing that he is likely to succeed on the merits of this question presented.

In his second question presented, Lukehart raises the issue that the alternative method requirement of the *Baze-Glossip* test violates his First Amendment and Fourteenth Amendment rights. The Florida courts refused to engage with the merits of this issue, and this Court's intervention is needed to definitively answer the question. To succeed on his two Eighth Amendment method-of-execution claims, Lukehart is required to identify a method of execution other than Florida's current lethal injection procedures that is "feasible, readily implemented, and in fact significantly reduce[s] a substantial risk of severe pain." *Glossip*, 576 U.S. at 877 (quoting *Baze*, 533 U.S. at 52). The requirement under this Court's current jurisprudence that Lukehart choose another less-painful method of execution is morally repugnant, impossible to realistically meet, and violates Lukehart's First, Eighth, and Fourteenth Amendment rights under the United States Constitution.

Lukehart has a First Amendment right to the free exercise of his religion, even

as an incarcerated prisoner facing an imminent execution. *See Ramirez v. Collier*, 595 U.S. 411, 424–25 (2022) (citing 42 U.S.C. § 2000cc–1(a)) (explaining the Religious Land Use and Institutionalized Persons Act provides that no government shall impose a substantial burden on the religious exercise of a person confined to an institution, including state prisoners); *see also Murphy v. Collier*, 587 U.S. 901 (2019) (granting defendant's application for stay of execution and finding the State could not carry out the execution unless the State permitted a Buddhist spiritual advisor to accompany the defendant in the execution chamber).

The alternative method requirement of the *Baze-Glossip* test violates Lukehart's right to the free expression of his religion under both the First Amendment and the Religious Land Use and Institutionalized Persons Act of 2000 ("RLUIPA"). *See* 42 U.S.C. § 2000cc–1(a). "Several provisions of RLUIPA underscore its expansive protection for religious liberty." *Holt v. Hobbs*, 574 U.S. 352, 358 (2015). "Congress defined 'religious exercise' capaciously to include 'any exercise of religion, whether or not compelled by, or central to, a system of religious belief.'" *Holt*, 574 U.S. at 358 (quoting 42 U.S.C. § 2000cc–5(7)(A)). "Congress mandated that this concept 'shall be construed in favor of a broad protection of religious exercise, to the maximum extent permitted by the terms of this chapter and the Constitution.'" *Holt*, 574 U.S. at 358 (quoting 42 U.S.C. § 2000cc–3(g)).

Lukehart is a long-time practicing Catholic. Having to choose an alternative method for his own execution runs afoul of church doctrine which views both murder and suicide as grave violations of the Fifth Commandment – "Thou shalt not kill."

This stems from the belief that human life is sacred, belonging to God, who is the sole author of life and death. Forcing Lukehart to make such a choice in order to succeed on his meritorious Eighth Amendment challenges to lethal injection prohibits his free exercise of religion, which the First Amendment and RLUIPA sought to protect. The *Baze-Glossip* alternative method pleading requirement cannot be validly applied to Lukehart under these circumstances. Doing so would force Lukehart to make the constitutionally repugnant choice of giving up his constitutional right to free religious exercise to vindicate his constitutional right to be free from a cruel and unusual execution, or vice versa. This Court has "[found] it intolerable that one constitutional right should have to be surrendered in order to assert another." *Simmons v. United States*, 390 U.S. 377, 394 (1968).

Despite this compelling constitutional question posed to the court, the Florida Supreme Court failed to answer the merits. The FSC refused to rule on the actual merits of the question, instead finding that it was "bound by the conformity clause of the Florida Constitution to construe the state prohibition against cruel and unusual punishment consistently with pronouncements by the United States Supreme Court." *Lukehart v. State*, Florida Supreme Court Case No.: SC2026-0736 (Fla. May 27, 2026) at 15, footnote 11. Lukehart's case provides this Court with the ideal vehicle to answer the question of whether the alternative method requirement of the *Baze-Glossip* test violates capital defendants' First Amendment right to the free exercise of religion because Lukehart's deeply held Catholic beliefs prevent him from pleading an alternative method of execution.

In his recent dissent in *Hoffman v. Westcott* in an analogous case to Lukehart's, Justice Neil Gorsuch wrote that he would grant a stay of application and petition for writ of certiorari on Louisiana capital defendant Jessie Hoffman's claim that Louisiana's method of execution by nitrogen hypoxia violated his rights under RLUIPA as a practicing Buddhist, explaining that

> The Court of Appeals failed to confront the district court's apparent legal error—or even to mention the RLUIPA claim Mr. Hoffman pressed on appeal. Perhaps that claim ultimately lacks merit. But the Fifth Circuit's unexplained omission leaves this Court poorly positioned to assess it. I would therefore grant the stay application and petition for writ of certiorari, vacate the judgment of the Fifth Circuit, and remand for that court to address Mr. Hoffman's RLUIPA claim in the first instance.

