

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

CURTIS W. BEASLEY,

Petitioner,

v.

SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS

Respondent,

ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF
APPEALS FOR THE ELEVENTH CIRCUIT

PETITION FOR A WRIT OF CERTIORARI

CAPITAL CASE

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CAPITAL CASE
QUESTIONS PRESENTED

I.

Whether newly discovered evidence can support extraordinary circumstances to reopen a habeas corpus petition under Federal Rule of Civil Procedure 60(b)(6) when the newly discovered evidence arises more than one year after the judgment on the underlying habeas corpus petition?

II.

Whether the execution of the Petitioner, who is 77 years-old and suffering from corresponding cognitive decline, would be cruel and unusual punishment in violation of the Eighth Amendment?

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.

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.

District Court Denial of Motion to Reopen Habeas Corpus Proceedings and Motion to Stay Execution:

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 September 24, 2026.

Denial of Application for Certificate of Appealability and Motion to Stay Execution:

Beasley v. Secretary, Florida DOC, et al, No. 26-13446-P (11th Cir. 2026), United States Court of Appeals for the 11th Circuit, decided September 25, 2026.

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OPINION BELOW

The United States Court of Appeals for the Eleventh Circuit entered an order denying a certificate of appealability in the instant case on September 25, 2026 in an unpublished opinion, *Curtis W. Beasley v. Secretary, Florida Department of Corrections*, No. 26-13446-P (11th Cir. 2026), which is attached hereto as Appendix A. The Petitioner, Curtis Beasley, who is under an impending sentence of death in the State of Florida, sought a certificate of appealability from the Eleventh Circuit concerning the denial of his Motion for Relief from Judgment and Sentence of Death Pursuant to Federal Rule of Civil Procedure 60(b), by the United States District Court for the Middle District of Florida. The district court's order denying the motion is attached as Appendix B.

GROUND FOR JURISDICTION

The United States Court of Appeals for the Eleventh Circuit issued its panel opinion September 25, 2026. *See* Appendix A. Petitioner Beasley, thereby, seeks the jurisdiction of this Court pursuant to 28 U.S.C. § 1254(1) through the filing of the instant petition for writ of certiorari.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

U.S. CONST. amend. VIII:

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

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Federal Rule of Civil Procedure 60(b)-(c):

Relief From a Judgment or Order

...(b) Grounds for Relief from a Final Judgment, Order, or Proceeding. On motion and just terms, the court may relieve a party or its legal representative from a final judgment, order, or proceeding for the following reasons:

- (1) mistake, inadvertence, surprise, or excusable neglect;
- (2) newly discovered evidence that, with reasonable diligence, could not have been discovered in time to move for a new trial under Rule 59(b);
- (3) fraud (whether previously called intrinsic or extrinsic), misrepresentation, or misconduct by an opposing party;
- (4) the judgment is void;
- (5) the judgment has been satisfied, released, or discharged; it is based on an earlier judgment that has been reversed or vacated; or applying it prospectively is no longer equitable; or
- (6) any other reason that justifies relief.

(c) Timing and Effect of the Motion.

(1) Timing. A motion under Rule 60(b) must be made within a reasonable time--and for reasons (1), (2), and (3) no more than a year after the entry of the judgment or order or the date of the proceeding.

(2) Effect on Finality. The motion does not affect the judgment's finality or suspend its operation.

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.) The Ground Three claim included the following subclaims: (A) there was insufficient evidence to support the aggravating factor of heinous, atrocious or cruel (HAC); (B) there was insufficient evidence to support the aggravating factor of during the course of a robbery and/or for pecuniary gain; (C) mitigation evidence was erroneously rejected; (D) the death sentence is disproportionate to other Florida cases; and (E) Florida's method of execution violates the Eighth Amendment's prohibition against cruel and unusual punishment. *Id.* at 71.

