

IN THE
SUPREME COURT OF THE UNITED STATES

DENNIS SOCHOR,
Petitioner,

v.

STATE OF FLORIDA,
Respondent.

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

BRIEF IN OPPOSITION
EXECUTION SCHEDULED FOR JULY 14, 2026, AT 6:00 P.M.

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CAPITAL CASE
QUESTION PRESENTED

On June 10, 2026, Florida Governor Ron DeSantis signed a death warrant for Dennis Sochor’s first-degree murder of Patricia Gifford, and his execution is scheduled for July 14, 2026, at 6 p.m. In his post-warrant state court proceedings, Sochor raised an Eighth Amendment method-of-execution challenge based on Florida’s use of etomidate, claiming that every individual executed by lethal injection in Florida experienced pulmonary edema and etomidate fails to ensure the condemned remains unconscious and insentient during the entire execution. The Florida courts rejected Sochor’s claim, finding it untimely, speculative and meritless under the standard governing method-of-execution claims under the Eighth Amendment. Sochor now seeks certiorari review and asks this Court to review the following question:

Whether a state court may apply a state procedural time-bar to an Eighth Amendment *Blaze-Glossip* method-of-execution constitutional claim and whether certiorari should be granted on that question when the state court also denied the claim on the merits?

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OPINION BELOW

Sochor v. State, Case No. SC2026-0971, 2026 WL 1970441, (Fla. July 8, 2026).

JURISDICTION

This Court has jurisdiction over Sochor's questions. *See* 28 U.S.C. § 1257(a).

CONSTITUTIONAL PROVISIONS INVOLVED

The State accepts the constitutional provisions referenced by Sochor as set forth in the Eighth and Fourteenth Amendments to the United States Constitution.

STATEMENT OF THE CASE AND FACTS

Dennis Sochor is under an active death warrant based on his October 20, 1989, conviction for first-degree murder and kidnapping of 18-year-old Patricia Gifford ("Patty"). In 1981 Dennis Sochor lived in Fort Lauderdale, Florida when his brother Gary visited him shortly after Christmas. On New Year's Eve, the brothers took Sochor's truck to the Banana Boat lounge. *Sochor v. Sec'y, Dep't of Corr.*, 685 F. 3d 1016, 1019 (11th Cir. 2012). There the brothers met Patty and her friend, Delta Harville ("Harville"), and engaged them in conversation for a few hours. *Id.*

When Harville had too much to drink, Patty, Sochor, and Gary took her to her car to sleep. Sochor asked Patty if she wanted to get something to eat with them while Harville slept and Patty accepted. *Id.* Sochor drove them to a remote area. In a confession to the police, Sochor stated that he and Patty had an argument when he asked her to have sex and she refused. Sochor grabbed her by her hair and pulled her from the car while "she fought for her life," screaming and scratching his face. *Id.* Sochor became angry and pinned her to the ground while he continued his attack on

her. He eventually strangled her to death. *Id.* He confessed that he drove his truck down a dirt road and left “her body in the weeds.” *Id.*

Gary testified that Sochor stopped the truck and stepped out onto the dirt road. Gary then heard Patty screaming for help and when he got out of the truck, he saw Sochor had Patty on the ground with her hands pinned down while he sat on top of her. Gary threw a rock at Sochor and “hollared [sic] at him to leave her alone.” *Id.* Sochor “told [him] to get back in the truck.” *Id.* Gary complied because he feared Sochor. Gary never saw Patty again. *Id.*

Following Patty’s disappearance, Sochor saw a television news report showing a photograph of himself with Patty at the tiki bar. Upon seeing that, Sochor knew he had committed another rape and decided to leave town. *Id.* Sochor left the truck in Tampa, went to New Orleans, and eventually moved to Atlanta. *Id.* Years later, he was arrested in Georgia and was indicted on October 9, 1986, for Patty’s murder and kidnapping. *Id.* Sochor confessed to the arresting police officers in Atlanta and twice more in Florida. Each time he gave more detailed statements. *Id.* at 1019-20. A jury convicted Sochor of kidnapping and first-degree murder and recommended death. The trial court followed the jury’s recommendation and sentenced Sochor to death.