Hoffman v. Westcott, 145 S. Ct. 797 (2025) (on application for stay) (Gorsuch, J., dissenting). In addition to Justice Gorsuch's dissent, Justices Sotomayor, Kagan, and Jackson also would have granted the application for stay of execution. *See Hoffman v. Westcott*, 145 S. Ct. 797 (2025). The FSC similarly refused to reach the merits of Lukehart's First Amendment challenge to the *Baze-Glossip* test by relying on Florida's "conformity clause." This Court should therefore grant Lukehart's stay application and petition for writ of certiorari, vacate the FSC's May 27, 2026 opinion, and remand for the FSC to make an actual merits determination. Alternatively, this Court should grant Lukehart's petition in order to make the actual merits determination of this important federal question that the FSC refused to make. Lukehart has made a strong showing that he is likely to succeed on the merits of this question.

In his third question presented, Lukehart raises the issue of the Florida courts'

pervasive denial of lethal injection records to Florida capital defendants and the growing concern that the Florida Department of Corrections is deviating from its own execution procedures during recent executions. The Fourteenth Amendment to the United States Constitution requires states to implement standards to ensure fundamental fairness in judicial proceedings. *Lassiter v. Dep't of Soc. Servs. Of Durham Cnty.*, N.C., 452 U.S. 18, 33 (1981); *see also Mathews v. Eldridge*, 424 U.S. 319, 333 (1976) (citing *Armstrong v. Manzo*, 380 U.S. 545, 552 (1965)). Florida Rule of Criminal Procedure 3.852 governs requests for the production of records for capital postconviction defendants.

Lukehart timely requested public records related to lethal injection from the Florida Department of Corrections, Florida Department of Law Enforcement, and District Eight Medical Examiner's Office on May 5, 2026. Additionally, Lukehart requested, but was denied, the autopsy files from the last ten executions that have occurred under FDOC's current lethal injection procedures. In affirming the denial of Lukehart's records requests, the Florida Supreme Court held that the requests did not relate to a colorable claim because the constitutionality of the current lethal injection protocol has been consistently upheld. *See Lukehart v. State*, Florida Supreme Court Case No.: SC2026-0736 (Fla. May 27, 2026) at 21. Further, the FSC held that records related to the actions of lethal injection personnel in the past, do not relate to a colorable claim for relief concerning future executions due to the presumption that personnel will perform their duties properly. *Id.* The Florida courts continual denial of capital postconviction defendants' requests for lethal injection

records essentially blocks defendants' ability to effectively challenge Florida's lethal injection protocol and raise method-of-execution claims.

Further recent FDOC drug logs and the autopsy records from Florida executions occurring in 2025 pierce the presumption that FDOC will follow its own procedures. Heavily redacted records obtained from FDOC by counsel for the now-deceased *Frank Walls in Walls v. Dixon*, No. 4:25-cv-0488, ECF 1 (N.D. Fla. Nov. 26, 2025) raise serious questions as to whether FDOC has deviated from the lethal injection procedures, and highlight the need for disclosure of the requested lethal injection records and greater transparency concerning the lethal injection process. The potential risks of applying the Etomidate protocol to a medically vulnerable individual like Lukehart are heightened because, while Florida shatters records for the speed and volume of executions in 2025 and 2026, FDOC has demonstrated repeated negligence and noncompliance with respect to its own protocol. The heavily redacted records received by counsel in *Walls v. Dixon* raise serious concerns about FDOC's administration of its own procedures. For example, Florida executed Michael Bell on July 15, 2025. However, the corresponding inventory log shows that FDOC did not record removing rocuronium bromide or potassium acetate until the next day, July 16, 2025. Even more concerning, the logs contain no entry indicating that etomidate was removed for Bell's execution at all, so it is not clear what amount of etomidate Michael Bell received during his execution.

