

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

CURTIS W. BEASLEY,

Petitioner,

v.

STATE OF FLORIDA,

Respondent,

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

PETITION FOR A WRIT OF CERTIORARI

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CAPITAL CASE
QUESTIONS PRESENTED

I.

Whether, when a death warrant is signed for an individual's execution, a 35 day time period between the signing of the death warrant and the scheduled execution is unreasonably short and in violation of the individual's Fifth, Sixth, and Eighth Amendment rights as applied in the instant case?

II.

Whether the Florida Constitution's "conformity clause," which the Florida Supreme Court found acted to bar the court from considering an Eighth Amendment claim of the Petitioner, is unconstitutional because it prohibits the Florida Supreme Court from considering any Eighth Amendment claim that this Court has not specifically addressed?

III.

Whether the execution of the Petitioner would violate the Fifth, Sixth, and Eighth Amendments when the jury failed to make *any* unanimous findings in its sentencing verdict?

IV.

Whether Florida's death warrant selection and signing protocol, which provides the Governor with unfettered discretion to choose any condemned inmate for execution at will, for any reason or for no reason at all, results in the arbitrary and capricious implementation of the death penalty in violation of the proscription

against cruel and unusual punishment set forth in the Eighth Amendment and/or the right to due process of law set forth in the Fifth and Fourteenth Amendments?

LIST OF PARTIES

The parties to the judgment from which review is sought are the Petitioner and appellant in the lower court, Curtis W. Beasley, and the Respondent and appellee in the lower court, the State of Florida.

CORPORATE DISCLOSURE STATEMENT

No corporations or publicly held companies are a party to this case or have any interest therein.

LIST OF RELATED CASES

Direct Appeal:

Beasley v. State, 774 So. 2d 649 (Fla. 2000), Florida Supreme Court, decided October 26, 2020.

State Collateral Appeal:

Beasley v. State, 18 So.3d 473 (Fla. 2009), Florida Supreme Court, decided September 23, 2009.

Federal Habeas Corpus Proceedings:

Beasley v. Sec., Fla. Dept. of Corrections et al, 8:09-cv-01962, (M.D. Fla.), United States District Court for the Middle District of Florida, decided March 29, 2010.

Curtis Beasley v. Secretary, Florida DOC, et al, No. 10-11750 (11th Cir. 2010), United States Court of Appeals for the 11th Circuit, decided October 15, 2010.

Beasley v. Buss, 563 U.S. 906, 131 S.Ct. 1808, 179 L.Ed.2d 658 (2011), Supreme Court of the United States, March 8, 2011.

State Appeal of Denial of Successive Motion for Postconviction Relief:

Beasley v. State, 234 So. 3d 553 (Fla. 2018), Florida Supreme Court, January 23, 2018.

State Appeal of Denial of Successive Motion for Postconviction Relief While Under Death Warrant:

Beasley v. State, --- So. 3d ---, SC2026-1399 (Fla. 2026), Florida Supreme Court, September 22, 2026.

TABLE OF CONTENTS

	Page
Questions Presented.....	ii
List of Parties.....	iv
Corporate Disclosure Statement.....	iv
List of Related Cases	iv
Table of Contents.....	vi
Table of Cited Authorities	viii
Opinion Below.....	1
Grounds for Jurisdiction.....	1
Constitutional and Statutory Provisions Involved.....	1
Statement of the Case	3
Reasons for Granting the Petition	11
I. The 35 Day Time Period Between the Signing of the Death Warrant and the Scheduled Execution Deprives Mr. Beasley of Due Process, Equal Protection, and to be Free From Cruel and Unusual Punishment.....	11
A. The 35 Day Time Between the Signing of the Warrant and the Scheduled Execution is Unreasonable to Afford Condemned Individuals Due Process.....	12
B. As Applied in the Instant Case, the 35 Day Execution Window Deprives Mr. Beasley of both Due Process and Equal Protection Because His Registry Attorneys Lack the Resources of Government Funded Capital Defense Agencies	16
II. Florida’s Conformity Clause Violates the Eighth Amendment and Deprives Defendants of Due Process	22
A. The Instant Question is One of Great Importance	26

B. Mr. Beasley’s Case Presents a Prime Opportunity for this Court to Address the Question Presented	27
III. Executing Mr. Beasley Despite a Non-Unanimous Jury Verdict Would Violate the Fifth, Sixth, and Eighth Amendments.....	30
IV. Florida’s Death Warrant Selection and Signing Procedure Results in the Arbitrary and Capricious Implementation of the Death Penalty in Violation of the Eighth Amendment and Deprives Defendants of Due Process as Guaranteed Under the Fifth and Fourteenth Amendments	34
A. The Eighth Amendment Violation.....	36
B. The Due Process Violations	38
C. The Need for the Court to Address the Question Presented	39
Conclusion.....	40
APPENDICES	Page
Appendix A: The Florida Supreme Court’s Opinion Below	A

TABLE OF CITED AUTHORITIES

Cases	Page(s)
<i>Apodaca v. Oregon</i> , 406 U.S. 404 (1972)	32
<i>Atkins v. Virginia</i> , 536 U.S. 304 (2002)	23
<i>Barwick v. State</i> , 361 So. 3d 785 (Fla. 2023)	19, 22
<i>Beasley v. Buss</i> , 563 U.S. 906, 131 S.Ct. 1808, 179 L.Ed.2d 658 (2011)	6
<i>Beasley v. Secretary, Florida DOC, et al</i> , No. 10-11750 (11th Cir. 2010)	6
<i>Beasley v. Sec., Fla. Dept. of Corrections et al</i> , 8:09-cv-01962, (M.D. Fla. 2010)	6
<i>Beasley v. State</i> , 774 So. 2d 649 (Fla. 2000)	5
<i>Beasley v. State</i> , 18 So.3d 473 (Fla. 2009)	6
<i>Beasley v. State</i> , 234 So. 3d 553 (Fla. 2018)	7
<i>Beasley v. State</i> , --- So. 3d ---, SC2026-1399 (Fla. 2026)	1, 10
<i>Cleveland Bd. of Ed. v. Loudermill</i> , 470 U.S. 532 (1985)	13, 24
<i>Cook v. Gralike</i> , 531 U.S. 510 (2001)	25
<i>Dep’t of Agric. v. Moreno</i> , 413 U.S. 528 (1973)	21
<i>Eisenstadt v. Baird</i> , 405 U.S. 438 (1972)	20
<i>Evitts v. Lucey</i> , 469 U.S. 387 (1985)	12
<i>Ford v. Wainwright</i> , 477 U.S. 399 (1986)	13, 23
<i>Furman v. Georgia</i> , 408 U.S. 238 (1972)	36-37
<i>Hicks v. Oklahoma</i> , 447 U.S. 343 (1980)	13
<i>Hildwin v. Florida</i> , 490 U.S. 638 (1989)	32
<i>Hitchcock v. State</i> , 431 So. 3d 514 (2026)	27

<i>Honda Motor Co. v. Oberg</i> , 512 U.S. 415 (1994).....	26
<i>Hunt v. State</i> , 428 So. 3d 43 (Fla. 2025)	33
<i>Hurst v. Florida</i> , 577 U.S. 92 (2016)	7, 30-32
<i>Hurst v. State</i> , 202 So. 3d 40 (Fla. 2016)	7, 30-31
<i>Kennedy v. Louisiana</i> , 554 U.S. 407 (2008).....	23
<i>Lawrence v. State</i> , 308 So. 3d 544 (Fla. 2020).....	23
<i>Lockett v. Ohio</i> , 438 U.S. 586 (1978).....	20
<i>Mathews v. Eldridge</i> , 424 U.S. 319 (1976)	13, 24
<i>McLaughlin v. Florida</i> , 379 U.S. 184 (1964).....	20, 36
<i>Mullane v. Central Hanover Bank & Trust Co.</i> , 339 U.S. 306 (1950)	13, 24
<i>Occhicone v. State</i> , 436 So. 3d 465 (Fla. 2026)	22, 27
<i>Ohio Adult Parole Auth. v. Woodard</i> , 523 U.S. 272 (1998).....	13, 38-39
<i>Puerto Rico v. Branstad</i> , 483 U.S. 219 (1987)	25
<i>Pulley v. Harris</i> , 465 U.S. 37 (1984)	23
<i>Ramos v. Louisiana</i> , 590 U.S. 83 (2020)	10, 32-33
<i>Reynolds v. Sims</i> , 377 U.S. 533 (1964).....	25
<i>Rice v. Cayetano</i> , 528 U.S. 495 (2000)	25
<i>Ring v. Arizona</i> , 536 U.S. 584 (2002)	7, 30
<i>Romer v. Evans</i> , 517 U.S. 620 (1996).....	25
<i>Roper v. Simmons</i> , 543 U.S. 551, (2005).....	23
<i>Silvia v. State</i> , --- So.3d ----,	
2026 WL 2333428, 51 Fla. L. Weekly S262 (Fla. Aug. 12, 2026).....	18