The Florida Supreme Court affirmed Sochor’s conviction and sentence, although it struck the cold, calculated, and premeditated aggravator (CCP). *Sochor v. State*, 580 So. 2d 595 (Fla. 1991). This Court subsequently granted certiorari and remanded the matter for a proper harmless error analysis. *Sochor v. Florida*, 504 U.S. 527 (1992). On remand, the Florida Supreme Court conducted the required

review and again affirmed the conviction and sentence. *Sochor v. State*, 619 So. 2d 285, 293, n.11 (Fla. 1993). This Court denied certiorari on December 31, 1993, and denied rehearing on February 22, 1994. *Sochor v. Florida*, 510 U.S. 1025 (1993).

On July 25, 1993, Sochor filed his initial postconviction motion. After an evidentiary hearing, the lower court denied relief. The Florida Supreme Court affirmed and denied Sochor's attendant habeas petition. *Sochor v. State*, 883 So. 2d 766 (Fla. 1994).

In 2005, Sochor filed a federal petition for a writ of habeas corpus which was denied. *Sochor v. McNeil*, Case No. 05–61534–CIV, 2009 WL 9046175 (S.D. Fla. 2009). The Eleventh Circuit Court of Appeals affirmed. *Sochor v. Sec'y, Dep't of Corr.*, 685 F. 3d 1016 (11th Cir. 2012). This Court denied certiorari on April 22, 2013. *Sochor v. Crews*, 569 U.S. 948 (2013).

Sochor filed his first successive postconviction motion under Fla. R. Crim. P. 3.851 on March 14, 2008. The circuit court denied the motion and the Florida Supreme Court affirmed on October 30, 2009. *Sochor v. State*, 22 So. 3d 68 (Fla. 2009) (table) (affirming summary denial of challenge to Florida's lethal injection protocol and noting "neither this Court nor the Supreme Court has recognized mental illness as a bar to execution"). During that litigation, Sochor filed a second successive Rule 3.851 motion raising a claim of newly discovered evidence alleging that his brother, Gary, committed the murder. The court denied the motion on January 18, 2011. Sochor then filed a *Porter v. McCollum*, 558 U.S. 30 (2009), claim which the circuit court treated as a third successive motion, denying relief on September 6, 2011. The

Florida Supreme Court affirmed the denial of both motions. *Sochor v. State*, 95 So. 3d 210 (Fla. 2012); *Sochor v. State*, 83 So. 3d 709 (Fla. 2012).

Sochor then filed his fourth successive postconviction motion based on *Hurst v. Florida*, 577 U.S. 92 (2016) error. The Florida Supreme Court affirmed the summary denial of relief. *Sochor v. State*, 235 So. 3d 304, 305-06 (Fla. 2018) (finding *Hurst* not retroactive to Sochor's sentence).

Sochor filed a fifth successive Rule 3.851 motion, again trying to implicate Gary in Patty's murder. The trial court summarily denied the claims. The Florida Supreme Court affirmed. *Sochor v. State*, 246 So. 3d 195, 195-96 (Fla. 2018).

Following the June 10, 2026, signing of Sochor's death warrant, he filed four public records demands upon law enforcement agencies for additional public records; the agencies responded the next day. (WPCR 134-69, 17281, 184-89, 206-08, 210-733).¹ The trial court held a public records hearing and denied those demands. (WPCR 734977, 982). On June 19, 2026, Broward Sheriff's Office (BSO) filed a supplemental public records production including a letter discovered after the deadline.² (WPCR 1016-22). On June 20, 2026, Sochor filed his sixth successive postconviction motion raising two claims and filed motions seeking a stay of execution, rehearing on the public records addressed to BSO, and a request to depose BSO Detective Curcio. (WPCR 1026-1397). In his postconviction motion, Sochor asserted two claims,

¹ Current post-warrant appellate record.

² Curcio's January 3, 2022, letter explained that he wrote to Gary for assistance in recovering Patty's remains for her family and to give them a place to "visit her." Curcio noted he had written to Sochor in the past but never received a response. (WPCR 1020).

including a facial challenge to Florida’s lethal injection protocol. Following additional argument, the circuit court summarily denied both claims and all motions. (WPCR 1041- 1397, 1404-55, 1467-1564). Sochor appealed.