On March 29, 2010, the district court summarily denied all grounds and declined to issue a certificate of appealability. With respect to the Eighth Amendment claim, the court found it to be facially insufficient. *Id.* at 84. The court went on to state "Beasley's claim challenging the constitutionality of his death sentence, must be denied, as he raises no exhausted federal constitutional issue on

any of the subclaims raised.” *Id.* at 85. The court did not address the merits of the grounds. *Id.* at 85.

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).

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

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.

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.

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. He sought to proceed under Rule 60(b)(2) or, in the alternative, Rule 60(b)(6).

The district court denied that motion on September 24, 2026. App. B. It also declined to issue a certificate of appealability. The district court held that the motion was untimely if it must proceed under Rule 60(b)(2) because it was filed more than one year after the underlying section 2254 judgment was entered. *Id.* at 2-3. The

court found that no exception has been recognized to the Rule 60(b)(2) time limitation for newly discovered evidence that is discovered more than one year after a judgment becomes final. *Id.* at 2-3.

The court then found that “a movant’s eligibility to proceed under any of the first five provisions, Rule 60(b)(1)-(5), precludes his proceeding under the ‘catch-all’ provision in Rule 60(b)(6)...” *Id.* at 3 *citing BLOK Bank SAL v. Honickman*, 605 U.S. 204, 211 (2025). The court quoted *Honickman* as follows:

Rule 60(b)(6) is a catchall that follows paragraphs (1) through (5). It covers “any other reason” that justifies relief; that is, Rule 60(b)(6) provides only grounds for relief not already covered by the preceding five paragraphs. Were it otherwise, the catchall provision could swallow the preceding paragraphs and “b[e] used to circumvent” their time bars. *Liljeberg v. Health Services Acquisition Corp.*, 486 U.S. 847, 863, n. 11, 108 S. Ct. 2194, 100 L. Ed. 2d 855 (1988). Such a broad interpretation of Rule 60(b)(6) would thus violate a “cardinal principle of statutory construction” by making the preceding paragraphs and their limitations periods “superfluous.” *Duncan v. Walker*, 533 U.S. 167, 174, 121 S. Ct. 2120, 150 L. Ed. 2d 251 (2001) (internal quotation marks omitted). . . .

Id. at 3 *quoting id and citing Kemp v. United States*, 596 U.S. 528, 533 (2022). The court went on to hold that the newly discovered evidence at issue would not constitute an extraordinary circumstance because “Beasley cites no case that extends the holdings in *Ford* [*v. Wainwright*, 477 U.S. 399, 410 (1986)], *Atkins* [*v. Virginia*, 536 U.S. 304 (2002)], or *Roper* [*v. Simmons*, 543 U.S. 551 (2005)], to a person with ‘age-related cognitive decline’ and this district court is disinclined to establish such an extension.” *Id.* at 4.

On September 25, 2026, Mr. Beasley submitted an application for a certificate of appealability and a motion to stay execution in the United States Court of Appeals

for the Eleventh Circuit. Later that day, the Eleventh Circuit denied the application and motion, stating in relevant part:

Under the Antiterrorism and Effective Death Penalty Act of 1996, we may not issue a certificate of appealability unless we determine that “the applicant has made a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c). Beasley’s argument that his execution would violate the Eighth Amendment because he is 77 years old, “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” does not meet that standard. Although the district court likely erred in denying Beasley’s motion instead of dismissing it as second or successive, see 28 U.S.C. § 2244(b); *Gonzalez v. Crosby*, 545 U.S. 524, 530–32 (2005); *Osbourne v. Sec’y, Fla. Dep’t of Corr.*, 968 F.3d 1261, 1264 (11th Cir. 2020), Beasley nevertheless has not made a substantial showing of the denial of a constitutional right. We therefore DENY the application for a certificate of appealability and DENY the motion for stay of execution as moot.

App. A. at 2.

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

This Petition follows.