<i>Skinner v. Oklahoma</i> , 316 U.S. 535 (1942)	320
<i>Smithers v. State</i> , 420 So. 3d 460 (Fla. 2025).....	22
<i>Spaziano v. Florida</i> , 468 U.S. 447 (1984).....	32
<i>Sochor v. State</i> , 434 So. 3d 1251 (Fla. 2026)	27
<i>Spencer v. State</i> , 434 So. 3d 709 (Fla. 2026)	22, 27
<i>State v. Poole</i> , 297 So. 3d 487 (Fla. 2020).....	7, 30-33
<i>Strickland v. Washington</i> , 466 U.S. 668 (1984).....	12
<i>Tanzi v. State</i> , 407 So. 3d 385, 393 (Fla. 2025)	10
<i>Trevino v. Thaler</i> , 569 U.S. 413 (2013)	7
<i>Trop v. Dulles</i> , 356 U.S. 86 (1958)	23
<i>Trotter v. State</i> , 428 So. 3d 68 (Fla. 2026).....	22, 27
<i>U.S. Term Limits, Inc., v. Thornton</i> , 514 U.S. 779 (1995)	25
<i>Wiggins v. Smith</i> , 539 U.S. 510, 524 (2003)	12
<i>Woodson v. North Carolina</i> , 428 U.S. 280 (1976).....	26, 30

Constitutional Provisions

FLA. CONST., art. I, § 17.....	22
U.S. CONST. amend. V.....	1, 2-3, 7-8, 25, 30, 33-34
U.S. CONST. amend. VI	1, 2, 7-8, 30-33
U.S. CONST. amend. VIII	21-28, 30-31, 33-34, 36, 38
U.S. CONST. amend. XIV.....	1

Statutes and Rules (Cont.)

28 U.S.C. § 1257.....	1
28 U.S.C. § 2254.....	6-7
ALA. CODE § 13A-5-46	33
FED. R. CIV. P. 60	7, 11
FLA. R. CRIM. P. 3.851	5, 8, 15
FLA. R. CRIM. P. 3.852	14
FLA. STAT. § 43.16	14, 18
FLA. STAT. § 27.702	10, 19
FLA. STAT. § 27.710	17
FLA. STAT. § 27.711	16
FLA. STAT. § 921.1426	16
FLA. STAT. § 922.052	2-3
KY. REV. STAT. § 431.218	35
KY. REV. STAT. § 431.240	35
LA. STAT. 15:567(B) (2024).....	12
MO. SUP. CT. R. 29.08.....	12
OKLA. STAT. ANN. Tit. 22, § 1001	12
TEX. CODE CRIM. PROC. ANN. Art. 43.141	12
SUP. CT. R. 10	40

OPINION BELOW

The Supreme Court of Florida affirmed the judgment of the state trial court's order summarily denying Petitioner Beasley's successive motion for post-conviction relief in, *Curtis W. Beasley v. State of Florida, Beasley v. State*, --- So. 3d ---, SC2026-1399 (Fla. 2026), which is attached hereto as Appendix A.

GROUND FOR JURISDICTION

The Supreme Court of Florida, the highest court in the state, issued its opinion on September 22, 2026, addressing the questions presented in this petition, which pertained to the Petitioner's rights under the Constitution of the United States. *See* Appendix A. Petitioner Beasley, thereby, seeks the jurisdiction of this Court pursuant to 28 U.S.C. § 1257 through the filing of the instant petition for writ of certiorari.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

U.S. CONST. amend. V:

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb, nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.

U.S. CONST. amend. VI:

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him;

to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

U.S. CONST. amend. VIII:

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted0

U.S. CONST. amend. XIV § 1:

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Florida Statutes Section 922.052. Issuance of warrant of execution:

(1) When a person is sentenced to death, the clerk of the court shall prepare a certified copy of the record of the conviction and sentence, and the sheriff shall send the record to the Governor and the clerk of the Florida Supreme Court.

(2)(a) The clerk of the Florida Supreme Court shall inform the Governor in writing certifying that a person convicted and sentenced to death, before or after the effective date of the act, has:

1. Completed such person's direct appeal and initial postconviction proceeding in state court and habeas corpus proceeding and appeal therefrom in federal court; or
2. Allowed the time permitted for filing a habeas corpus petition in federal court to expire.

(b) Within 30 days after receiving the letter of certification from the clerk of the Florida Supreme Court, the Governor shall issue a warrant for execution if the executive clemency process has concluded, directing the warden to execute the sentence within 180 days, at a time designated in the warrant.

(c) If, in the Governor's sole discretion, the clerk of the Florida Supreme Court has not complied with the provisions of paragraph (a) with respect to any person sentenced to death, the Governor may sign a warrant of execution for such person where the executive clemency process has concluded.

(3) The sentence shall not be executed until the Governor issues a warrant, attaches it to the copy of the record, and transmits it to the

warden, directing the warden to execute the sentence at a time designated in the warrant.

(4) If, for any reason, the sentence is not executed during the week designated, the warrant shall remain in full force and effect and the sentence shall be carried out as provided in s. 922.06.

STATEMENT OF THE CASE

Petitioner Curtis W. Beasley is incarcerated in the Florida State Prison under a sentence of death. The Governor of Florida signed a death warrant on August 26, 2026. Mr. Beasley is scheduled to be executed by the State of Florida on September 29, 2026.

Mr. Beasley was charged with the 1995 murder of Carolyn Monfort in the Tenth Judicial Circuit of Florida, Polk County. The case proceeded to a jury trial in 1998. At trial, the State presented wholly circumstantial evidence in support of its case. The jury found Mr. Beasley guilty of one count each of first-degree murder, robbery with a deadly weapon, and grand theft motor vehicle.

During the penalty phase that followed, the jury recommended, by a ten-to-two vote, the imposition of a death sentence. The jury did not make any unanimous findings in its penalty phase verdict.

The state circuit court went on to impose the sentence of death. In imposing sentence, the court found the presence of two statutory aggravating factors: 1) the merged factor of the crime having been committed for financial gain and during the course of a robbery and 2) that the murder was especially heinous, atrocious, or cruel. The court also found numerous mitigating circumstances and assigned each category varying weight:

- Mr. Beasley served in the military, including on an international assignment, obtained an honorable discharge and then served in the military reserves (some weight);
- Mr. Beasley had no criminal convictions for violent crimes (some weight);
- Mr. Beasley maintains contact with his children into adulthood and grandchildren (some weight);
- Mr. Beasley suffered from substance abuse disorder (marijuana and cocaine) (some weight);
- Significant discrepancy existed between Mr. Beasley's verbal and nonverbal abilities on the Weschler Intelligence Scale for Adults – Revised Edition (diagnostic of brain damage) (some weight);
- Mr. Beasley has memory loss (some weight);
- Mr. Beasley has organic personality syndrome (some weight);
- Mr. Beasley has adequate emotional stability (some weight);
- Mr. Beasley is not psychotic (some weight);
- Mr. Beasley acts with impulsivity, without sufficient deliberation regarding the consequences (some weight);
- Mr. Beasley exhibited good behavior post-incident while not in custody (some weight);
- Mr. Beasley exhibited good behavior during arrest (some weight);
- Mr. Beasley waived extradition (some weight);
- Mr. Beasley exhibited good behavior in jail, having no disciplinary reports and acting as a model prisoner (some weight);
- Mr. Beasley had a good relationship with family while incarcerated (some weight);
- Mr. Beasley was a good worker (some weight);
- Mr. Beasley has no psychological propensity for violence (little weight);
- Mr. Beasley has no sociopathic or psychopathic tendencies (little weight);
- Mr. Beasley showed no indicator for future dangerousness (little weight);
- Mr. Beasley possessed attributes necessary to be a model prisoner (little weight);
- Mr. Beasley was a good son, friend, brother, student, and athlete (little weight to each);
- Mr. Beasley participated in extracurricular activities throughout school and in church as a youth (little weight);
- Mr. Beasley's marriage failed primarily due to his wife having affairs (little weight);
- Mr. Beasley failed to complete college due to marital and parental responsibilities (little weight);
- Mr. Beasley had good manners (little weight);

- Mr. Beasley has a good personality (little weight);
- Mr. Beasley endured the suicide of a friend (little weight);
- Mr. Beasley was self-sufficient and reliant (little weight to both);
- Mr. Beasley was generally financially responsible, paying off bank loans and paying for child support (little weight);
- Mr. Beasley had some periods of financial irresponsibility due to a recurrent substance-abuse disorder and an alcohol problem (little weight);
- Mr. Beasley suffered an alcohol problem for approximately two years following his divorce (little weight);
- Mr. Beasley was a good musician (little weight);

Mr. Beasley, thereafter, took a direct appeal of his conviction and sentence to the Florida Supreme Court. The court affirmed the judgment and sentence on October 26, 2000. *Beasley v. State*, 774 So. 2d 649, 657 n.4 (Fla. 2000).