FDOC noted that they removed all three drugs used during Thomas Gudinas's execution on June 25, 2025, despite the execution taking place on June 24, 2025. For

the execution of Anthony Wainwright, FDOC recorded the removal of etomidate, rocuronium bromide, and potassium acetate on June 12, 2025, despite the execution taking place on June 10, 2025. FDOC consistently records that execution drugs are removed from supply after executions take place, indicating that the records are inaccurate and, for some reason, being filled out after the fact. On June 25, 2025, a date corresponding to Thomas Gudinas's execution (which actually occurred on June 24), the inventory logs only show 10 x 10 ml vials of rocuronium bromide were removed (1000 mg), suggesting that FDOC may have only prepared half of the required paralytic drug, in violation of the etomidate protocol, which requires that 2000 mg, or 20 x 10 ml vials, be prepared.

On June 12, 2025, a date corresponding to Anthony Wainwright's execution (which occurred on June 10, 2025), seven vials of potassium acetate were removed from FDOC's inventory. This suggests that FDOC may have prepared only 280 milliequivalents of potassium acetate in violation of the etomidate protocol, which requires 480 milliequivalents (12 x 20ml vials) be prepared. The log sheets show that during the executions of Edward James and Michael Tanzi, FDOC administered lidocaine, an anesthetic drug not called for in the etomidate protocol.

Lastly, FDOC indicates on the log sheets that they used etomidate with an expiration date of January 31, 2025, during the executions of Victor Jones on September 30, 2025; David Pittman on September 17, 2025; Curtis Windom on August 28, 2025; and Kayle Bates on August 19, 2025. The discrepancies in these records expose the troubling absence of a mechanism to regularly ensure that FDOC

is complying with its own etomidate protocol. Given that Lukehart is very likely already at a heightened risk of severe pain and suffering due to his unique medical conditions, these partial records from FDOC indicating potential deviation from its own Etomidate protocol raise grave concerns that Lukehart may experience needless pain and suffering during his execution currently scheduled for June 2, 2026.

Notably, in Dr. Zivot's evaluation of the autopsies of now-deceased inmates James Ford, Jeffrey Hutchinson, Glen Rogers, Anthony Wainwright, Thomas Gudinas, Samuel Smithers, and Richard Randolph[1], the physical evidence- notations of intramuscular injections in the shoulder of each inmate- points to a high likelihood that all these men received a mysterious dosage of an unknown substance. The FDOC lethal injection protocol makes no mention of any option that permits an intramuscular injection. This finding from Dr. Zivot's evaluation provides further support for the argument that FDOC is deviating from its lethal injection protocols, and Dr. Zivot has opined that ad hoc polypharmacy as an adjunct to lethal injection raises the serious and likely risk of needless pain and suffering.

The continued denials of records related to lethal injection place Lukehart and all other Florida capital defendants in an impossible Catch-22 that can only be remedied by granting defendants access to these records. Justice Sonia Sotomayor recently wrote in the Melvin Trotter case "to express concern about Florida's implementation of its execution protocol and the secrecy surrounding it." *See Trotter*

[1] James Ford was executed on February 13, 2025. Jeffrey Hutchinson was executed on May 1, 2025. Glen Rogers was executed on May 15, 2025. Anthony Wainwright was executed on June 10, 2025. Thomas Gudinas was executed on June 24, 2025. Samuel Smithers was executed on October 14, 2025. Richard Randolph was executed on November 20, 2025.

v. Florida, 146 S. Ct. 755, 755 (2026) (statement respecting the denial of the application for stay and petition for certiorari). Justice Sotomayor further wrote in Trotter's case that

> The record reflects at least the possibility that recent Florida executions have involved—in addition to expired drugs—incorrect drug doses, the use of nonprotocol drugs, and record keeping lapses that could mask yet additional failings. The Florida Supreme Court, moreover, has thus far not allowed further inquiry into these potential problems and has recently denied requests for records that would prove or disprove claims like Trotter's … In doing so, the Florida Supreme Court appears to be placing prisoners in a Catch-22: It has affirmed the denial of requests for records on these issues, at least in part, because the prisoners do not yet have enough information to raise a "colorable" Eighth Amendment claim … The very reason the prisoners are seeking the records, however, is to gather enough information to raise a colorable Eighth Amendment claim.
>
> Individuals seeking to challenge the method of their execution should not have to guess at whether the State is, or is not, following its execution protocol. Nor does the State appear to have any legitimate confidentiality interest in shielding from inspection basic facts about the implementation of its execution protocol, such as whether the State is using expired drugs. If the protocol is in fact being followed, then transparency instills confidence in the protocol for everyone—prisoners, the courts, and the public alike. If it is not, then secrecy is intolerable, and disclosure of the relevant records is indispensable for determining whether the lapses at issue are likely to lead to an Eighth Amendment violation …
>
> By continuing to shroud its executions in secrecy, Florida undermines both the integrity of its own execution process and, potentially, this Court's ability to ensure the State's compliance with its constitutional obligations.