On *de novo* review, the Florida Supreme Court found the facial challenge to the State’s lethal injection protocol time barred under state law but also found that it was without merit. *Sochor v. State*, --- So. 3d ----, Case No. SC2026-0971, 2026 WL 1970441, at *2-3 (Fla. July 8, 2026). The Court also found the claim meritless because it has “repeatedly upheld Florida’s lethal injection protocol, including the etomidate protocol.” *Id.* The Court denied Sochor’s request for a stay of execution. *Id.* at *4.

REASONS FOR DENYING THE PETITION

The petition does not warrant review. Sochor asserts that by enforcing state procedural rules, public records laws, and precedent, the Florida Supreme Court categorically precludes Eighth Amendment challenges to method-of-execution claims in violation of the Supremacy Clause. He further argues that the time allotted for him to raise a method-of-execution claim is controlled by the Florida Department of Corrections’ (FDOC) unilateral decision to change the protocol which violates *Bucklew v. Precythe*, 587 U.S. 119 (2019). Certiorari review should be denied because the decision below was premised on the timeliness of the claim, an independent and adequate state law ground, which was based on Florida public records laws that are exclusively a matter of state law. Further, the decision below is consistent with settled federal law, creates no conflict warranting this Court’s intervention, and Sochor is unlikely to obtain relief on his underlying method-of-execution claim which

he fails to address directly here.

A. The Florida Supreme Court has not foreclosed an entire class of litigation but has applied state procedural law consistently.

Relying on *Howlett by and through Howlett v. Rose*, 496 U.S. 356, 366 (1990), Sochor argues that the application of the long-standing rule of criminal procedure in Fla. R. Crim P. 3.851(d)(1) requiring substantive claims to be brought within one year of a conviction and sentence becoming final is an unconstitutional method used by state courts to evade federal law and federal causes of actions. He also argues that the “narrow exception” provided in Rule 3.851(d)(2)(A) offers Sochor no relief because the requirements for claims based on newly discovered evidence are impossible to satisfy and are, therefore, unconstitutional. (Pet. at 9-10). Sochor’s arguments are nothing more than an attempt to divert the focus from his dilatory tactics intended to perpetuate this protracted four-decades-long abuse of the system. His failure to timely bring this claim rests solely on Sochor’s continued efforts to delay his sentence. His claim must be rejected and certiorari review denied.

With even a cursory review of *Howlett*, it clearly offers Sochor no assistance. Therein, a state trial court dismissed Howlett’s federal § 1983 action based on its interpretation that the State’s sovereign immunity precluded a lawsuit against local school board personnel notwithstanding the State’s waiver of sovereign immunity from lawsuits. *Howett*, 496 U.S. at 358-60.

That ruling was affirmed on appeal and the Florida Supreme Court denied review. *Id.* This Court found that the application of that interpretation led directly to the disenfranchisement of citizens pursuing a federal § 1983 claim against a state

entity because it expanded application of the State's sovereign immunity defense and violated the Supremacy Clause. Application of the immunity defense nullified a civil rights law for the people for whom it was designed, i.e. people with grievances against their government. *Id.* at 383.

The facts here do not support any assertion that Sochor, or any death row inmate, has been categorically deprived of the opportunity to present his Eighth Amendment challenge. The time requirements in Florida's postconviction scheme are not an unconstitutional impediment to Sochor's ability to bring forth a claim. *Cf. Felder v. Casey*, 487 U.S. 131, 140 (1988) (recognizing that although limitation of preemption of state court procedural rules may be necessary in § 1983 actions, "[b]ecause statutes of limitation are among the universally familiar aspects of litigation considered indispensable to the scheme of justice, it is entirely reasonable to assume that Congress did not intend to create a right enforceable in perpetuity"). As noted by the Florida Supreme Court, the factual basis to bring forth his claim existed since January 2017. *Sochor*, 2026 WL 1970441, at *3 (recognizing that the basis for this claim involving etomidate had been available since January 2017). The fact that Sochor incorrectly assumed he could not demand autopsy reports to further support his Eighth Amendment challenge in no way proves he was, in fact, categorically barred from raising an Eighth Amendment challenge in violation of *Howlett*. Sochor could have raised his Eighth Amendment claim within one year of the 2017 inclusion of etomidate in Florida's lethal injection protocol as there was nothing barring him from conducting any investigation to support a challenge to the

protocol, particularly the efficacy of etomidate. His failure to do so does not create a constitutional issue necessitating this Court’s review during warrant litigation.

