Capital Case No. 25A926

IN THE
SUPREME COURT OF THE UNITED STATES

MELVIN TROTTER,

Petitioner,

v.

STATE OF FLORIDA,

Respondent.

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

RESPONSE TO APPLICATION FOR STAY OF EXECUTION
EXECUTION SCHEDULED FOR FEBRUARY 24, 2026, AT 6:00 P.M.

Melvin Trotter, a Florida prisoner under an active death warrant with an execution scheduled for February 24, 2026, asks this Court to stay his execution for a brutal murder and robbery he committed in 1986 while it considers whether to grant certiorari. However, the question Trotter presents does not warrant 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). As thoroughly explained in the accompanying Brief in Opposition to certiorari, Trotter's question does not merit this Court's review. Therefore, this Court should deny the stay.

A stay of execution is not granted as a "matter of course." It is an equitable remedy, and "equity must remain sensitive to the State's strong interest in enforcing

its criminal judgments without undue interference from the federal courts." *Hill v. McDonough*, 547 U.S. 573, 583–84 (2006). To obtain a stay, Trotter must establish a reasonable probability that four Justices would vote to grant certiorari, a significant possibility of reversal, and a likelihood of irreparable harm. *Barefoot,* 463 U.S. at 895. This Court has further emphasized that last-minute litigation, dilatory claims, and speculative theories weigh heavily against equitable relief. *Bucklew*, 587 U.S. at 149-51; *Gomez v. U.S. Dist. Ct. for N. Dist. of Cal.*, 503 U.S. 653, 654 (1992). Trotter cannot satisfy these requirements.

Trotter's question rests on allegations that Florida's lethal injection protocol has been maladministered in prior executions. But those claims derive from heavily redacted records that do not establish that any protocol deviation occurred. The materials do not identify executed inmates, confirm that the listed drugs were administered, or demonstrate that any irregularities affected executions. At most, Trotter speculates that deviations may have occurred, that they might recur, and that they would cause unconstitutional pain. That layered conjecture is insufficient. Method-of-execution claims require proof of a risk that is "*sure or very likely* to cause serious illness and needless suffering." *Glossip v. Gross*, 576 U.S. 863, 877 (2015) (emphasis in original). Speculation cannot satisfy that standard, and this Court has cautioned that federal courts must guard against claims based on speculative theories. *Bucklew*, 587 U.S. at 151 ("Federal courts can and should protect settled state judgments from undue interference by invoking their equitable powers to dismiss or curtail suits that are . . . based on speculative theories.") (Cleaned up).

The timing of Trotter's claims independently forecloses equitable relief. He raised his method-of-execution challenge only after the Governor signed his death warrant, even though the underlying records were available during prior warrant litigation involving other inmates. This Court has repeatedly vacated stays where inmates delayed bringing method-of-execution claims. *See Dunn v. Price*, 578 U.S. 929 (2019) (vacating a stay because the capital defendant unduly delayed filing suit); *Dunn v. Ray*, 586 U.S. 1138 (2019) (same). Equity does not reward last-minute litigation designed to delay the imposition of lawful sentences. *See Nelson v. Campbell*, 541 U.S. 637, 650 (2004) (holding that 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."). The dilatory posture of Trotter's claims weighs heavily against a stay.

Trotter likewise cannot demonstrate a reasonable probability that four Justices would grant certiorari. His claims rest on disputed factual premises, making this case a poor vehicle for review. This Court rarely grants certiorari to resolve fact-bound disputes. *See* Sup. Ct. R. 10; *United States v. Johnston*, 268 U.S. 220, 227 (1925) ("[This Court] do[es] not grant a certiorari to review evidence and discuss specific facts."); *see also Cash v. Maxwell*, 565 U.S. 1138, 132 S. Ct. 611, 613 (2012) (Sotomayor, J., respecting the denial of certiorari) (stating that mere disagreement with a court's "highly factbound conclusion is" an "insufficient basis for granting certiorari"). And his legal theory is also foreclosed by precedent. This Court has

repeatedly held that the *Baze-Glossip*[1] framework governs *all* method-of-execution claims. *Bucklew*, 587 U.S. at 134. Attempts to repackage such claims under alternative labels do not circumvent that governing standard. Nor did Trotter identify a feasible alternative method of execution, an independent pleading requirement for Eighth Amendment claims. *Id*. at 136. These defects make certiorari review unlikely.

For similar reasons, Trotter cannot demonstrate a significant possibility of reversal. The Florida Supreme Court applied the governing framework and correctly rejected his claims. *Trotter v. State*, No. SC2026-0214, 2026 WL 444544, at *2-3 (Fla. Feb. 17, 2026). Under *Baze* and *Glossip*, a prisoner must show both a substantial risk of severe pain and a feasible alternative method that significantly reduces that risk. Trotter satisfied neither prong. Allegations of protocol deviations do not establish that Florida's protocol itself is unconstitutional. This Court has rejected the argument that risks of improper implementation alone violate the Eighth Amendment. *See Baze*, 553 U.S. at 53–54. Moreover, Florida's protocol includes consciousness checks designed to ensure inmates are insensate before the administration of additional drugs. *See Long v. State*, 271 So. 3d 938, 945 (Fla. 2019) (noting that Florida's protocol contains safeguards and checks to ensure "the condemned is unconscious throughout the execution."). This Court has upheld protocols even without such safeguards. *Glossip*, 576 U.S. at 886-87. Given these precedents, reversal is not likely.

Nor can Trotter establish irreparable harm. The relevant inquiry is not

[1] *Baze v. Rees*, 553 U.S. 35 (2008) (plurality opinion); *Glossip v. Gross*, 576 U.S. 863 (2015).

whether the execution will occur, but whether the inmate is likely to suffer unconstitutional pain. Speculation about possible protocol deviations does not satisfy that burden. *See Winter v. Natural Res. Def. Council*, 555 U.S. 7, 22 (2008) (explaining that a mere "possibility" of harm insufficient and irreparable injury must be "likely in the absence of an injunction"). Florida has carried out thirty-four executions under its current protocol without any reported problems, and the combination of anesthetic dosage and mandatory consciousness checks ensures that inmates are rendered insensate. Because Trotter has not shown he is "sure or very likely" to suffer superadded pain, he cannot establish irreparable injury.

A stay of execution is an extraordinary equitable remedy. Trotter's speculative allegations, dilatory litigation, inability to satisfy the *Baze-Glossip* framework, and failure to meet the *Barefoot* factors foreclose relief. Accordingly, this Court should deny the application for stay.

Respectfully submitted,

JAMES UTHMEIER
ATTORNEY GENERAL OF FLORIDA

/s/ Scott A. Browne
SCOTT A. BROWNE
Chief Assistant Attorney General
Counsel of Record

STEPHEN D. AKE
Attorney Manager, Assistant Attorney General

MICHAEL W. MERVINE
Special Counsel, Assistant Attorney General

OFFICE OF THE ATTORNEY GENERAL
3507 E. Frontage Rd., Ste. 200

Tampa, Florida 33607
Telephone: (813) 287-7900
Scott.browne@myfloridalegal.com
capapp@myfloridalegal.com

COUNSEL FOR RESPONDENT