Mr. Beasley then filed a timely motion for post-conviction relief under Florida Rule of Criminal Procedure 3.851, raising the following issues:

Claim One—Ineffective assistance of counsel during the guilt phase of trial for failing to adequately investigate persons disclosed by discovery, failing to assert proper objections, and failing to otherwise adequately test the State's case;

Claim Two—Ineffective assistance of counsel during the penalty phase of trial for failing to adequately investigate and prepare additional mitigating evidence, failing to present adequate evidence in support of mitigating circumstances raised, and failing to challenge the State's case;

Claim Three—Improper jury contact denied Beasley the constitutional protection that all communications with the jury would be conducted in Beasley's presence;

Claim Four—Florida's lethal-injection protocol is unconstitutional;

Claim Five—Florida's capital-sentencing statute is unconstitutional on its face and as applied for failing to prevent the arbitrary and capricious imposition of the death penalty; and

Claim Six—Cumulative error by counsel deprived Beasley of a fair trial.

Beasley v. State, 18 So. 3d 473, 481 (Fla. 2009). The court ultimately denied Mr. Beasley relief on all claims. Mr. Beasley then appealed the judgment to the Florida Supreme Court, which affirmed the case on July 9, 2009. *Id.*

On July 9, 2009, Mr. Beasley filed a timely petition for a writ of habeas corpus, pursuant to 28 U.S.C. § 2254, in the United States District Court for the Middle District of Florida, Tampa Division. The district court classified the various claims and sub-claims as follows:

GROUND ONE: INEFFECTIVE ASSISTANCE OF TRIAL COUNSEL
AT GUILT PHASE: FAILURE TO INVESTIGATE, PRESENT A
DEFENSE, AND TEST THE STATE'S CASE.

GROUND TWO: CONSTITUTIONALITY OF CONVICTIONS:
SUFFICIENCY OF EVIDENCE TO SUPPORT JURY VERDICTS AND
DENIAL OF DEFENSE REQUEST FOR SEQUESTRATION OF
WITNESSES

GROUND THREE: CONSTITUTIONALITY OF BEASLEY'S DEATH
SENTENCE

Beasley v. Sec., Fla. Dept. of Corrections et al, 8:09-cv-01962 (M.D. Fla., Doc. 21.) On March 29, 2010, the district court summarily denied all grounds and declined to issue a certificate of appealability. *Id.*

Mr. Beasley, thereafter, filed an application for a certificate of appealability in the United States Court of Appeals for the Eleventh Circuit. The Eleventh Circuit entered an order denying the certificate on October 15, 2010. *Beasley v. Secretary, Florida DOC, et al*, No. 10-11750 (11th Cir. 2010). Mr. Beasley then filed a petition for a writ of certiorari in this Court. The petition was denied on March 8, 2011. *Beasley v. Buss*, 563 U.S. 906 (2011).

On May 27, 2014, Mr. Beasley filed in the district court a motion pursuant to Federal Rule of Civil Procedure 60(b) for relief from the judgment denying his § 2254 Petition pursuant to the then-recently decided, *Trevino v. Thaler*, 569 U.S. 413 (2013). (Doc. 32.) The court denied that motion on July 28, 2014.

On January 11, 2017, Mr. Beasley filed in the state circuit court a successive motion to vacate and set aside the judgment and sentence pursuant to *Hurst v. Florida*, 577 U.S. 92 (2016), and *Hurst v. State*, 202 So. 3d 40 (Fla. 2016).¹ The circuit court denied that motion on March 9, 2017. The Florida Supreme Court affirmed the denial of relief, holding that the *Hurst* decisions did not apply retroactively to Mr. Beasley because his conviction became final in 2001, prior to *Ring v. Arizona*, 536 U.S. 584 (2002). *Beasley v. State*, 234 So. 3d 553 (Fla. 2018).

Post-Warrant Proceedings

On August 26, 2026, the death warrant was signed, scheduling execution for September 29, 2026.

On August 28, 2026, Mr. Beasley filed a motion for stay of execution in the state circuit court, asserting that the 35 days between the signing of the warrant and the scheduled execution do not afford Mr. Beasley's counsel sufficient to develop any "under warrant" post-conviction claims to ensure that Mr. Beasley's constitutional rights are upheld. On August 29, 2026, the circuit court denied the motion for stay without prejudice.

¹ *Overruled by State v. Poole*, 297 So. 3d 487, 507 (Fla. 2020).

On September 4, 2026, Mr. Beasley filed in the state court a successive motion to vacate and set aside his judgment and sentence of death pursuant to Florida Rule of Criminal Procedure 3.851(h)(5). The motion raised four grounds for relief:

I. The Execution of Mr. Beasley, at the Age of 77 years-old and While Suffering Corresponding Cognitive Decline, Would Violate the 8th Amendment

II. The 35 Day Time Period Between the Signing of the Death Warrant and the Scheduled Execution Deprives Mr. Beasley of Due Process, Equal Protection, and to be Free From Cruel and Unusual Punishment

III. The Current Death Warrant Selection and Signing Procedure Results in the Arbitrary and Capricious Implementation of the Death Penalty in Violation of the Eighth and Fourteenth Amendments, Deprives Defendants of Due Process, and Violates the Separation of Powers Doctrine

IV. Executing Mr. Beasley Despite a Non-Unanimous Jury Verdict Would Violate the Fifth, Sixth, and Eighth Amendments

As to Ground I, Mr. Beasley set out that he is 77 years-old and, within the current year, has experienced frequent brain fog. On September 3, 2026, Dr. Allison Tarbox, Psy.D, met with and evaluated Mr. Beasley. In the testing she was able to complete, she determined that Mr. Beasley suffers from depression, reported experiencing brain fog since approximately March 2026, performed in the low average range for verbal reasoning, and exhibited high risk factors for vascular dementia. Due, however, to delay in Mr. Beasley being transported by wheelchair, lack of sufficient time, and fatigue of Mr. Beasley, she was not able to complete the full battery of testing that she intended to complete on that date.

Along with the successive motion to vacate, Mr. Beasley also filed a renewed motion for a stay of execution. He reasserted the same bases set out in his earlier motion for a stay, but additionally asserted that a stay was necessary to permit the psychologist to complete a full battery of mental health testing to determine the extent of Mr. Beasley's cognitive decline.

On September 8, 2026, Mr. Beasley requested an evidentiary hearing on Grounds I and II of his pending motion. He set out that he would present the testimony of the psychologist to establish evidence of the cognitive decline that he is suffering and the high risk signs of a vascular dementia that he exhibits.

On September 11, 2026, the state circuit court entered an order summarily denying all of the pending claims and denying the motion for a stay of execution.

With respect to Ground I, the state court specifically held that the ground was "neither untimely nor procedurally barred" because it relied on evidence that had surfaced in March 2026 and that Mr. Beasley would not have had a basis to file the ground in a post-conviction motion prior to that time. As to the merits of the issue, however, the court relied on holdings of Florida Supreme Court that reasoned that the Florida Constitution's "conformity clause" precluded relief on any Eighth Amendment claim that the Supreme Court of the United States has not taken up, including the grounds Mr. Beasley asserted.

Later that day, Mr. Beasley filed a notice of appeal to the Florida Supreme Court and went on to raise the denial of each of the four grounds for relief.

On September 22, 2026, the Florida Supreme Court affirmed the summary denial of postconviction relief and denied a stay of execution. *Beasley v. State*, --- So. 3d ---, SC2026-1399 (Fla. 2026). As to the Eighth Amendment claim, the court noted that it had rejected age-based bars to execution in recent cases and held that the Florida Constitution’s “conformity clause” prohibited the court from considering Mr. Beasley’s asserted grounds for relief. *Id.* at 9-13.

As to the issue of the warrant time frame, the court held that Mr. Beasley was not denied notice or an opportunity to be heard so as to result in a due process violation. *Id.* at 14. It further held that equal protection and Eighth Amendment violations were not shown to result from the 35 day warrant timeframe. *Id.* at 14-17.

With respect to the death warrant selection process, the court held that Florida has “long recognized the Governor’s authority and discretion when signing death warrants.” *Id.* at 17 *citing Tanzi v. State*, 407 So. 3d 385, 393 (Fla.), *cert denied*, 145 S.Ct 1914 (2025). The court also rejected Mr. Beasley’s assertion that the warrant selection process infringes on the functions and authority of the judicial branch. *Id.* at 18.

Finally, as to the lack of unanimous penalty phase jury findings, the court found that the issue was procedurally barred because Mr. Beasley previously raised it in the state courts. *Id.* at 19. It additionally provided that the Florida Supreme Court has since upheld Florida’s use of non-unanimous jury verdicts in capital penalty phases even after *Ramos v. Louisiana*, 590 U.S. 83 (2020). *Id.* at 20-22.

On September 23, 2026, Mr. Beasley filed in the district court a Motion for Relief from Judgment and Sentence of Death Pursuant to Federal Rule of Civil Procedure 60(b) based on the newly discovered evidence of his age-related cognitive decline. The district court denied that motion on September 24, 2026.

