No. 25A356

IN THE SUPREME COURT OF THE UNITED STATES

VICTOR TONY JONES,

Petitioner,

v.

STATE OF FLORIDA and

SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS,

Respondents.

REPLY TO STATE'S RESPONSE TO APPLICATION FOR STAY OF EXECUTION

CAPITAL CASE

DEATH WARRANT SIGNED
EXECUTION SET SEPTEMBER 30, 2025 AT 6:00 PM

PETITIONER SHOULD BE GRANTED A STAY OF EXECUTION

Respondents assert that Jones's claims are untimely. Respondents' arguments lack merit and should be rejected.

A. Jones's Attack on Florida's Postconviction System Was Asserted at the Earliest Opportunity

The Attorney General argues that because the Florida Supreme Court rejected his "claims as untimely," this finding amounts to an "adequate and independent state-law ground barring federal review." (Resp. at 3) Respondents further assert that

"[t]his 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 is a red herring.

The question for this Court is whether Florida entertains a state habeas petition to revisit evolutions in the law. As Mr. Jones specifically pointed out to the Florida Supreme Court, *see* (Habeas Reply Brief, App. G at A301, n.1), the answer is clearly "yes." *See, e.g. Downs v. Dugger*, 514 So. 2d 1069 (Fla. 1987); *Martin v. Dugger*, 515 So. 2d 185 (Fla. 1987); *Riley v. Wainwright*, 517 So. 2d 656 (Fla. 1987); *Darden v. Dugger*, 521 So. 2d 1103 (Fla. 1988); *Eutzy v. State*, 541 So. 2d 1143 (Fla. 1989); *O'Callaghan v. State*, 542 So. 2d 1324 (Fla. 1989); *Martin v. Singletary*, 599 So. 2d 121 (Fla. 1992); *Kennedy v. Singletary*, 602 So. 2d 1285 (Fla. 1992); *Mills v. Singletary*, 606 So. 2d 623 (Fla. 1992); *Johnson v. Singletary*, 612 So. 2d 575 (Fla. 1993); *Henderson v. Singletary*, 617 So. 2d 313 (Fla. 1993); *Mills v. Singletary*, 622 So. 2d 943 (Fla. 1993); *Atkins v. Singletary*, 622 So. 2d 951 (Fla. 1993); *Marek v. Singletary*, 626 So. 2d 160 (Fla. 1993); *Roberts v. Singletary*, 626 So. 2d 168 (Fla. 1993); *Lambrix v. Singletary*, 641 So. 2d 847 (Fla. 1994); *Porter v. State*, 653 So. 2d 374 (Fla. 1995); *Doyle v. Singletary*, 655 So. 2d 1120 (Fla. 1995); *White v. Singletary*, 663 So. 2d 1324 (Fla. 1995); *Jones v. Butterworth*, 691 So. 2d 481 (Fla. 1997); *McCray v. State*, 699 So. 2d 1366 (Fla. 1997); *Provenzano v. Moore*, 744 So. 2d 413 (Fla. 1999); *Glock v. Moore*, 776 So. 2d 243 (Fla. 2001); *Mills v. Moore*, 786 So. 2d 532 (Fla. 2001); *Johnston v. Moore*, 789 So. 2d 262 (Fla. 2001); *Downs v. Moore*, 801 So. 2d 906 (Fla. 2001); *King v. State*, 808 So. 2d 1237 (Fla. 2002); *Bottoson v. Moore*, 833 So. 2d 693

(Fla. 2002); *King v. Moore*, 831 So.2d 143 (Fla. 2002); *Diaz v. Crosby*, 869 So. 2d 538 (Fla. 2003); *Haliburton v. Crosby*, 865 So. 2d 480 (Fla. 2003); *Valle v. Crosby*, 859 So. 2d 516 (Fla. 2003); *Hertz v. Jones*, 218 So. 3d 428 (Fla. 2017); *Card v. Jones*, 219 2 So. 3d 47 (Fla. 2017); *Bailey v. Jones*, 225 So. 3d 776 (Fla. 2017); *Nelson v. Jones*, No. SC17-2034, 2018 WL 798255 (Fla. Feb. 9, 2018) (unreported).

Although Mr. Jones cited this very same set of cases to the Florida Supreme Court, that court simply ignored them. "The Florida Supreme Court in this case suddenly and simply announced that the procedural vehicle routinely used by litigants to question the viability of its prior judgments was not available." (Pet. at 20).

As the petition demonstrates, (1) that newly-invented barrier to the merits review of a federal constitutional claim is inefficacious here, or (2) renders Florida's postconviction review system invalid under the Supremacy Clause. (Pet. at 20-21).

Both issues arose only when the Florida Supreme Court issued its habeas opinion. Jones timely raised his federal constitutional claim with this Court at the earliest opportunity. *Pruneyard Shopping Center v. Robins*, 447 U.S. 74, 85-86, n.9 (1980) (internal parallel citations omitted) ("[T]his Court has held federal claims to have been adequately presented even though not raised in lower state courts when the highest state court renders an unexpected interpretation of state law or reverses its prior interpretation. *Brinkerhoff-Faris Trust & Savings Co. v. Hill*, 281 U.S. 673, 677–678, (1930); *Missouri ex rel. Missouri Ins. Co. v. Gehner*, 281 U.S. 313, 320, (1930); *Saunders v. Shaw*, 244 U.S. 317, 320 (1917)").

B. Jones's Attack on Florida's Mishandling of His Mitigation Claim Was Asserted at the Earliest Opportunity

The State misstates Jones's claim respecting his abuse at the Okeechobee School for Boys, just as the Florida Supreme Court did. (Pet. At 17-18) To reiterate, the substance of that claim is not merely that the abuse took place, but that the State has acknowledged that it was at fault for the abuse. (But cf. Pet. at 35) (argument by trial prosecutor that State had offered Jones multiple opportunities for reform while in State custody that he failed to take advantage of). The State's acknowledgement of their responsibility for the abuse took the form of a payment of compensation to Mr. Jones on July 7, 2025. Incredibly, though, late in the proceedings below, the State denied that any such payment had been made—necessitating a series of supplemental filings by Mr. Jones to prove a fact that the State knew perfectly well. (Pet. at 16-17)[1]

We would leave to the conscience of the Court the decision as to which party is in equity at fault for any delay in the litigation of this claim.

CONCLUSION

For the foregoing reasons, Mr. Jones respectfully requests that this Court grant his application for a stay of execution to address the important constitutional questions in this case.

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[1] The documents which establish this fact are in the custody of the Office of the Attorney General ("OAG"). The OAG not only refused to provide these documents to Jones, despite authorized requests, the OAG misled the circuit court about its possession and custody of the records and made demonstrably false statements of fact to the Florida Supreme Court in its briefing, and upon notice of the falsity of its statements, made no effort to correct the misstatements. (App. J, at A494; App. K, at A523; App. L, at 530).

Respectfully submitted,

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September 29, 2025