

No. 25A577

IN THE SUPREME COURT OF THE UNITED STATES

RICHARD BARRY RANDOLPH,

Petitioner,

v.

STATE OF FLORIDA,

Respondent.

**REPLY TO STATE’S RESPONSE TO APPLICATION
FOR STAY OF EXECUTION**

CAPITAL CASE

**DEATH WARRANT SIGNED
EXECUTION SET NOVEMBER 20, 2025 AT 6:00 PM**

PETITIONER SHOULD BE GRANTED A STAY OF EXECUTION

Respondents assert that Randolph’s case should not be stayed because 1) there is little probability of this court granting certiorari review, 2) there is no probability of reversal, 3) that Randolph “Faces No Irreparable Injury,” and 4) Equity does not support a stay. Respondent’s arguments lack merit and should be rejected.

The Attorney General argues that “[t]his court lacks jurisdiction to review a State supreme court’s interpretation of state law.” (Response, p. 4) Because the Florida Supreme Court rejected his “claims as untimely,” this finding amounts to an

“adequate and independent state-law basis precluding” this Court’s review. (Response, p. 3) This is a red herring.

The question for this Court is whether Florida entertains successive motions for post-conviction review when the prisoner raises an exception to the one-year time limit. The answer is clearly “yes.” *See, e.g. Duckett v. State*, 148 So. 3d 1163, 1167 (Fla. 2014); *Aguirre-Jarquin v. State*, 202 So. 3d 785, 789 (Fla. 2016); *Hildwin v. State*, 141 So. 3d 1178, 1183 (Fla. 2014); *Randolph v. State*, 403 So. 3d 206, 208 (Fla. 2024).

Further, the federal constitutional violation here – the Florida Supreme Court’s unexpected and surprise refusal to address Mr. Randolph’s timely method of execution challenge - didn’t arise until the Florida Supreme Court issued its opinion. Randolph 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) (“[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, 50 S.Ct. 451, 453, 74 L.Ed. 1107 (1930); *Missouri ex rel. Missouri Ins. Co. v. Gehner*, 281 U.S. 313, 320, 50 S.Ct. 326, 327, 74 L.Ed. 870 (1930); *Saunders v. Shaw*, 244 U.S. 317, 320, 37 S.Ct. 638, 640, 61 L.Ed. 1163 (1917)”). Just as in *Pruneyard Shopping Center*, it was not until the time the Florida Supreme Court issued its ruling, that Randolph “could have reasonably expected that the validity of the [Florida Supreme Court’s previous Fla. R. Crim. Pro.

3.851] decision[s] would be questioned. In these circumstances we conclude that appellants have adequately raised the federal question. *Id.*

Respondents argue that Randolph has failed to meet Sup. Ct. R. 10. (Response, p. 3). Respondents are mistaken. Randolph has demonstrated that the Florida Supreme Court's ruling conflicts with relevant decisions of this Court including *Bucklew v. Precythe*, 587 U.S. 119 (2019) and raises compelling reasons for this Court's review, specifically the Florida Supreme Court's refusal to allow a prisoner the opportunity to present a federal constitutional claim.

Respondents also argue that there is "no possibility of reversal." (Response, p. 4) Respondents are mistaken. The Florida Supreme Court's arbitrary and freakish denial of Randolph's right to an evidentiary hearing to press his claim and present evidence, warrants this Court's intervention.

Respondents make the incredible and disingenuous argument that Mr. Randolph faces no "irreparable harm." (Response, p. 6) Death is by its nature irreparable. While Respondents can certainly argue relative harms in the stay context, suggesting a capital defendant facing imminent execution will not suffer irreparable harm is an argument that cannot pass even the slightest bit of honest intellectual scrutiny.

Respondents lastly argue that "equity does not warrant a stay," because Randolph's claims could have been filed years ago. (Response, p. 6) This argument fails as well, as Mr. Randolph's state court motion was timely filed under Florida law

and the Florida Supreme Court's decision finding it untimely was freakish and arbitrary as set out in his Petition and Reply filed with this Court.

CONCLUSION

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

Respectfully submitted,

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