Mr. Beasley remains incarcerated on the state judgment and sentence of death.

This Petition follows.

REASONS FOR GRANTING THE PETITION

I. The 35 Day Time Period Between the Signing of the Death Warrant and the Scheduled Execution Deprives Mr. Beasley of Due Process, Equal Protection, and to be Free From Cruel and Unusual Punishment

The State of Florida has been carrying out executions at an unrelenting and unprecedented pace in recent years. In 2025, Florida executed 19 individuals.² So far in 2026, it has executed 15 more.³ As the Florida Supreme Court recognized in the opinion below, execution windows of 35 days or less after the signing of a death warrant has become the norm in Florida. *See* Att. A at 15.

Florida is an outlier in imposing such a short time frame between the signing of a death warrant and an execution date. Numerous other active death penalty states provide by statute or rule a minimum of 60-90 days in which to raise challenges under warrant. TEX. CODE CRIM. PROC. ANN. Art. 43.141(c) (2015) (minimum of 90 days for warrant period); MO. SUP. CT. R. 29.08 (2014) (90-120 days for the warrant

² <https://deathpenaltyinfo.org/facts-and-research/data/executions> (accessed Sep. 23, 2026).

³ *Id.*

period); OKLA. STAT. ANN. Tit. 22, § 1001 (2025) (minimum of 60 days for warrant period); LA. STAT. 15:567(B) (2024) (same).

A. The 35 Day Time Between the Signing of the Warrant and the Scheduled Execution is Unreasonable to Afford Condemned Individuals Due Process

At all stages of capital proceedings, undersigned counsel have a professional obligation to provide representation in accordance with the “national standard of practice for the defense of capital cases” as laid out in the American Bar Association Guidelines for the Appointment and Performance of Counsel in Death Penalty Cases (“ABA Guidelines”) § 1.1 (rev. ed. 2003), 31 Hofstra L. Rev. 913, 919 (2003).⁴ In the context of a death warrant, this means counsel must “immediately take all appropriate steps to secure a stay of execution and pursue those efforts through all available fora.” *Id.* at 10.15(B). This includes “seek[ing] to litigate all issues, whether or not previously presented, that are arguably meritorious under the standards applicable to high quality capital defense representation, including challenges to any overly restrictive procedural rules[,]” *id.* at 10.15.1(C), and “continually monitor[ing] the client’s mental, physical and emotional condition for effects on the client’s legal position[.]” *Id.* at 10.15.1(E)(2).

As a due process matter, once a state requires certain sentencing procedures, it creates Fourteenth Amendment life and liberty interests in those procedures. *See, e.g., Evitts v. Lucey*, 469 U.S. 387, 393 (1985) (due process interest in state-created

⁴ This Court has described “the standards for capital defense work articulated by the American Bar Association” as “standards to which [it has] long referred as ‘guides to determining what is reasonable’” attorney performance. *Wiggins v. Smith*, 539 U.S. 510, 524 (2003) (quoting *Strickland v. Washington*, 466 U.S. 668 (1984)).

right to direct appeal); *Hicks v. Oklahoma*, 447 U.S. 343, 346 (1980) (liberty interest in state-created sentencing procedures); *Ford v. Wainwright*, 477 U.S. 399, 427-31 (1986) (O'Connor, J., concurring) (liberty interest in meaningful state competency proceedings); *Ohio Adult Parole Auth. v. Woodard*, 523 U.S. 272, 288-89 (1998) (O'Connor, J., with Souter, Ginsburg, & Breyer, JJ., concurring) (life interest in state-created right to capital clemency proceedings). “[F]undamental fairness is the hallmark of the procedural protections afforded by the Due Process Clause.” *Ford v. Wainwright*, 477 U.S. 399, 424 (1986) (Powell, J., concurring in part and in the judgment). The right to due process entails “notice and opportunity for hearing appropriate to the nature of the case.” *Cleveland Bd. of Ed. v. Loudermill*, 470 U.S. 532, 542 (1985) (quoting *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 313 (1950)). The opportunity must occur “at a meaningful time and in a meaningful manner.” *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976).

It is not enough, as the Florida Supreme Court seemingly believed, to provide the equivalent of cursory notice and an opportunity to be heard. To satisfy due process, the notice and opportunity to be heard must be *meaningful* and *appropriate*. When a death warrant is signed and a truncated litigation schedule is imposed, 35 days is neither meaningful nor appropriate to allow for the litigation of any potential post-conviction claims.

The instant case is prime example of the lack of due process that follows when only 35 days are afforded between a death warrant and a scheduled execution. The state court motion for postconviction relief was required to be filed on Mr. Beasley’s

behalf by September 4, 2026, at 9:00 a.m. - less than seven business days after his execution warrant was signed. In addition, any requests for records made under Florida Rule of Criminal Procedure 3.852 were due less than five days after the warrant was signed. Compliance with that Rule required counsel to review the equivalent of at least 16 boxes of repository files prior to submitting the requests. While undersigned counsel made every effort to do so, they cannot ensure that they were able to effectively and meaningfully review that substantial amount of material in the extremely limited applicable time frame.

More critically, under the 35 day time frame, Mr. Beasley was not able to fully investigate newly discovered evidence of declining mental health and cognitive decline that began to surface in the months prior to the death warrant being signed. Again, Mr. Beasley had only nine days from the signing of the warrant until the filing deadline for a motion for post-conviction relief. He could not then locate an available mental health expert and obtain funding for her until Friday, August 28, 2026. Even then, the state court order authorizing funding was stayed until 11:00 A.M. on Monday, August 31, 2026, pending the submission of any objections from Florida's Justice Administrative Commission, which oversees funding in court-appointed criminal cases.⁵ From that time, the Department of Corrections needed to authorize the expert to visit Mr. Beasley and then find an available window for her to do so.

⁵ See FLA. STAT. § 43.16; see also <https://www.justiceadmin.org/> (setting out guidelines and procedures court-appointed attorneys must follow in seeking due process funding and further guidelines and procedures that due process providers must agree to and follow).

That availability was limited due to the fact that two other individuals were also on “death watch” at that time.⁶ The expert was not able to meet with Mr. Beasley until September 3, 2026, between 12:00 to 4:00 P.M. Mr. Beasley’s Rule 3.851 motion was then due the next day at 9:00 A.M. Despite being apprised of those facts, the state courts denied a stay of execution to allow the expert to continue her work. The expert simply could not complete the investigation into Mr. Beasley’s cognitive decline under the wholly unreasonable timeframe Florida imposed.

Under the proper holistic inquiry, the nature of Mr. Beasley’s case demonstrates that due process cannot be satisfied on a 35 day truncated warrant schedule. Further still, the specifics of Mr. Beasley’s case impact the need for more than 35 days between the signing of the warrant and the scheduled execution. Mr. Beasley is elderly, has been incarcerated for over 30 years (which is known to expedite the adverse effects of the aging process), and undersigned counsel have recently observed his physical and cognitive decline. Undersigned counsel have acted as diligently as possible to obtain an expert to evaluate Mr. Beasley’s competency to be executed—a claim that only ripens after the signing of a death warrant—and to assess Mr. Beasley’s updated medical records to determine whether recent physical and mental developments could impact his physical fitness to be executed via Florida’s lethal injection protocol. And undersigned counsel have identified significant areas of investigation related to Mr. Beasley’s underlying conviction and

⁶ Howard Gene Lucas was executed on September 1, 2026 and Daniel Owen Conahan was executed on September 10, 2026. One other inmate has since replaced them on “death watch.” See <https://deathpenaltyinfo.org/executions/upcoming-executions>.

sentence that, despite counsel's diligence, could not be previously undertaken and must be conducted now. As this case clearly demonstrates, the timeframe Florida is setting on the signing of death warrants, 35 days or less, is simply too short to allow condemned individuals due process.

B. As Applied in the Instant Case, the 35 Day Execution Window Deprives Mr. Beasley of both Due Process and Equal Protection Because His Registry Attorneys Lack the Resources of Government Funded Capital Defense Agencies

As applied in the instant case specifically, the 35 day window that Florida imposed between the signing of the Petitioner's death warrant and the scheduled execution does not afford his counsel sufficient time to develop available constitutional post-conviction claims, particularly under the circumstances at issue in this case.

Undersigned counsel represent Mr. Beasley as private court-appointed "Registry" counsel pursuant to sections 27.710 and 27.711 of the Florida Statutes. Under the relevant statutes, a defendant sentenced to death is only entitled to one official registry attorney to represent him in a capital collateral proceeding in which registry counsel is appointed. FLA. STAT. § 27.710(6). The statute, however, permits the appointed attorney to designate another attorney to assist him or her so long as the designated attorney meets the qualifications for appointment as capital collateral registry counsel. *See id.* In the instant case, undersigned counsel of record also represents Mr. Beasley in federal court proceedings under the Criminal Justice Act. Thus, undersigned counsel and his "designated attorney" are Mr. Beasley's only attorneys.