REASONS FOR GRANTING THE PETITION

I. Federal Rule of Civil Procedure 60(b)(6) Must be Available to Raise Grounds that Stem from Newly Discovered Evidence that Arises More Than One Year After an Underlying Judgment Issued

The lower courts held in this case that newly discovered evidence that arises more than year after a habeas corpus judgment is categorically barred from being raised under Rule 60(b)(6). As a result, when, as here, newly discovered evidence does not exist within one from the time a habeas corpus judgment is entered, but develops sometime thereafter, it is effectively useless to a defendant who is confined in state custody. Such a holding results in a manifest injustice.

Rule 60(b) as a whole “vests wide discretion in courts,” but the “catchall” provision of Rule 60(b)(6) “is available only in ‘extraordinary circumstances.’” *Buck v. Davis*, 580 U.S. 100, 123 (2017). “In determining whether extraordinary circumstances are present, a court may consider a wide range of factors. These may include, in an appropriate case, ‘the risk of injustice to the parties’ and ‘the risk of undermining the public’s confidence in the judicial process.’” *Id. quoting Liljeberg v. Health Services Acquisition Corp.*, 486 U.S. 847, 864 (1988).

The district court below, relying on *BLOK Bank SAL v. Honickman*, 605 U.S. 204, 211 (2025), *Kemp v. United States*, 596 U.S. 528, 533 (2022), and *Liljeberg*, found that newly discovered evidence categorically cannot qualify as an extraordinary circumstance under Rule 60(b)(6). The district court seemingly read those holdings too broadly when it reached that conclusion. None of the three cases involved, as here, newly discovered evidence that did not exist within one year of the underlying

judgment becoming final. *See Honickman*, 605 U.S. at 208-09 (addressing a request to amend a dismissed complaint based on a new holding of the court of appeals); *Kemp*, 596 U.S. at 531-32 (raising an alleged judicial “mistake” in the underlying judgment); and *Liljeberg*, 486 U.S. at 851-52 (raising question of whether the trial judge should have recused himself in the underlying case based on an alleged conflict of interest that would have existed at the time). The scenario of newly discovered evidence that did not exist within one year of the underlying judgment does not fit within the reasoning of *Honickman*, *Kemp*, and *Liljeberg*.

The Court in *Honickman*, *Kemp*, and *Liljeberg* relied on the fact that using Rule 60(b)(6) when other provisions of Rule 60 apply would allow petitioners to circumvent the Rule 60(b)(1)-(5) time bars. That concern does not exist, however, when evidence is newly discovered, could not have been discovered earlier with the exercise of due diligence, and is then relied on under Rule 60(b) within one year of its discovery. To illustrate, in *Kemp*, the petitioner sought to reopen a section 2255 case approximately two years after the judgment was entered. *Id.* The basis for his Rule 60 motion was an alleged judicial “mistake” in the judgment. *Id.* at 531-32. The petitioner raised the ground under Rule 60(b)(6). *Id.* The Court ultimately found that Rule 60(b)(1) controlled and that the claim was thereby subject to a one year limitation period. *Id.* at 539. In *Kemp*, because the alleged “mistake” in the judgment existed from the day the judgment was entered, the Court’s conclusion made good sense.

Liljeberg, which *Kemp* relied on, further exemplified the Court’s reasoning:

In *Klapprott v. United States*, 335 U.S. 601, 613 (1949), we held that a party may “not avail himself of the broad ‘any other reason’ clause of 60(b)” if his motion is based on grounds specified in clause (1)—“mistake, inadvertence, surprise or excusable neglect.” Rather, “extraordinary circumstances” are required to bring the motion within the “other reason” language and to prevent clause (6) from being used to circumvent the 1-year limitations period that applies to clause (1). This logic, of course, extends beyond clause (1) and suggests that clause (6) and clauses (1) through (5) are mutually exclusive. See 11 C. Wright & A. Miller, *Federal Practice and Procedure* § 2864 (1973). We conclude that the basis for relief in this case is extraordinary and that the motion was thus proper under clause (6)...Of particular importance, this is not a case involving neglect or lack of due diligence by respondent.

Id.

