Capital Case No. 25A356

In the

Supreme Court of the United States

VICTOR TONY JONES, *Petitioner*,

v.

STATE OF FLORIDA, *Respondent*.

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

RESPONSE TO APPLICATION FOR STAY OF EXECUTION EXECUTION SCHEDULED FOR SEPTEMBER 30, 2025, AT 6:00 P.M.

Victor Tony Jones, a Florida prisoner under an active death warrant with an execution scheduled for September 30, 2025, asks this Court to stay his execution for a double murder of a husband and wife he committed in 1990 while it considers whether to grant certiorari. Jones asks this Court to consider questions that are both procedurally barred, and neither question warrants a stay under *Barefoot v. Estelle*, 463 U.S. 880, 895 (1983) as modified by *Bucklew v. Precythe*, 587 U.S. 119, 149–51 (2019). This Court should deny the stay.

A stay of execution is not granted as "a matter of course." *Hill v. McDonough*, 547 U.S. 573, 583–84 (2006). Instead, a stay 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).

Governing Standards Of A Stay

A court's equitable discretion in considering a stay on Jones' long finalized sentence, is guided by well-established principles: (1) a reasonable probability that four members of the Court would consider the underlying issue sufficiently meritorious for the grant of certiorari; (2) significant possibility of reversal of the lower court's decision; and (3) a likelihood that irreparable harm will result the stay is denied. *Barefoot,* 463 U.S. at 895. *See Nken v. Holder*, 556 U.S. 418, 434, (2009).

In *Bucklew*, this Court reaffirmed that courts must vigilantly guard against the misuse of capital litigation as a vehicle for delay, holding that last minute stays should be the extreme exception not the norm, and that an applications last minute nature or an applicant's attempt at manipulation may be grounds for denial of a stay. *Bucklew*, 587 U.S. at 151. (quoting *Hill*, 547 U.S. at 584). The Court also emphasized that federal courts can and should protect settled state judgments from "undue interference" by invoking their equitable powers to dismiss or curtail suits that are pursued in a dilatory fashion or based on speculative theories. *Id.* (Cleaned up) *See Hill*, 547 U.S. at 583–84. These additional guiding principles reinforce the equitable discretion of courts to deny stays.

Jones Cannot Show A Reasonable Probability That Certiorari Will Be Granted

By the same reasoning, Jones fails the first *Barefoot* element. He presents no true conflict in support of either question and has effectively provided a brief on the merits rather than explaining why this Court should grant review at all. His questions are jurisdictionally barred by the Florida Supreme Court's reliance on state-law, time, and procedural bars that adequately and independently support the denial of relief. Contrary to his position, Jones has no federal right to another round of postconviction review. *Jones v. Hendrix*, 599 U.S. 465, 482–87 (2023) (holding there is no constitutional right to two rounds of postconviction review even for claims of legal innocence). This Court lacks jurisdiction over Jones' questions presented.

This Court grants review only where there is a conflict among courts of last resort, an unsettled federal question, or a clear departure from accepted law. Sup. Ct. R. 10. Jones identifies none. His claims are fact-bound, Florida-specific, and procedurally barred.

Florida's Rules of Criminal Procedure expressly allow successive motions based on newly discovered evidence or retroactive constitutional rules. *See* Fla. R. Crim. P. 3.851(d)(2). Jones has already pursued four successive motions and a habeas petition, each denied on the merits. The Florida Supreme Court rejected his latest claims as untimely and repetitive—an adequate and independent state-law ground barring federal review. *See Coleman v. Thompson*, 501 U.S. 722, 729–30 (1991); *Walker v. Martin*, 562 U.S. 307, 316 (2011).

Jones Cannot Show A Significant Possibility Of Reversal

To obtain a stay, Jones must show a significant possibility of reversal. *Barefoot,* 463 U.S. at 895. He cannot meet that burden. His claims are procedurally barred, fact-bound, and present no conflict with this court or any federal circuit. The Florida Supreme Court's decision is fully consistent with this court's Eighth and Fourteenth Amendment jurisprudence.

Jones' suggestion that Florida "denigrates" mitigation evidence is unfounded. The trial court considered his background and intellectual-functioning evidence but reasonably concluded that the aggravating factors outweighed it. And Jones never claimed being abused in the Okeechobee School for boys until after the warrant was signed. States need not give particular weight to mitigation, only to consider it. *See Kansas v. Marsh*, 548 U.S. 163, 175–76 (2006); *Eddings v. Oklahoma*, 455 U.S. 104, 114–15 (1982). Even if this Court were to excuse the clear time bar applied below, this case presents no significant possibility of reversal.

Jones' claims lack substance and his reliance on Florida's victim-compensation program is not "newly discovered evidence"—it is a legislative policy choice, not proof of abuse, and he has always known the facts of his own childhood. His sweeping public-records demands under Fla. R. Crim Pro. 3.852 are classic fishing expeditions, not tied to a colorable claim. This Court has made clear there is no constitutional right to postconviction discovery. *See District Attorney's Office v. Osborne*, 557 U.S. 52, 68–69 (2009).

Jones also argues that Florida courts disregarded *Atkins, Hall,* and *Moore.* But

the Florida courts applied those precedents, conducted evidentiary hearings, and found that Jones failed to establish an intellectual disability under prevailing clinical standards. His disagreement with the outcome does not present a federal conflict or an issue of national significance under rule 10 of this Court. In addition, this Court previously denied Jones' petition for certiorari relating to his claim of intellectual disability. *Jones. v. Florida*, 586 U.S. 1052 (2018).