Unlike many, if not most other Florida defendants under warrant status, Mr. Beasley is not represented by one of Florida's Capital Collateral Regional Counsel offices nor a Capital Habeas Unit of the Federal Defender's Office. The Florida Statutes provide for Capital Collateral Regional Counsel offices and outline the duties of those offices in representing defendants sentenced to death. FLA. STAT. § 27.702. Those entities are state funded; employ numerous attorneys, staff, and investigators; and operate with internal budgets for due process costs. The Capital Habeas Units of the Federal Defender's Offices are similarly structured and funded. *See United States Courts, Guidelines for administering the CJA and related statutes*, Chapter 6, § 655, *Establishment of Capital Habeas Units and Other Resources*. Moreover, both of those entities exclusively represent defendants in capital post-conviction matters.

The structure of undersigned counsel's representation pursuant to Florida's postconviction Registry system is fundamentally different than that of the Offices of the Capital Collateral Regional Counsel. As Mr. Beasley set out in the lower courts, undersigned counsel practice in a small firm of four attorneys. The two undersigned attorneys are the only attorneys in the firm who meet the qualifications to serve as capital collateral counsel. Like most, if not all attorneys serving on Florida's capital collateral registry, the undersigned are in private practice and do not practice capital defense exclusively, nor do they practice only in one particular court or jurisdiction. Undersigned counsel's firm practices criminal law in Florida and federal courts at the trial, appellate and post-conviction levels in cases. While a substantial portion of the

undersigned attorneys' practices are devoted to capital cases, the attorneys' caseloads include many other non-capital cases in numerous state and federal courts. Accordingly, the attorneys have had and will have numerous deadlines and responsibilities to undertake in those other cases between now and the time of the scheduled execution. The varied nature of undersigned counsel's practice means it is less feasible to seek extensions based on the demands of under-warrant proceedings. And, under Florida law, Florida courts have a special obligation to monitor factors that could impact private counsel's performance in a capital case. *See Silvia v. State*, --- So.3d ---, 2026 WL 2333428, 51 Fla. L. Weekly S262 *3, n.5 (Fla. Aug. 12, 2026).

In addition, and in sharp contrast to the aforementioned Government-funded entities, undersigned counsel does not have any immediate discretionary access to salaried investigators or internal funding for experts. Undersigned counsel's firm, as would be the case with most Registry counsel, does not employ any investigators, mitigation specialists or other such experts. The firm relies on outside providers to take on such roles. When, as in this case, the attorneys are court-appointed, the approval for funding for such experts must be authorized by Florida's Justice Administrative Commission and then, ultimately, the trial court. *See* FLA. STAT. § 43.16; *see also* <https://www.justiceadmin.org/> (discussed *supra*). Counsel then must find suitable due process providers who are 1) available, 2) under contract with the JAC or willing to abide by JAC guidelines, and c) willing to agree to rates authorized by the JAC and/or approved by the Court. The foregoing factors substantially

distinguish capital collateral registry counsel from state funded entities such as Florida's Capital Collateral Regional Counsel.

Furthermore, the reasonableness of the death warrant timeframe is impacted by the current unrelenting pace of Florida's executions. There is a wealth of rapidly-developing caselaw which counsel must review to determine viable claims. While undersigned counsel is more than willing to put in the time and effort to offer the quality representation they are obligated to provide, it is not feasible for them to operate on the same timeline as can be expected of an office whose sole function and obligation is to remain up to speed on capital collateral developments and implement those into zealous representation in limited capital collateral proceedings, such as the Office of the Capital Collateral Regional Counsel.

In 2023, Florida Supreme Court Justice Labarga recognized:

As the majority observes, "post-warrant litigation is arduous," see majority op. at 7, and a death warrant by its very nature requires expedited proceedings. However, these solemn proceedings ultimately involve carrying out a sentence of death for the most aggravated and least mitigated of murders and must still ensure due process of law. I am extremely concerned by the recent pace of death warrants and the speed with which the parties and involved entities must carry out their respective duties....While I agree that Barwick's claims are not entitled to relief under this Court's precedent, I nonetheless caution that even in this final stage of capital proceedings, a meaningful process must be ensured.

Barwick v. State, 361 So. 3d 785, 796 (Fla. 2023) (Labarga, J., concurring), *cert. denied sub nom. Barwick v. Florida*, 143 S. Ct. 2452 (2023). Here, unlike in *Barwick*, the due process concern implicated is not simply due to the truncated warrant litigation timeline *itself*, but also the *state-imposed statutory limitations* on

undersigned counsel's ability to immediately access necessary resources (such as investigators and mental health experts) to develop/evaluate/present claims that either could not have been previously brought with due diligence or only ripened with the unexpected signing of Mr. Beasley's execution warrant.

As established in the preceding subsection, the 35 day warrant timeframe is insufficient to provide due process facially and as applied in the instant case. In addition, as an equal protection matter, the limitations on and lack of resources available to a defendant represented by Registry counsel in comparison to defendants represented by government funded capital collateral defense organizations places death-sentenced prisoners in the same posture—on death watch—differently without “some ground of difference that rationally explains the different treatment.” *Eisenstadt v. Baird*, 405 U.S. 438, 447 (1972). When two classes are created to receive different treatment by a state actor, the question is whether there is a rational basis for the different treatment. *Id.*; see also *McLaughlin v. Florida*, 379 U.S. 184, 191 (1964). The Fourteenth Amendment requires that distinctions in state criminal laws that impinge upon fundamental rights be strictly scrutinized. See, e.g., *Skinner v. Oklahoma*, 316 U.S. 535, 541 (1942). Capital defendants have a fundamental right to a reliable determination of their sentences. See *Lockett v. Ohio*, 438 U.S. 586, 604 (1978). In the vast majority of other scenarios that arise in criminal cases, the distinction between defendants represented by private court-appointed counsel and those represented by government entities such as the offices of public defenders or regional counsel is largely inconsequential. In death warrant scenarios, on the other

hand, when every available minute is critical, the differences in available time and resources of Registry counsel in comparison to Capital Collateral Regional counsel or Capital Habeas Unit counsel is extraordinary. Forcing private Registry counsel to work under the same minuscule litigation window as the government funded capital collateral defense organizations is a practice that lacks even a rational connection to any legitimate state interest. *See Dep't of Agric. v. Moreno*, 413 U.S. 528, 533 (1973).

Under the circumstances, the September 29, 2026, execution schedule deprives Mr. Beasley of his rights to due process, equal protection, effective assistance of counsel, and to be free from cruel or unusual punishment as guaranteed by the United States and Florida Constitutions. The question presented is, moreover, a question of great importance that will have far reaching effects in courts across the country. As set forth above, execution windows of 35 days or less have become the standard in Florida. That timeframe is significantly shorter than it customarily was in years past when Florida remained consistent with the 60 to 90 day timeframe followed in many other states. Granting certiorari to consider the question presented would provide much needed guidance to lower courts in Florida and in every other jurisdiction that still provides for a death penalty.

II. Florida's Conformity Clause Violates the Eighth Amendment and Deprives Defendants of Due Process

In 2002, Florida's constitution was amended in 2002 to add the "conformity clause," which states:

The prohibition against cruel or unusual punishment, and the prohibition against cruel and unusual punishment, shall be construed in conformity with decisions of the United States Supreme Court which interpret the prohibition against cruel and unusual punishment provided in the Eighth Amendment to the United States Constitution.

FLA. CONST., art. I, § 17. Florida appears to be the only state to adopt any such provision.

The Florida Supreme Court has since interpreted the conformity clause to "mean[] that the Supreme Court's interpretation of the Eighth Amendment is both the floor and the ceiling for protection from cruel and unusual punishment in Florida, and [the Florida Supreme] Court cannot interpret Florida's prohibition against cruel and unusual punishment to provide protection that the Supreme Court has decided is not afforded by the Eighth Amendment." *Barwick v. State*, 361 So. 3d 785, 794 (Fla. 2023). The Court has effectively precluded defendants from raising any Eighth Amendment claims unless the individual claim was directly and specifically addressed by this Court.