B. The decision rests on independent and adequate state law grounds.

This Court lacks jurisdiction because the Florida Supreme Court’s decision rests on adequate and independent state law grounds. *See Foster v. Chatman*, 578 U.S. 488, 497 (2016). It is a “fundamental principle” that “our Constitution establishes a system of dual sovereignty between the States and the Federal Government.” *Gregory v. Ashcroft*, 501 U.S. 452, 457 (1991). This Court is the highest authority on the interpretation of federal law, however, “[t]he highest court of each State . . . remains ‘the final arbiter of what is state law.’” *Montana v. Wyoming*, 563 U.S. 368, 377 n.5 (2011) (quoting *West v. Am. Telephone & Telegraph Co.*, 311 U.S. 223, 236 (1940)). Consequently, “the views of the state’s highest court with respect to state law are binding on the federal courts.” *Wainwright v. Goode*, 464 U.S. 78, 84 (1983); *see also Animal Sci. Prods., Inc. v. Hebei Welcome Pharm. Co.*, 585 U.S. 33, 44 (2018); *Mullaney v. Wilbur*, 421 U.S. 684, 691 (1975).

Here, the Florida Supreme Court found that Sochor’s entire method-of-execution challenge was untimely under Florida state procedural rules. *See Sochor*, 2026 WL 1970441, at *2. Time bars are independent and adequate state law grounds for rejecting a claim. *See Walker v. Martin*, 562 U.S. 307, 316–17 (2011) (finding California’s time bar qualified as an adequate state procedural ground that barred habeas relief in federal courts). Thus, the Florida Supreme Court’s decision on the untimeliness of Sochor’s claim is controlling, and this Court lacks jurisdiction to

consider the question presented.

In his attempt to raise equal protection and due process arguments, Sochor contends the Florida Supreme Court's application of capital postconviction public records law to find his method-of-execution claim untimely lacked fair and substantial support in state law. (Pet. at 10-13). Not only is he incorrect as a matter of state law but he cites no federal constitutional right to which he was denied. Immediately upon issuance of the mandate following the affirmance of the direct appeal, a Florida capital defendant is given counsel and provided access to public records under Fla. R. Crim. P. 3.852 at the state agencies' expense and without demand. The rule conditions any additional records production attendant to his Fla. R. Crim. P. 3.851 litigation on a series of threshold showings: the defendant must identify specific materials not already available in the central records repository, demonstrate that the requested records are relevant to a postconviction proceeding under Rule 3.851 or reasonably calculated to lead to admissible evidence, and ensure that the request is narrowly tailored and not unduly burdensome. Fla. R. Crim. P. 3.852(i)(2)(A)-(D). *See also* § 27.708 and 27.7081, Fla. Stat. (2026). This framework reflects Florida's settled precedent that postconviction additional public record requests serve to support existing claims, not a search for new ones. Although capital collateral counsel may not utilize Chapter 119 Florida Statutes to obtain additional records for his client, there is nothing precluding the defendant from making such a request outside of postconviction litigation, as the Florida Supreme Court recognized

in *Hitchcock v. State*, 431 So. 3d 514, 525 (Fla. 2026).³ See also § 27.708, Fla. Stat. (2026) (limiting collateral counsel from seeking records outside Rule 3.852 or §27.708. This Rule 3.852 framework reflects Florida’s settled precedent that additional public record requests serve to support existing postconviction claims, not as a search for new ones.

Ironically, Sochor obtained public records in the form of autopsy reports outside the Rule 3.852 framework; counsel advised the trial court that the autopsy reports were received from “a death penalty advocacy group” through a Chapter 119 request. (June 23, 2026, Case Management Hearing WPCR 1528). This alone proves the Florida Supreme Court’s finding that Sochor could have sought the records irrespective of Rule 3.852. *Sochor*, 2026 WL 1970441, at *3. (finding unpersuasive Sochor’s argument that he was not permitted to seek records outside of Rule 3.852 while recognizing “Sochor himself received this information from a third party’s public records request under that chapter”). The state court’s determination that Sochor could have sought public records earlier, and did receive them later, does not