The reasoning of *Honickman*, *Kemp*, and *Liljeberg* is certainly logical when applied to evidence that was available and should have been known to petitioners within one year of the underlying judgment. That was not the situation in the instant case. The holdings of *Honickman*, *Kemp*, and *Liljeberg* clearly apply to scenarios in which a petitioner may seek to circumvent the time limitations of Rules 60(b)(1)-(5). That same reasoning would not, on the other hand, extend to the situation at issue, where the facts giving rise to the extraordinary circumstances did not exist within one year after the time of judgment. Holding otherwise would prohibit newly discovered evidence from ever qualifying as extraordinary circumstances. Such a holding creates an absurd result.

Given that the lower courts’ holdings would bar habeas corpus petitioners from ever relying on newly discovered evidence, the question presented is one of great importance that will likely arise frequently in lower courts in the future. To be sure, Rule 60(b)(6) already saddles defendants with the high burden of proving

extraordinary circumstances. The rule, quite clearly, is intended to apply sparingly and only in extraordinary situations. When newly discovered evidence would qualify as an extraordinary circumstance, it follows that the evidence is significant enough to warrant reopening of a case even in spite of otherwise rigorous procedural bars. Justice is surely not served when a defendant is precluded from relying on such substantial evidence merely because it did not exist until more than one year after a judgment was issued. When extraordinary circumstances exist to warrant the reopening of a case under Rule 60, a defendant must be permitted a new one year limitation period to raise that evidence under Rule 60(b)(6). Granting certiorari to consider the question presented would therefore provide much needed guidance to district courts and courts of appeal on a question of great importance.

II. The Execution of Mr. Beasley, at the Age of 77 Years-old and While Suffering Corresponding Cognitive Decline, Would Violate the Eighth Amendment

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 v. State*, 428 So. 3d 68 (Fla. 2026) (72 years-old); *Hitchcock v. State*, 431 So. 3d 514 (2026) (70 years-old); *Spencer v. State*, 434 So. 3d 709 (Fla. 2026) (74 years-old); *Sochor v. State*, 434 So. 3d 1251 (Fla. 2026) (74 years-old); *Occhicone v. State*, 436 So. 3d 465, 474-75 (Fla. 2026) (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 as discussed in greater detail below. 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.²

²*See 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/>.

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.³ 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.

When viewed in comparison to the implementation of the death penalty among the rest of the world, the execution of a person in Mr. Beasley's condition would be an even greater anomaly. Of the 195 nations in the world, only 88 still technically provide for the death penalty. <https://www.worlddata.info/deathpenalty.php>. Of those, 23 have abolished the death penalty in practice. *Id.* Of the remaining nations, only 22 have carried out a death sentence within the last five years. *Id.* None of those nations are Western, industrialized nations. *Id.* And of the nations that still provide for a death penalty, at least 13 impose an upper age restriction on executions.⁴ The only European country that still has an active death penalty, Belarus, prohibits the

³ <https://deathpenaltyinfo.org/facts-and-research/data/executions> (accessed Sep. 27, 2026).

⁴ *Personnes âgées*, Cornell Law School, Cornell Center on the Death Penalty Worldwide (Dec. 10, 2011) avail at: <https://dpw.lawschool.cornell.edu/fr/publication/elderly/?version=html> (accessed Sep. 27, 2026)

execution of inmates over 65 years-old.⁵ The American Convention on Human Rights similarly precludes the imposition of the death penalty on offenders over the age of 70.⁶ For those reasons, the execution of a person of Mr. Beasley’s age and in his current mental state would be clearly contrary to the evolving standards of decency underlying the Eighth Amendment. It would simply be cruel and unusual.

This Court has long recognized that “[t]he basic concept underlying the Eighth Amendment is nothing less than the dignity of man.... The Amendment must draw its meaning from the evolving standards of decency that mark the progress of a maturing society.” *Trop v. Dulles*, 356 U.S. 86, 100-01 (1958). It has relied, in part, on evidence of consensus, or trends toward consensus, in announcing categorical exclusions from death-eligibility. *See Kennedy v. Louisiana*, 554 U.S. 407, 422-26 (2008); *Roper v. Simmons*, 543 U.S. 551, 564-67 (2005); *Atkins v. Virginia*, 536 U.S. 304, 313-17 (2002).

