

No. \_\_\_\_\_

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**In the Supreme Court of the United States**

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**SAMUEL LEE SMITHERS, JR.,**

*Petitioner,*

**v.**

**SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS,**

*Respondent.*

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

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**APPLICATION FOR STAY OF EXECUTION**

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**CAPITAL CASE**

**DEATH WARRANT SIGNED**  
**Execution Scheduled: October 14, 2025, at 6:00 p.m.**

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To the Honorable Clarence Thomas, Associate Justice of the Supreme Court of  
the United States:

The State of Florida has scheduled the execution of Petitioner Samuel  
Smithers for Tuesday, October 14, 2025, at 6:00 pm ET. Pursuant to the Supreme  
Court Rule 23 and 28 U.S.C. § 2101(f), Mr. Smithers respectfully requests a stay of  
execution pending the disposition of his Petition for a Writ of Certiorari  
accompanying this application.

## **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.* (quoting *White v. Florida*, 458 U.S. 1301, 1302 (1982) (Powell, J., in chambers)).

## **PETITIONER SHOULD BE GRANTED A STAY OF EXECUTION**

The question raised in Smithers’s Petition for a Writ of Certiorari are sufficiently meritorious for a grant of a writ of certiorari. The underlying issue presents a significant, compelling question of constitutional law and a stay is necessary to avoid Smithers being executed in violation of the Eighth Amendment to the United States Constitution. *Madison v. Alabama*, 139 S. Ct. 718 (2019); *Panetti v. Quarterman*, 551 U.S. 930 (2007); *Ford v. Wainwright*, 477 U.S. 399 (1986).

It is indisputable Smithers will be irreparably harmed if his execution is allowed to go forward, and the balance of equities weighs heavily in favor of a stay. Florida’s interest in the timely enforcement of judgments handed down by its courts must be weighed against Smithers’ 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, while Smithers has a right and significant interest in ensuring that his execution comports with the Constitution. In addition, the irreversible nature of the death penalty supports 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, Smithers submits there is a significant possibility of the lower court’s reversal. This Court’s intervention is urgently needed to prevent Smithers’ imminent execution despite the protections from the death penalty provided by the Eighth Amendment.

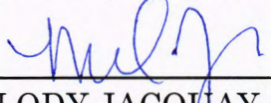
The abbreviated scheduling order imposed upon Smithers prevented his ability to be meaningfully heard during the post-warrant litigation. This Court should enter a stay of execution to allow Smithers to demonstrate that the death penalty as applied to Mr. Smithers is in violation of the Eighth Amendment of the United States Constitution.

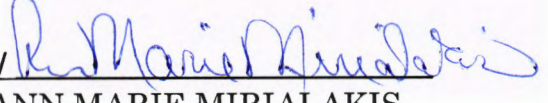
### **CONCLUSION**

“The fundamental requirement of due process is the opportunity to be heard ‘at a meaningful time and in a meaningful manner.’” *Armstrong v. Manzo*, 380 U.S. 545, 552 (1965). Smithers’ meritorious issue cannot possibly be heard in a meaningful manner with just days left until his execution. The important constitutional issue presented by Smithers’ case requires a full appellate review that is not truncated by his imminent execution.

For the foregoing reasons, Smithers respectfully requests that this Court grant his application for a stay of Smithers' execution scheduled for October 14, 2025, to address the compelling constitutional question in his case on the merits.

Respectfully submitted,

/s/   
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/s/   
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Dated: October 8<sup>TH</sup>, 2025