³ Sochor’s reference to the State’s argument in *State v. Lowe*, Case no. 311990CF000658A, is misplaced. There, collateral counsel was seeking additional records from the Indian River Clerk’s Office under Fla. R. Jud. Admin Rule 2.420 while the capital defendant was litigating a pending Fla. R. Crim. P. 3.851 motion. The State maintained that the defendant, through counsel, had to follow the dictates of Rule 3.852. Such does not address what was discussed in *Hitchcock*, namely, how a defendant, as any other Florida citizen, may obtain public records for investigating matters outside Rule 3.851 litigation. Section 27.7081, Fla. Stat., provides that “this section does not affect, expand, or limit the production of public records for any purpose other than use in a proceeding held pursuant to Rule 3.850 or Rule 3.851, Florida Rules of Criminal Procedure.”

create a constitutional issue, nor one worthy of this Court's certiorari review.

Sochor's focus on the autopsy reports as the factor perfecting his constitutional claim is a misdirection. The allegation that etomidate results in pulmonary edema and a sense of drowning comes into play under Eighth Amendment cruel and unusual punishment grounds for *Baze-Glossip*⁴ only if the inmate is sensate. Sochor could have investigated the effects of etomidate, the time a person would remain unconscious, and any potential side effects arising from the drug use irrespective of autopsy reports and how public records are obtained. His failure to fully investigate his claim⁵ and the Florida Supreme Court's finding that the claim was untimely do not combine to create an issue of constitutional dimension.

This is especially true where the Florida Supreme Court recognized that the first drug in the current lethal injection protocol has been in place since 2017 and nothing precluded Sochor from seeking those autopsy reports between 2017 and the present. *Sochor*, 2026 WL 1970441, at *2. The Florida Supreme Court's determination is dispositive as a matter of state law and is sufficient to support the decision. *See Michigan v. Long*, 463 U.S. 1032, 1041-42 (1983). Sochor's effort to recast a state law ruling as a federal constitutional violation does not alter the

⁴ *Baze v. Rees*, 553 U.S. 35 (2008); *Glossip v. Gross*, 576 U.S. 863 (2015).

⁵ As late as June 23, 2026, Sochor admitted that his claim is based on the medical literature and what an expert could opine about the efficacy of etomidate. The State submits that information does not require a public records demand. Further, Sochor admitted that he still needed to explore the efficacy of etomidate and the time a person would be insensate and agreed that the autopsy reports would be the same regardless of whether the inmate regained consciousness. (WPCR 1521, 1539-41).

jurisdictional analysis. This Court “correct[s] wrong judgments” only insofar as they “incorrectly adjudge federal rights,” not to revisit a state court’s interpretation of its own procedural rules. *Herb v. Pitcairn*, 324 U.S. 117, 125 (1945). Because the judgement below rests on independent and adequate state grounds, this Court lacks authority to review it.

Sochor should have pursued his method-of-execution claim before Florida set his execution date. Sochor knew he had completed his initial postconviction, three successive motions, and his federal habeas litigation by April 22, 2013, rendering his case warrant ready. The State filed a notice on February 21, 2024, confirming this fact. *See Jones v. State*, 419 So. 3d 619, 626 (Fla. 2025) (defining a “warrant-eligible” defendant as one who has completed a direct appeal, initial postconviction proceedings in state court, and federal habeas proceedings with an appeal therefrom), but rather than raise this claim before Florida scheduled his execution, Sochor waited until after the Governor signed his death warrant.

A warrant-eligible capital defendant’s choice to wait until after the signing of his death warrant to raise a claim which could have been raised pre-warrant strongly militates against certiorari. *See Dunn v. Ray*, 586 U.S. 1138, 1138 (2019) (vacating a stay of execution when a capital defendant waited 83 days after the claim ripened to file it); *cf. Abbott v. League of United Latin Am. Citizens*, 146 S. Ct. 418, 419 (2025) (cautioning federal courts against intervening close to an election over a dissent that argued the Texas Legislature bore any fault for altering an election map close to an election).

C. Sochor did not have to wait for a change in the lethal injection protocol by Florida Department of Corrections to raise a facial challenge to the use of etomidate.