The Florida Supreme Court did just that in Mr. Beasley's case when it declined to address the age-based Eighth Amendment claim that Mr. Beasley asserted below. It did so in several other recent cases that raised similar Eighth Amendment claims. *See Smithers v. State*, 420 So. 3d 460, 464-66 (Fla. 2025); *Trotter v. State*, 428 So. 3d 68, 73-75 (Fla. 2026); *Spencer v. State*, 434 So. 3d 709, 718-19 (Fla. 2026); *Occhicone*

v. State, 436 So.3d 465, 474-75 (Fla. 2026). In Mr. Beasley’s case, the Florida Supreme Court invoked the conformity clause even when Mr. Beasley’s claim relied on a long line of holdings of this Court and when, furthermore, this Court has not addressed Mr. Beasley’s specific claim one way or the other.⁷

The Florida Supreme Court also recently relied on the conformity clause to dispense with proportionality review in death penalty cases, a review that the Florida Supreme Court had conducted as a matter of course in every death penalty direct appeal case for decades. *Lawrence v. State*, 308 So. 3d 544 (Fla. 2020). A majority of the Florida Supreme Court reasoned that, because this Court held that the Eighth Amendment did not *require* proportionality review, it could no longer conduct proportionality reviews. *Id.* at 550 *citing Pulley v. Harris*, 465 U.S. 37, 50-51 (1984). In so reasoning, the Florida Supreme Court provided “[n]or can we ignore our constitutional obligation to conform our precedent respecting the Florida Constitution’s prohibition against cruel and unusual punishment to the Supreme Court’s Eighth Amendment precedent by requiring a comparative proportionality review that the Supreme Court has held the Eighth Amendment does not.” *Id.* The Florida Supreme Court did not even consider the fact that this Court has never held that the Eighth Amendment prohibits proportionality review or that state courts are not free to conduct proportionality reviews on their own.

⁷ Mr. Beasley’s Eighth Amendment claim relied primarily on *Trop v. Dulles*, 356 U.S. 86 (1958); *Ford v. Wainwright*, 477 U.S. 399, 410 (1986); *Kennedy v. Louisiana*, 554 U.S. 407, 422-26 (2008); *Roper v. Simmons*, 543 U.S. 551, 564-67 (2005); and *Atkins v. Virginia*, 536 U.S. 304, 313-17 (2002).

The Florida Supreme Court’s interpretation of the conformity clause effectively prevents defendants from raising any Eighth Amendment claims that are not directly “on point” with a case decided by this Court. If any Eighth Amendment issue in a particular case differs in facts, seemingly even in minor details, from any case decided by this Court, the conformity clause precludes Florida courts from considering the claim. Just the same, unless a holding from this court applies verbatim to an Eighth Amendment claim raised in a Florida court, the conformity clause prohibits Florida courts from addressing it. For that reason, the conformity clause itself violates the Eighth Amendment because it virtually deprives defendants of the protection of the Eighth Amendment. Under the Florida Supreme Court’s interpretation of the clause, no future defendant in Florida can raise an Eighth Amendment claim unless a defendant in another state or in a federal jurisdiction first raises the same exact issue and litigates it all the way to this Court. That is because any defendant who brings an Eighth Amendment claim in Florida that has not already been addressed directly on point by this Court will see their claim denied in Florida courts on an independent and (purportedly) adequate state procedural ground – the conformity clause. As a result, no such Eighth Amendment claim will ever effectively see the light of a federal courtroom.

An additional and obvious upshot of the application of Florida’s conformity clause is that it deprives defendants of access to the courts and a right to be heard. As set out in the preceding section, the right to due process requires a meaningful opportunity to be heard before the deprivation of life or liberty. *See Mathews v.*

Eldridge, 424 U.S. 319, 333 (1976); *Cleveland Bd. of Ed. v. Loudermill*, 470 U.S. 532, 542 (1985) (quoting *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 313 (1950)). With respect to any Eighth Amendment claims in Florida, the conformity clause effectively prevents court from hearing any claim that was not directly addressed by this Court. Were Florida, for instance, to begin carrying out executions by drowning, rather than by lethal injection, defendants in Florida could not raise cruel and unusual punishment claims in response because this Court, to counsel's knowledge, has never expressly held that execution by drowning is cruel or unusual.

As set forth above, Florida's conformity clause violates the Eighth Amendment and the Fifth and Fourteenth Amendment rights to due process. When, in such instances, a state constitution conflicts with the United States Constitution, the Supremacy Clause mandates that the United States Constitution controls. *See Reynolds v. Sims*, 377 U.S. 533, 584 (1964); *Puerto Rico v. Branstad*, 483 U.S. 219, 228 (1987). This Court, accordingly, has well-established authority to intervene in such an instance when a state constitutional provision violates federal constitutional rights. *See e.g., Cook v. Gralike*, 531 U.S. 510 (2001) (addressing portions of the Missouri Constitution that lower courts found unconstitutional); *Rice v. Cayetano*, 528 U.S. 495 (2000) (finding a Hawaii's state constitutional provision unconstitutional); *Romer v. Evans*, 517 U.S. 620 (1996) (holding that a Colorado state constitutional amendment violated equal protection); *U.S. Term Limits, Inc., v. Thornton*, 514 U.S. 779 (1995) (holding that an amendment to the Arkansas state

constitution was unconstitutional); *Honda Motor Co. v. Oberg*, 512 U.S. 415 (1994) (holding that a provision of Oregon state constitution violated due process).

A. The Instant Question is One of Great Importance

As set forth above, the question at hand is one of great public importance that has not been addressed by this Court. Under Florida's interpretation of its conformity clause, Florida citizens are left with no redress to challenge Eighth Amendment violations perpetrated by the state unless the Eighth Amendment violation is directly on point, as a matter of law and fact, with a decision of this Court. While the execution by drowning example above may be an extreme example of an Eighth Amendment claim that would be barred by the conformity clause, it is one of countless claims that could arise in the future and which would be barred from being heard by a Florida court.

Even more critically, the Florida Legislature, which created the conformity clause at its inception, is not following the clause. Florida recently saw just such an example during its 2025 Senate Special Session B, when the Senate was discussing constitutionality of proposed SB 2-B which would mandate the death penalty for capital offenses committed by "unauthorized aliens." During that discussion, Florida Senator Randy Fine stated:

I'm not a judge and I'm not an attorney and I'm fully certain that someone will challenge this but I did read [*Woodson v. North Carolina*, 428 U.S. 280 (Fla. 1976)]....Who knows, and by the way this case was done in 1976, it's almost fifty years later, it would be fifty years by this time this gets to the Supreme Court. The Supreme Court changes its mind on things as we have seen in the time that many of us have been in the legislature. In fact in this legislature, we have chosen to pass things that we knew were unconstitutional at the time that we passed

them because we believed that the Supreme Court would change their mind and actually in both instances that I can recall, they did.”

See <https://thefloridachannel.org/videos/1-28-25-senate-special-session-b/> (34:06-34:48). The Florida Legislature went on to enact that bill. It was signed it into law on February 14, 2025. *See* FLA. STAT. § 921.1426.

Moreover, at present, Florida appears to be the only state with such a conformity clause in its constitution. Were, however, all the states to impose such a provision, it would effectively preclude any state Eighth Amendment claims from ever reaching this Court. The effect would nullify the protections of the Eighth Amendment. For those reasons, the question at issue is of the utmost importance.

B. Mr. Beasley’s Case Presents a Prime Opportunity for this Court to Address the Question Presented

The issue that the Florida Supreme Court found to be barred by the conformity clause was the question whether Mr. Beasley’s execution would be cruel and unusual as applied given that he is 77 years-old and is suffering from age-related cognitive decline. In recent months, Florida has executed a disturbing number of elderly inmates. So far in 2026 alone, it has executed six inmates who are age 70 or older. *See Trotter*, 428 So. 3d 68 (72 years-old); *Hitchcock v. State*, 431 So. 3d 514 (2026) (70 years-old); *Spencer*, 434 So. 3d 709 (74 years-old); *Sochor v. State*, 434 So. 3d 1251 (Fla. 2026) (74 years-old); *Occhicone*, 436 So.3d 465 (80 years-old); *see also* <https://www.usatoday.com/story/news/nation/2026/09/01/harold-gene-lucas-execution-florida-jill-piper/91566709007/> (reporting the execution of 74 year-old Harold Lucas on Sep. 1, 2026). Mr. Beasley, similarly, is 77 years old and, within the

current year, has begun suffering brain fog, has high risk factors for vascular dementia, and appears to suffer from other age related cognitive decline. Since the Governor signed Mr. Beasley's death warrant, Florida has signed two more death warrants, one for 77 year-old William Reaves, Jr., and the other for 74 year-old William Lee Thompson, who apparently has been undergoing the equivalent of hospice care.⁸

Florida's current trend of executing elderly inmates is truly unsettling. Not only is it unsettling, but it also sets Florida apart from every sovereign that still allows for the death penalty. Of 1679 executions that have taken place since executions resumed in the United States in 1977, only 20 individuals over the age of 70 have been executed.⁹ Of the only 20 age-70 plus inmates, only 6 of those inmates were aged 77 or older. *Id.* And as set forth above, of the 20 executions of aged 70+ inmates that occurred in the last nearly half of century, 6 took place in Florida *this year*. Two more are currently scheduled.

In contrast to other similar claims that Florida found to be barred by the conformity clause, Mr. Beasley's Eighth Amendment claim relied on newly discovered

⁸See *Florida sets execution date for man who shot deputy in the back nearly 40 years ago*, avail. at <https://www.msn.com/en-us/news/other/florida-sets-execution-date-for-man-who-shot-deputy-in-the-back-nearly-40-years-ago/ar-AA2cIToP>; *Attorneys for William Thompson File Motion with Florida Supreme Court Demanding Emergency Medical Treatment for Their 74 year-old Terminally Ill Client Facing Execution*, avail at: <https://www.fadp.org/attorneys-for-william-thompson-file-motion-with-florida-supreme-court-demanding-emergency-medical-treatment-for-their-74-year-old-terminally-ill-client-facing-execution/>.