Habeas corpus cannot be used to relitigate settled claims. Jones was allowed to present evidence and had a full evidentiary hearing of his intellectual disability claim and multiple postconviction opportunities to raise it. The Florida Supreme Court affirmed the denial of his fourth successive Fla. R. Crim pro. 3.851 motion in 2017. *Jones v. State*, 241 So. 3d 65 (Fla. 2018). His recent habeas petition merely attempted to relitigate the same claim under the disguise of *Hall*. This Court has long held that habeas corpus is not a vehicle for successive appeals or relitigation of claims. *See Harrington v. Richter*, 562 U.S. 86, 103 (2011); *Calderon v. Thompson,* 523 U.S. 538, 555-56 (1998).

This Court has repeatedly cautioned against rewarding last-minute litigation designed to delay execution. *See Bucklew* 587 U.S. at 150-51; *Gomez*, 503 U.S. at 654 (1992) (per curiam). Jones seeks an equitable remedy, and equity must take into consideration the State's strong interest in proceeding with its judgment and Jones's obvious attempt at manipulation. *Id*. *See In re Blodgett*, 502 U.S. 236 (1992); *Delo v. Stokes*, 495 U.S. 320, 322, 325 (1990) (KENNEDY, J., concurring). This claim could have been made more than a decade ago and there is no good reason for this abusive

delay, which has been compounded by last-minute attempts to manipulate the judicial process. *Id.* Jones' conduct weighs heavily against equitable relief.

His renewed intellectual disability claim merely repackages arguments already adjudicated after a full evidentiary hearing. Habeas is not a substitute for repeated appeals. *See Calderon*, 523 U.S. at 555–56. Allowing such claims to proceed would frustrate the State's compelling interest in the finality of criminal judgments. *See McCleskey v. Zant*, 499 U.S. 467, 491 (1991).

Jones thereby fails the second element of *Barefoot*.

Irreparable Harm Is Inherent In Capital Cases But Not Dispositive

Jones' application rests on repetitive procedurally barred claims that have been fully litigated and rejected. He fails to demonstrate any likelihood of success on the merits or federal conflict justifying this court's review. In addition, Jones failed to establish that he is irreparably harmed by the failure to consider his two questions presented before execution. He therefore fails the third element of *Barefoot* along with the rest.

This Court has recognized that irreparable harm is inherently present in every capital case. *See Wainwright v. Booker*, 473 U.S. 935, 936–37 n.1 (1985) (Powell, J., concurring). Even if irreparable injury might otherwise result, a stay is not a matter of right. *Nken,* 556 U.S. at 433. (citation omitted). The propriety of the issuance of a stay is an exercise of judicial discretion, dependent upon the circumstances of a particular case. *Id.* The Court explained that the likelihood of success on the merits and the probability of reversal are the most critical factors in determining whether a

stay should issue. *Id*. Jones cannot demonstrate either because his claims are procedurally barred, untimely, and foreclosed by this Court's precedent, and the existence of irreparable harm cannot justify a stay.

This Court has also warned against granting last-minute stays where claims lack merit and are pursued only to delay lawful execution. *See Barefoot*, 463 U.S. at 887; *Gomez,* 503 U.S. at 654. Jones' reliance on the inherent irreparability of capital punishment is therefore insufficient because he has failed to establish any likelihood of success on the merits.

Jones Has Engaged In Dilatory Litigation

Jones' conduct over two decades confirms that equitable relief is unwarranted. *Atkins* was decided in 2002, *Hall* in 2014, and *Moore* in 2017, yet Jones waited until after his 2025 warrant was signed to recycle the same intellectual disability claim. This Court has warned that equitable relief should not reward attempts at delay or manipulation. *See Bucklew*, 587 U.S. at 134; *Gomez,* 503 U.S. at 654.

Both of Jones' questions presented are dilatory and thus are not a basis for a stay. His questions revolve around his evidentiary hearing to determine whether he was intellectually disabled as a bar to execution, and his alleged abuse while a resident at a state reform school. Jones provided no evidence that he was a victim of abuse at the Okeechobee School for Boys in his penalty phase, direct appeal, postconviction motion, or successive postconviction motions. *See Jones v. State*, 652 So. 2d 346 (Fla. 1995); *Jones v. State,* 855 So. 2d 611 (Fla. 2003); *Jones v. State,* 966 So. 2d 319 (Fla. 2007); *Jones v. State,* 135 So. 3d 287 (Fla. 2014) (table); *Jones v. State,*

231 So. 3d 374 (Fla. 2017); *Jones v. State,* 241 So. 3d 65 (Fla. 2018). It wasn't until the warrant was signed that Jones claimed he had newly discovered evidence.

Jones has had multiple successive motions, a habeas petition, and a full evidentiary hearing on his intellectual disability claim. The Florida Supreme Court denied relief because his claims were untimely and repetitive—an adequate and independent state-law ground that bars review here. *See Michigan v. Long,* 463 U.S. 1032, 1041 (1983); *Coleman*, 501 U.S. at 729-30.

Jones fails every requirement of *Barefoot* and *Bucklew*. His claims are procedurally barred, untimely, and foreclosed by precedent. He cannot show the probability of certiorari being granted, a possibility of reversal, or equitable diligence.

Accordingly, this Court should deny the motion to stay.

Respectfully submitted,

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