Florida recognizes an “elderly person” as “a person 60 years of age or older who is suffering from the infirmities of aging as manifested by advanced age or organic brain damage, or other physical, mental, or emotional dysfunctioning, to the extent

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<https://efaidnbmnnnibpcajpcglclefindmkaj/https://www.ohchr.org/sites/default/files/s/ubm-sgs-question-death-cso-belarusian-helsinki-committee.pdf> (accessed Sep. 27, 2026.); *The death penalty in Belarus: Europe's last executioner*, Monash University (Aug. 1, 2024) avail at: <https://www.monash.edu/law/research/eleos/blog/eleos-justice-blog-posts/death-penalty-in-belarus-europes-last-executioner> (accessed Sep. 27, 2026).

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efaidnbmnnnibpcajpcglclefindmkaj/https://www.oas.org/en/iachr/mandate/basics/3.american%20convention.pdf (accessed Sep. 16, 2026).

that the ability of the person to provide adequately for the person's own care or protection is impaired." FLA. STAT. § 825.101(4). Mr. Beasley is 17 years older than the age at which he could be deemed elderly. He, furthermore, suffers from "the infirmities of aging as manifested by advanced age or other physical, mental, or emotional dysfunctioning." As discussed above, a psychologist recently determined that Mr. Beasley uncovered clear signs of age-related cognitive decline. Moreover, due to delays and restrictions out of her and Mr. Beasley's control, she was not able to complete the full battery of testing that she intended to complete. Indeed, it is highly likely under the circumstances that further testing would reveal additional evidence of cognitive decline.

In addition, in recent months, while serving on death row, Mr. Beasley has needed the assistance of a wheelchair to move beyond very short distances. To be sure, inmates on death row are rarely, if ever, permitted to move any further than what one would reasonably consider to be a short distance, as they are confined within one death row building. Mr. Beasley cannot even walk those short distances without the help of a wheelchair. Clearly, his ability to provide adequately for his own care or protection is impaired. Given his age and cognitive state, this Court's proscriptions against executing juveniles, insane inmates, and those suffering from intellectual disability establish that executing an inmate in Mr. Beasley's current condition would violate the Eighth Amendment.

To illustrate, in 1986, the Court explicitly held that "[t]he Eighth Amendment prohibits the State from inflicting the penalty of death upon *a prisoner* who is insane."

Ford v. Wainwright, 477 U.S. 399, 410 (1986). The Court went on to review the constitutionality of Florida’s process for determining whether a condemned prisoner is insane. *Id.* At the outset, the Court provided “[i]n answering that question, we bear in mind that, while the underlying social values encompassed by the Eighth Amendment are rooted in historical traditions, the manner in which our judicial system protects those values is purely a matter of contemporary law. Once a substantive right or restriction is recognized in the Constitution, therefore, its enforcement is in no way confined to the rudimentary process deemed adequate in ages past.” *Id.* Guided by that principle, the Court concluded that “[i]t is no less abhorrent today than it has been for centuries to exact in penance the life of one whose mental illness prevents him from comprehending the reasons for the penalty or its implications.” *Id.* at 417.

Years later, in *Atkins*, 536 U.S. 304, the Court held that that the Eighth and Fourteenth Amendments to the United States Constitution prohibit the execution of intellectually disabled individuals. In reaching that holding, the Court relied on *Ford* and reasoned:

We are not persuaded that the execution of mentally retarded criminals will measurably advance the deterrent or the retributive purpose of the death penalty. Construing and applying the Eighth Amendment in the light of our “evolving standards of decency,” we therefore conclude that such punishment is excessive and that the Constitution “places a substantive restriction on the State’s power to take the life” of a mentally retarded offender. *Ford*, 477 U.S., at 405, 106 S.Ct. 2595.

