No. ___

IN THE SUPREME COURT OF THE UNITED STATES

BRYAN F. JENNINGS,
Petitioner,
v.
STATE OF FLORIDA,
Respondent.

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

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APPLICATION FOR STAY OF EXECUTION

THIS IS A CAPITAL CASE
EXECUTION SCHEDULED FOR
THURSDAY, NOVEMBER 13, 2025, at 6:00P.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, Bryan F. Jennings, for Thursday, November 13, 2025, at 6:00 p.m. The Florida Supreme Court denied state court relief as well as Mr. Jennings' request for stay on November 6, 2025. Mr. Jennings 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*. (quoting *White v. Florida*, 458 U.S. 1301, 1302 (1982) (Powell, J., in chambers).

PETITIONER SHOULD BE GRANTED A STAY OF EXECUTION

A stay of execution is warranted because the questions raised in Mr. Jennings' petition for a writ of certiorari are substantial and meritorious. The petition presents serious constitutional questions that reach the core of this Court's Eighth and Fourteenth Amendment jurisprudence and demand review before the State carries

out an irreversible execution. *Furman v. Georgia, 408 U.S. 238 (1972); Gregg v. Georgia, 428 U.S. 153 (1976).*

If the stay is denied, Mr. Jennings will suffer irreparable harm. The balance of equities weighs overwhelmingly in favor of preserving his life until this Court can determine whether Florida's process comports with the Constitution. Florida's interest in finality is outweighed by Mr. Jennings' continuing interest in life and his right to be executed, if at all, under constitutionally valid procedures. See *Ohio Adult Parole Auth. v. Woodard*, 523 U.S. 272, 289 (1998) (O'Connor, J., concurring) ("It is incorrect . . . to say that a prisoner has been deprived of all interest in his life before his execution.").

Mr. Jennings' case raises interrelated constitutional issues of exceptional importance. First, Florida's failure to ensure continuous postconviction counsel violates due process and the constitutional guarantee of meaningful access to the courts and denies Mr. Jennings of his protected property right in that continuous representation. Although state law mandates continuous state postconviction representation for all death-sentenced prisoners,[1] Mr. Jennings was left with no representation in state courts for more than three years. This systemic failure transforms Florida's statutory promise into a right without a remedy and offends the basic due process principle that a condemned prisoner must have a fair and meaningful opportunity to be heard. See *Powell v. Alabama*, 287 U.S. 45, 58 (1932). The Eighth and Fourteenth Amendments require reliability in capital proceedings,

[1] §§ 27.7001, 27.711(2), Fla. Stat.

not perfunctory compliance. *Proffitt v. Wainwright*, 685 F.2d 1227, 1253 (11th Cir. 1982). When the State abdicates its statutory responsibility to ensure representation, and then imposes impossible deadlines under a death warrant, it deprives the condemned of the process and advocacy that are indispensable to constitutional reliability.

Second, as detailed in Jennings' petition for a writ of certiorari, Florida's current capital sentencing scheme violates the Eighth and Fourteenth Amendments' demand for fairness, consistency, and evolving standards of decency. Florida now stands as an outlier among death penalty jurisdictions. The defects extant in Florida's entire capital sentencing and execution regime, taken together, create a constitutionally intolerable risk of arbitrariness, the precise evil condemned in *Furman v. Georgia*, 408 U.S. 238 (1972). Florida's devolving standards of decency contravene this Court's modern Eighth Amendment jurisprudence, which requires that the death penalty evolve toward greater fairness. *Trop v. Dulles*, 356 U.S. 86, 101 (1958).

Execution is the quintessential form of irreparable harm. *Wainwright v. Booker*, 473 U.S. 935, 937 n.1 (1985) (Powell, J., concurring). Once carried out, the constitutional violations identified in **this** case – Mr. Jennings' case – will forever escape review. The balance of equities and public interest therefore weigh decisively in favor of a stay. Florida's asserted interest in finality is minimal compared to the constitutional and moral interest in ensuring that the ultimate punishment is imposed only after full and fair process. See *Woodard*, 523 U.S. at 289. The

irreparable harm to Mr. Jennings is clear. Allowing this execution to proceed would erode public confidence in the justice system and place Florida further outside the bounds of national consensus.

By broadening death eligibility, lowering procedural thresholds, and bestowing more privacy rights to the executive clemency and warrant processes, Florida has transformed the death penalty from an exceptional punishment reserved for the most aggravated cases into a routine sentencing option, to be carried out perfunctorily, expeditiously, and without conscience.

This Court has repeatedly intervened when death sentenced defendants face execution under procedures that undermine due process and fundamental fairness. See *Furman, 408 U.S. at 238; Gregg, 428 U.S. at 153*. Mr. Jennings' case presents analogous structural violations, including the denial of counsel, deprivation of meaningful access, and regression from established Eighth Amendment protections, that strike at the heart of constitutional reliability. There is at least a significant possibility that the lower court's decision will be reversed. See *Barefoot*, 463 U.S. at 888.

While the rest of society's standards of decency are evolving, the Florida courts have continued and will continue to foreclose relief in other similar cases and return Florida to its outlier status as regards the death penalty. This creates an unacceptable risk that other similarly situated individuals will also be denied their crucial Sixth, Eighth, and Fourteenth Amendment protections.

As detailed in Mr. Jennings' contemporaneous petition for a writ of certiorari, this Court's intervention is urgently needed prevent the imminent execution of Mr. Jennings, a man who has been deprived of counsel and meaningful access to the courts at a critical stage in his proceedings, but who is nonetheless deserving of the protections provided by the Sixth, Eighth, and Fourteenth Amendments of the United States Constitution. The Florida Supreme Court refuses to supply these constitutional protections; as a result, this Court should grant a stay of execution and grant a writ of certiorari.

CONCLUSION

"A 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). Mr. Jennings' meritorious issues cannot possibly be heard in a meaningful manner with just days left until his execution. The important constitutional issues presented by Mr. Jennings' case require a full appellate review that is not truncated by his imminent execution.

Because the constitutional questions presented are substantial, the equities weigh decisively in favor of relief, and the harm to Mr. Jennings would be irreparable, Mr. Jennings respectfully requests that this Court grant his application for a stay of his execution scheduled for November 13, 2025, to address the compelling constitutional questions in his case.

Respectfully submitted,

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