Trotter v. Florida., 146 S. Ct. 755, 755–56 (2026) (internal citations and footnotes omitted). Lukehart's case presents this Court with the opportunity to remedy this Catch-22 situation that Florida capital defendants have been placed under by the persistent denial of records related to lethal injection and also help ensure that the

State of Florida is meeting its constitutional obligations related to executions.

Florida's continued secrecy surrounding its lethal injection procedures and whether those procedures are actually being following during executions must end now. As of the filing of this stay application and corresponding petition for writ of certiorari, Governor Ron DeSantis has signed **ten** active death warrants in the first five months of 2026 alone. Based on the previous pattern of nineteen death warrants signed in 2025, there is no indication that this exponential pace of executions in Florida will end anytime soon. Justice Sotomayor's recent statement expressing "concern about Florida's implementation of its execution protocol and the secrecy surrounding it" evidences that Lukehart has made a strong showing that he is likely to succeed on the merits of this issue. Lukehart raises **both** meritorious as-applied and facial challenges to Florida's Etomidate protocol. His case presents the ideal vehicle for this Court to grant certiorari and hold Florida to its constitutional obligations by ending the secrecy shrouding lethal injection in this state.

Lukehart's impending execution only **four days** from the filing date of this stay application is plainly an irreparable injury because he cannot vindicate his constitutional rights once he is dead. "The third requirement-that irreparable harm will result if a stay is not granted-is necessarily present in capital cases." *Wainwright v. Booker*, 473 U.S. 935, 937 n.1 (1985) (Powell, J., concurring). As a result, this factor "weighs heavily in the movant's favor," based on the "irreversible nature of the death penalty." *See O'Bryan v. Estelle*, 691 F.2d 706, 708 (5th Cir. 1982). It is indisputable that Lukehart will be irreparably harmed if his execution is allowed to go forward in

violation of the Eighth and Fourteenth Amendments, and the balance of equities weighs heavily in favor of a stay.

Lukehart recognizes that "the State and the victims of crime have an important interest in the timely enforcement of a sentence." *Hill v. McDonough*, 547 U.S. 573, 584 (2006). But the public has a strong interest in ensuring that the State does not rush to implement a method of execution that violates fundamental constitutional rights and federal law. The State and the public will not be harmed by the full airing of Lukehart's claims. Issuance of a brief stay of execution pending this Court's consideration of Lukehart's petition serves the public's interest in ensuring that capital punishment is carried out in compliance with the United States Constitution. Florida's interest in the timely enforcement of judgments handed down by its courts must be weighed against Lukehart's continued interest in his life. *See Ohio Adult Parole Auth. v. Woodard*, 523 U.S. 272, 289 (1998) ("[I]t is incorrect . . . to say that a prisoner has been deprived of all interest in his life before his execution.") (O'Connor, J., plurality opinion).

Florida has a minimal interest in finality and efficient enforcement of judgments, but Lukehart has a compelling interest in and the right to ensure that his execution comports with the Constitution. This right includes the ability to have meaningful judicial review of the complex constitutional claims he raises. A stay of execution would ensure a meaningful review process and make certain that Lukehart is not denied due process during his last chance to litigate for his very life. "The fundamental requirement of due process is the opportunity to be heard 'at a

meaningful time and in a meaningful manner.'" *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976) (quoting *Armstrong v. Manzo*, 380 U.S. 545, 552 (1965)). Lukehart was denied the opportunity for his meritorious post-warrant claims to be heard at a meaningful time and in a meaningful manner because the Governor of Florida signed his active death warrant on an expedited **thirty-two-day** timeframe. The constitutional issues present in Lukehart's case require judicial review that is not truncated by the exigencies of an imminent execution and an expedited warrant timeframe. In addition, the irreversible nature of the death penalty frequently supports in favor of granting a stay. "[A] death sentence cannot begin to be carried out by the State while substantial legal issues remain outstanding." *Barefoot*, 463 U.S. at 888. Should this Court grant the request for a stay and review of the underlying petition, Lukehart submits there is a significant possibility of the lower court's reversal.

CONCLUSION

This Court's intervention is urgently needed to prevent Lukehart's imminent and unconstitutional execution. For the foregoing reasons, Lukehart respectfully requests that this Court grant his application for a stay of his June 2, 2026, execution to address the compelling constitutional questions in his case on the merits.

Respectfully submitted,

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Dated