Id. at 321. Shortly thereafter, the Court then held in *Roper*, 543 U.S. at 569-570, that the Eighth Amendment bars the imposition of the death penalty on juvenile

offenders. In reaching that holding, the Court noted that the United States was then the only country in the world that officially sanctioned the implementation of the death sentence on juveniles. *Id.* at 575. The Court would later recognize in *Miller v. Alabama*, 567 U.S. 460, 472 (2012), that “*Roper* and [the subsequently decided *Graham v. Florida*, 560 U.S. 48 (2010)] emphasized that the distinctive attributes of youth diminish the penological justifications for imposing the harshest sentences on juvenile offenders, even when they commit terrible crimes.”

To be sure, many of the concerns underlying *Roper* and *Atkins* were the state of the defendant at the time of the offense. Those concerns apply, however, with equal effect to the state of the defendant at the time he or she is to be executed. The Court specifically recognized as such many years prior in *Ford*:

Although the condemned prisoner does not enjoy the same presumptions accorded a defendant who has yet to be convicted or sentenced, he has not lost the protection of the Constitution altogether; if the Constitution renders the fact or timing of his execution contingent upon establishment of a further fact, then that fact must be determined with the high regard for truth that befits a decision affecting the life or death of a human being.

Ford, 477 U.S., at 411. Again, the question at issue in *Ford* was not whether the petitioner was insane at the time of the offense, but rather, whether he had become insane by the time of his scheduled execution. *Id.* at 401-05.

This Court, furthermore, has long noted that “there are two distinct social purposes served by the death penalty: ‘retribution and deterrence of capital crimes by prospective offenders.’” *Roper*, 543 U.S. at 571. To be sure, little other justification could exist for the ultimate punishment of death. In the instant case, what

retributive purpose is served when an inmate is wheeled into an execution chamber in a wheelchair, while in the midst of significant cognitive decline, and executed at the age of 77, three decades after the crime was committed? Just the same, what deterrent effect comes from executing such an individual more than 31 years after the crime? Mr. Beasley has effectively served a life sentence and will continue to serve whatever might remain of his life in prison. Detractors might point to the argument that capital litigation frequently goes on for many years before a death sentence is typically carried out. Regardless, carrying out Mr. Beasley's sentence 31 years after the crime does nothing to advance the interests of expediting the capital sentencing process. That ship sailed long ago. Furthermore, if that were the justification for carrying out Mr. Beasley's sentence despite his age and condition, any such alleged justification would be arbitrary and capricious. At present, approximately 107 inmates have been serving on Florida's death row for longer than Mr. Beasley has. *See* <https://pubapps.fdc.myflorida.com/OffenderSearch/deathrowroster.aspx> (accessed Sept. 27, 2026). And of those 107, approximately 97 are younger than Mr. Beasley, with most being significantly younger. *Id.* Under the circumstances, deterrence and retribution are simply not valid justifications for Mr. Beasley's execution at this stage of his life. In the end, the execution of a person of Mr. Beasley's age and cognitive state, would be cruel and unusual, just as would the execution of an insane, intellectually disabled, or juvenile individual.

The question presented is one of great public importance that has not been addressed by this Court. Based on the foregoing, the execution of a person of Mr. Beasley's age and in his current mental state would be contrary to the evolving standards of decency underlying the Eighth Amendment. There exists both a national and international consensus against executing the elderly, despite a few anomalies that have transpired in other states since *Gregg v. Georgia*, 428 U.S. 153 (1976). Furthermore, Mr. Beasley is not asking the Court to find that inmates must be barred from execution upon reaching some other arbitrary age cut-off. He is asserting that his execution would be unconstitutional as applied given his age coupled with his age based cognitive decline. The evolving standards of decency that this Court has adhered to since at least *Trop v. Dulles*, 356 U.S. 86, 100-01 (1958), support the Court taking up the question presented. As Florida's recent trend of executing the elderly exemplifies, the question is likely to arise frequently in lower courts in the future. And when a fellow human being's life is at stake, the question can be of no greater importance.

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 28th day of September 2026,

s/ J. Jervis Wise

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