⁹ <https://deathpenaltyinfo.org/facts-and-research/data/executions> (accessed Sep. 16, 2026).

evidence of his cognitive decline. He set out that, on September 3, 2026, Dr. Allison Tarbox, Psy.D, met with and evaluated Mr. Beasley. In the testing she was able to complete, she determined that Mr. Beasley suffers from depression, reported experiencing brain fog since approximately March 2026, performed in the low average range for verbal reasoning, and exhibited high risk factors for vascular dementia. Due, however, to delay in Mr. Beasley being transported by wheelchair, lack of sufficient time, and fatigue of Mr. Beasley, she was not able to complete the full battery of testing that she intended to complete on that date. Mr. Beasley set out in the motion that he was not simply asking the court to impose an age based cut-off for the execution of the elderly, but rather to consider on a case-by-case basis whether the execution would be cruel and unusual based on the defendant's age and corresponding physical and mental state.

The state circuit court specifically held that the ground was “neither untimely nor procedurally barred” because it relied on evidence that had surfaced in March 2026 and that Mr. Beasley would not have had a basis to file the ground in a post-conviction motion prior to that time. The Florida Supreme Court did not disturb that finding on appeal. Neither court effectively reached the merits of the ground as result of the conformity clause. Furthermore, both courts denied a stay of execution despite being advised of the fact that the mental health expert was not able to complete the full battery of testing needed to assess Mr. Beasley's cognitive decline. Under the circumstances, the instant case is an ideal case for the Court to consider the question

presented because the underlying issue was not untimely nor procedurally barred by anything other than the conformity clause.

III. Executing Mr. Beasley Despite a Non-Unanimous Jury Verdict Would Violate the Fifth, Sixth, and Eighth Amendments

Mr. Beasley was sentenced to death on a non-unanimous jury verdict. When this Court decided *Hurst v. Florida*, 577 U.S. 92 (2016), and the Florida Supreme Court then decided *Hurst v. State*, 202 So. 3d 40 (Fla. 2016),¹⁰ numerous other similarly situated defendants received new penalty phases. Mr. Beasley did not. He was deprived of the same relief granted to many other defendants sentenced to death from non-unanimous jury verdicts based solely on a legal line in the sand that was drawn from the date of the June 24, 2002 decision in *Ring v. Arizona*, 536 U.S. 584 (2002).

Permitting a death sentence on a nonunanimous advisory jury verdict violates the Sixth Amendment rights to a jury trial and the Eighth Amendment proscriptions against cruel and unusual punishment. The requirement of jury unanimity existed at common law and was a requirement of English juries long before our Nation's founding. *See* 2 W. Blackstone, Commentaries on the Laws of England 343 (1769). As the Court has recognized, unanimous juries likewise played an exclusive role in capital decisions at and after the Nation's founding. *See Woodson v. North Carolina*, 428 U.S. 280, 289-93 (1976). The Court observed, for instance, that at "least since the Revolution, American jurors have, with some regularity, disregarded their oaths

¹⁰ *Overruled by State v. Poole*, 297 So. 3d 487, 507 (Fla. 2020).

and refused to convict defendants where a death sentence was the automatic consequence of a guilty verdict.” *Id.* at 293. Juries’ refusals to return verdicts of guilty to avoid the consequence of execution drove the movement behind reducing “the number of capital offenses and to separate murder into degrees.” *Id.*

In 2016, this Court struck down Florida’s capital sentencing scheme as unconstitutional in *Hurst, supra*, 577 U.S. 92. The Court specifically found that Florida’s scheme violated the Sixth Amendment because it placed the role of finding facts necessary to support a death sentence in the hands of the trial court, rather than in the hands of the jury. It reached that conclusion based on the fact that “Florida does not require the jury to make critical findings necessary to impose the death penalty,” but rather, “requires a judge to find these facts.” *Id.* Accordingly, the Court ruled that Florida’s capital sentencing scheme violated the Sixth Amendment. *Id.* at 6.

In the wake of *Hurst v. Florida*, the Florida Supreme Court ruled in *Hurst v. State, supra*, 202 So. 3d 40, that the Eighth Amendment requires that, for a death sentence to be imposed, the jury must make unanimous findings 1) as to each aggravating factor, 2) that those aggravating factors are sufficient to impose the death penalty, 3) that those aggravating factors outweigh the mitigating factors, and 4) that the death penalty should be imposed. *Id.* at 52-58. The Court further held that the jury must make those unanimous findings of fact beyond a reasonable doubt. *Id.*

In 2020, however, the Florida Supreme Court reversed course and held in *State v. Poole*, *supra*, 297 So. 3d 487, that *Hurst v. State* was wrongly decided in requiring unanimity as to the ultimate question of life or death.

Less than three weeks after *Poole*, this Court issued its decision in *Ramos v. Louisiana*, 590 U.S. 83 (2020). The Court provided in *Ramos* that the understanding of the Framers who adopted the Sixth Amendment’s guarantee of trial by an “impartial jury” was that “[a] jury must reach a unanimous verdict in order to convict.” That basic principle existed in the common law, state practices in the founding era, and opinions and treatises written soon after the Amendment’s adoption. *Id.* at 89-92. Building on that foundation, the Court “has, repeatedly and over many years, recognized that the Sixth Amendment requires unanimity.” *Id.* at 92. The practice of allowing non-unanimous jury verdicts in cases charging serious crimes persisted in two states only because, in *Apodaca v. Oregon*, 406 U.S. 404 (1972), a Court divided on federalism grounds declined to impose the Sixth Amendment’s unanimity guarantee on the states. *Ramos*, 590 U.S. at 94-95. The *Ramos* Court thereby abrogated *Apodaca* and reversed the state court decision upholding Ramos’s conviction. *Id.* at 106-11.

Ramos and *Hurst v. Florida* vitiated the Court’s earlier reasoning in two cases that previously upheld Florida’s original non-unanimous sentencing scheme, *Spaziano v. Florida*, 468 U.S. 447 (1984), and *Hildwin v. Florida*, 490 U.S. 638, 640-41 (1989). *Hurst* explicitly overruled the holdings in those cases. *Hurst*, 577 U.S. at 101 (quoting *Hildwin* and citing *Spaziano*). The *Hurst v. Florida* opinion now makes

clear that the Sixth Amendment *does* require the jury to make the findings necessary to impose a sentence of death. The *Ramos* opinion then makes further clear that the Sixth Amendment right to jury trial incorporates a unanimous jury determination.

The Florida Supreme Court has since found that *Ramos* does not impact its holding in *Poole* because it reasoned that a Florida capital jury's sentencing recommendation is not the equivalent of a verdict but that its finding of the existence of an aggravating factor is. *Hunt v. State*, 428 So. 3d 43, 54 (Fla. 2025). The finding of an aggravating factor, in turn, must be unanimous pursuant to the Florida Supreme Court's reasoning. *Id.* No such unanimous findings were made in Mr. Beasley's case. Instead, after being instructed that its decision was advisory, the jury rendered a non-unanimous, generalized recommendation that the judge sentence Mr. Beasley to death. The record does not reveal whether the jurors unanimously agreed that any particular aggravating factor had been proven beyond a reasonable doubt, or unanimously agreed that the aggravators were sufficient for death, or unanimously agreed that the aggravators outweighed the mitigation. But the record *is* clear that the jurors were not unanimous as to whether the death penalty should even be recommended to the circuit court. The penalty phase jury did not make *any* unanimous findings whatsoever. For that reason, the protections of the Fifth, Sixth, and Eighth Amendments must prohibit Mr. Beasley from being executed.

The instant case is certainly one of great importance. Aside from Florida, every state that retains the death penalty, except Alabama, requires a unanimous jury

recommendation for death as a precondition for a death sentence. *See* ALA. CODE § 13A-5-46(f). However, Florida's current 8-4 standard is still significantly lower than Alabama's 10-2 standard. *Id.* Both historical traditions at the time of the Nation's founding as well as evolving standards of decency indicate that Florida's persistence in allowing non-unanimous capital sentencing verdicts is unconstitutional. Because, in this particular case, the jury made no unanimous findings whatsoever in its penalty phase verdict, the instant case is an ideal procedural vehicle for the Court to take up the question presented.

IV.

Florida's Death Warrant Selection and Signing Procedure Results in the Arbitrary and Capricious Implementation of the Death Penalty in Violation of the Eighth Amendment and Deprives Defendants of Due Process as Guaranteed Under the Fifth and Fourteenth Amendments

Under Florida's capital punishment scheme, the Governor has unfettered discretion to decide when and against whom a death warrant will issue. The Governor, furthermore, is not required to supply the public or the condemned defendant with any reasons as to why he chose a particular defendant to die. Given the absolute lack of standards or checks and balances imposed on the Governor in making this most vital and irreversible of decisions, Florida's death warrant execution process results in the arbitrary and capricious implementation of death sentences in violation of the Eighth Amendment's proscription against cruel and unusual punishment and deprives defendants' of their rights to due process of law as guaranteed under the Fifth and Fourteenth Amendments.