Sochor has not identified any important or unsettled question of law that supports granting certiorari. The Florida Supreme Court's decision is fully consistent with this Court's Eighth Amendment precedent. This case also comes to this Court with an execution looming. Capital defendants in Florida can, and have, raised pre-warrant method-of-execution claims challenging Florida's lethal-injection process long before a warrant. *E.g.*, *Douglas v. State*, 141 So. 3d 107, 127 (Fla. 2012) (Fla. 2012) (holding method-of-execution claim raised in an initial postconviction motion should have been raised on direct appeal); *Bates v. State*, 3 So. 3d 1091, 1106 & n.18 (Fla. 2009) (raising a method-of-execution claim in an initial postconviction motion). Both the Florida Supreme Court and the Eleventh Circuit Court of Appeals have expressly rejected the argument that method-of-execution challenges only ripen after a death warrant. *See Ferguson v. State*, 101 So. 3d 362, 365 (Fla. 2012); *McNair v. Allen*, 515 F.3d 1168, 1174 (11th Cir. 2008). As a result, Sochor could have challenged the protocol irrespective of when FDOC may have altered the protocol.

Contrary to Sochor's contention that the method of execution is determined by FDOC's promulgation of the lethal injection protocol, it is the people of Florida, through their legislative representatives, who have determined the alternate methods of execution. *See* §§ 922.10 and 922.105, Fla. Stat. (2026). As such, the fact that FDOC develops the protocol to carry out the legislative intent does not run afoul of *Baze* and *Bucklew*.

D. This Case Is an Exceptionally Poor Vehicle for Review.

This Court has explained that any inmate bringing an Eighth Amendment “method of execution claim alleging the infliction of unconstitutionally cruel pain must meet the *Baze-Glossip* test.” *Bucklew v. Precythe*, 587 U.S. 119, 140 (2019) (“*Glossip* left no doubt that this standard governs all Eighth Amendment method-of-execution claims.”) (cleaned up; emphasis added). That test requires the condemned to: (1) show the method he will be executed by “presents a risk that is sure or very likely to cause serious illness and needless suffering”; and (2) provide an alternative execution method that is “feasible, readily implemented, and in fact significantly reduces a substantial risk of severe pain.” *Glossip v. Gross*, 576 U.S. 863, 877 (2015) (cleaned up; emphasis in original); *see also Baze v. Rees*, 553 U.S. 35, 41 (2008) (rejecting a challenge to an execution protocol based on “the risk that the protocol’s terms might not be properly followed, resulting in significant pain”); *Nance v. Ward*, 597 U.S. 159, 169 (2022) (noting this Court’s precedent compels “a prisoner bringing a method-of-execution claim to propose an alternative way for the State to carry out his death sentence”). This Court has further made it clear that speculation does not demonstrate a “sure or very likely” risk of “serious illness and needless suffering.” *Brewer v. Landrigan*, 562 U.S. 996 (2010) (emphasis in original). Sochor failed to present a legally sufficient pleading in state court and similarly here, fails to address both prongs of *Baze-Glossip* except in the broadest of terms rendering his petition one unworthy of review by this Court.⁶

⁶ Sochor’s claim was legally insufficient under state law because he failed to

Courts must guard against attempts to use method-of-execution challenges “as tools to interpose unjustified delay” in capital cases. *Bucklew*, 587 U.S. at 150. At this late hour, the State and victims are entitled to finality. *See Calderon v. Thompson*, 523 U.S. 538, 556 (1998) (explaining when initial federal review of a state judgement has run its course “and a mandate denying relief has issued, finality acquires an added moral dimension”). Setting an execution date does not invite attacks on “settled precedent” or “speculative theories” for relief. *Bucklew*, 587 U.S. at 149 (cleaned up).