Aside from Florida, Pennsylvania is the only other state that vests the power to carry out a death sentence solely in the hands of the Governor.¹¹ That power is largely futile, however because Pennsylvania is under a death penalty moratorium and has not carried out a death sentence in 25 years. *Id.* In the remaining states, as well as in the federal jurisdiction, the power typically rests with some entity of the judicial branch, be it the trial court or the high appeal court.¹²

At present, 235 inmates are serving on Florida's death row. <https://pubapps.fdc.myflorida.com/OffenderSearch/deathrowroster.aspx> (accessed Sep. 24, 2026.) Furthermore, of those, approximately 107 inmates have been serving on Florida's death row for longer than Mr. Beasley has. Many of those inmates have been serving on death row since the 1970s or 1980s. *Id.* Yet, for reasons unknown, the Governor selected Mr. Beasley for execution out of those many individuals despite the facts that his case is far younger than many of those cases, involved far fewer aggravating factors than many of those cases, and involved substantial mitigating circumstances. Whatever the reason, the fact remains that Florida's death penalty scheme affords the Governor with blanket, unquestionable authority to choose who lives and who dies among those many individuals on death row. That unchecked authority, both on its face and as applied in this case, is unconstitutional.

¹¹

http://web.archive.org/web/20040803215634/http://www.cor.state.pa.us/portal/lib/portal/Warrants_by_Governor.pdf, http://www.deathpenaltyinfo.org/state_by_state

¹² Kentucky apparently employs a hybrid system that allows for an execution date to be set by the governor or by order of the court. KY. REV. STAT. §§ 431.218, 431.240.

A. The Eighth Amendment Violation

When this Court struck down the death penalty in *Furman v. Georgia*, 408 U.S. 238, 92 S.Ct 2726 (1972), a consistent holding among the five justices voting in the majority was that any capital sentencing system that results in the arbitrary and capricious imposition of death sentences violates the Eighth and Fourteenth Amendments. In his *Furman* concurrence, Justice Brennan, for instance, wrote:

In determining whether a punishment comports with human dignity, we are aided also by a second principle inherent in the Clause--that the State must not arbitrarily inflict a severe punishment. This principle derives from the notion that the State does not respect human dignity when, without reason, it inflicts upon some people a severe punishment that it does not inflict upon others. Indeed, the very words "cruel and unusual punishments" imply condemnation of the arbitrary infliction of severe punishments. And, as we now know, the English history of the Clause reveals a particular concern with the establishment of a safeguard against arbitrary punishments. See Granucci, *Nor Cruel and Unusual Punishments Inflicted: The Original Meaning*, 57 CALIF. L. REV. 839, 857-860 (1969).

Furman, 408 U.S. at 274 (Brennan, J., concurring) (footnote omitted). Justice Stewart similarly held:

These death sentences are cruel and unusual in the same way that being struck by lightning is cruel and unusual. For, of all the people convicted of rapes and murders in 1967 and 1968, many just as reprehensible as these, the petitioners are among a capriciously selected random handful upon whom the sentence of death has in fact been imposed. My concurring Brothers have demonstrated that, if any basis can be discerned for the selection of these few to be sentenced to die, it is the constitutionally impermissible basis of race. *See McLaughlin v. Florida*, 379 U.S. 184, 85 S. Ct. 283, 13 L.Ed.2d 222. But racial discrimination has not been proved, and I put it to one side. I simply conclude that the Eighth and Fourteenth Amendments cannot tolerate the infliction of a sentence of death under legal systems that permit this unique penalty to be so wantonly and so freakishly imposed.

Furman, 408 U.S. at 309-10 (Stewart, J., concurring)(footnotes omitted); *See also Furman*, 408 U.S. at 253 (Douglas, J., concurring) (...“we deal with a system of law and of justice that leaves to the uncontrolled discretion of judges or juries the determination whether defendants committing these crimes should die or be imprisoned. Under these laws no standards govern the selection of the penalty. People live or die, dependent on the whim of one man.”); *Furman*, 408 U.S. at 313 (White, J., concurring) (“there is no meaningful basis for distinguishing the few cases in which it is imposed from the many cases in which it is not”). Justice Marshall went many steps further than his fellow concurring justices by tracing the long history of capital punishment and condemning the capital punishment system on many fronts. In doing so, however, he noted the discriminatory nature by which the death penalty was being imposed. *Furman*, 408 U.S. at 365-66 (Marshall, J., concurring).

Florida’s lack of any tangible death warrant issuance protocol causes the same arbitrary and capricious implementation of the death penalty that led this Court to strike down capital punishment decades ago in *Furman*. In the end, it remains a mystery why Mr. Beasley was chosen to be executed over the many other “warrant ready” defendants. One must, however, forgo logic and reason to come up with any legitimate reason why Mr. Beasley’s case would be chosen over the plethora of cases that are many years older than Mr. Beasley’s and which, more importantly, involve more aggravating factors and far fewer mitigating circumstances. As this case clearly demonstrates, the lack of protocol governing the death warrant selection process results in the arbitrary and capricious implementation of the death penalty.

B. The Due Process Violations

In addition to violating the Eighth and Fourteenth Amendments, the lack of death warrant selection protocol violates the state and federal constitutional rights to due process. Notwithstanding the death warrant protocol as applied in the instant case as discussed in the preceding section, the death warrant selection process violates due process on its face because it affords condemned defendants no explanation whatsoever for their selection to die and, likewise, permits no avenue for a defendant to challenge an arbitrary and capricious enforcement of a death warrant.

As Justice Stevens found in a partial concurring opinion to *Woodard*:

...death is a different kind of punishment from any other which may be imposed in this country. From the point of view of the defendant, it is different in both its severity and its finality. From the point of view of society, the action of the sovereign in taking the life of one of its citizens also differs dramatically from any other legitimate state action. It is of vital importance to the defendant and to the community that any decision to impose the death sentence be, and appear to be, based on reason rather than caprice or emotion.” *Gardner v. Florida*, 430 U.S. 349, 357–358, 97 S.Ct. 1197, 1204, 51 L.Ed.2d 393 (1977) (citations omitted) (plurality opinion). Those considerations apply with special force to the final stage of the decisional process that precedes an official deprivation of life.

Ohio Adult Parole Board v. Woodard, 523 U.S. 272, 293-94 (1998) (Stevens, J., concurring in part, dissenting in part). In addressing the due process requirements applicable to capital clemency proceedings, this Court found in *Woodard* that a lesser standard of due process care attached in a clemency proceeding, but nevertheless held that some degree of due process protection must still be afforded. *Ohio Adult Parole Board v. Woodard*, 523 U.S. 272 (1998). In so holding, the Court recognized that, even though a capital defendant has been sentenced, he or she still “maintains a

residual life interest in not being summarily executed by prison guards.” *Id.* at 281. The *Woodard* case that led to that holding did not, however, involve a defendant who had not had a full opportunity to litigate post-conviction claims, but rather, a defendant who merely sought clemency relief. The reasoning of *Woodard* nonetheless applies with equal force to a defendant being chosen for a death warrant. To be sure, given that Florida is unique in allowing for the Governor to choose who will be executed, the *Woodard* court likely did not even contemplate its holding’s impact on Florida’s capital sentencing scheme. In the end, because the current death warrant protocol affords no due process protections whatsoever, it is unconstitutional on its face.

C. The Need for the Court to Address the Question Presented

As set forth above, the death warrant issuance process in Florida results in the arbitrary and capricious implementation of death sentences and can deprive a condemned defendant of due process to fully litigate meritorious claims. The current Governor of Florida has issued death warrants at a pace never before seen in any state in recent times. A review of the cases chosen for the issuance of a death warrant in recent years particularly establishes that no pattern exists as to how or why particular death sentences are chosen to be carried out over others. Perhaps the only discernable pattern is the insistence on executing elderly inmates who are already at the end of their lives. Furthermore, as set forth above, among the states that continue to carry out death sentences, Florida is essentially alone in its unique and grotesque method of selecting cases for issuance of a death warrant.

Based on the constitutional errors that Florida's system creates, the uniqueness of Florida's system among the many states, and ever-increasing frequency by which Florida is carrying out death sentences, the instant question is ripe for review by this Court. For the many reasons set forth above the question presented in this Petition is "an important question of federal law that has not been, but should be, settled by this Court." SUP. CT. R. 10(c).

CONCLUSION

Based on the foregoing, the Petitioner, Curtis W. Beasley, respectfully requests that this Honorable Court issue a stay of his execution and grant this petition for a writ of certiorari.

Respectfully Submitted on this 24th day of September 2026,

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