The Florida Supreme Court correctly applied the *Baze-Glossip* test to Sochor’s Eighth Amendment method-of-execution claim based on alleged drug inadequacy. *Sochor v. State*, No. SC2026-0971, 2026 WL 1970441, at *3 (Fla. July 8, 2026) (finding Sochor’s allegation of substantial risk of serious harm and needless suffering was only an inference drawn solely from autopsy reports with no accompanying expert affidavit supporting it). In finding that Sochor failed to meet the *Baze-Glossip* test, the Florida Supreme Court correctly determined that Sochor failed to meet the first prong of the *Baze-Glossip* test based on his unsupported speculative allegations. *Id.*

adequately plead either prong of the *Baze-Glossip* test. His first prong of *Baze-Glossip* was based on what may happen should the condemned regain consciousness based on a normal dose of etomidate but he failed to offer any witness or affidavit to support that claim. Further, he does not allege that the massive dosage, 200 ml of etomidate, Florida’s protocol requires would cause the inmate to awaken, or that any inmate has awakened, at any time during the execution process, thereby creating a substantial risk of serious pain and undue suffering. *See Long v. State*, 271 So.3d 938, 943 (Fla. 2019) (finding the massive dose of etomidate will keep inmate insensate for thirty minutes). Likewise, other than offering a firing squad as his alternate method, Sochor never pled with specificity or factual support how his alternate method could be feasibly implemented in a reasonable period of time or how it would significantly reduce a substantial risk of severe pain.

This Court need not review that correct decision immediately before Sochor's execution.

The first prong of the *Baze-Glossip* test places the burden on the capital defendant to show a risk that is “sure or very likely to cause serious illness and needless suffering.” *See Glossip*, 576 U.S. at 877. There “must be a substantial risk of serious harm, an objectively intolerable risk of harm that prevents prison officials from pleading that they were subjectively blameless for purposes of the Eighth Amendment.” *Id.* Speculative harm is not enough. *Brewer*, 562 U.S. 996. The *Baze-Glossip* test requires capital defendants “to prove their allegations to a high level of certainty,” and that burden cannot be shifted onto the State. *In re Ohio Execution Protocol*, 860 F.3d 881, 887 (6th Cir. 2017); *see also Glossip*, 576 U.S. at 882 (holding capital defendants challenging a method of execution bear “the burden to show, based on evidence presented to the court, that there is a substantial risk of severe pain”). In finding the facial challenge to the lethal injection protocol meritless, the Florida Supreme Court cited to a line of its decisions where it explicitly cited to and applied the *Baze-Glossip* test to the etomidate lethal injection protocol. *Sochor*, 2026 WL 1970441, at *3; *see Heath v. State*, 426 So. 3d 1253, 1261 (Fla. 2026) (“[S]peculative and conclusory allegations that lethal injection protocols present a substantial risk of serious harm are insufficient to warrant an evidentiary hearing.”) *cert. denied*, No. 25-6746, 223 L. Ed. 2d 587, 2026 WL 363902 (U.S. Feb. 10, 2026); *Rogers v. State*, 409 So. 3d 1257, 1268 (Fla.) (citing to *Glossip*, *Baze*, and *Bucklew*), *cert. denied*, 145 S. Ct.

2695 (2025). There is no need for this Court to take this petition when the Florida courts properly applied the controlling federal law.

Sochor cites to *Lee v. Comm’r Ala. Dep’t of Corr.*, Case No. 26-11864, 2026 WL 1651147, at *2, *7 (11th Cir. June 8, 2026), to argue that the Florida Supreme Court’s previous determination that Florida’s lethal injection protocol met the requirements of *Baze* and *Glossip* should have been reversed in light of *Lee*’s determination that pulmonary edema from nitrogen hypoxia caused “a substantial risk of serious harm.” *Id.* Sochor stated that *Lee* specifically addressed the FDOC “Execution by Lethal Injection Procedure (“Protocol”), the protocol addressed by the Eleventh Circuit in *Lee*.” (Pet. 3). That is factually incorrect. The nitrogen hypoxia used by Alabama to execute the condemned is in no way related or similar to the execution by lethal injection employed by the FDOC, something specifically noted by the Florida Supreme Court explaining why *Lee* did not alter its conclusion. “Because Florida’s method of execution materially differs, we find *Lee* inapposite.” *Sochor*, 2026 WL 1970441, at *3, n.8.

The Florida Supreme Court’s determination that Florida’s lethal injection protocol is constitutional in the numerous cases listed in its opinion in this case is unchanged by *Lee*. This Court has consistently declined to review those prior decisions and should do so again now. The state court denied Sochor’s facial challenge on independent and adequate state law grounds. Moreover, Sochor has pointed to no case conflicting with the Florida Supreme Court’s merits ruling to warrant certiorari review.

CONCLUSION

The petition for a writ of certiorari should be denied.

Respectfully submitted,

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