No._____

IN THE SUPREME COURT OF THE UNITED STATES

THOMAS M. OVERTON,
PETITIONER,

VS.

STATE OF FLORIDA,
RESPONDENT.

On Petition for a Writ of Certiorari to the Supreme Court of Florida

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APPLICATION FOR STAY OF EXECUTION

THIS IS A CAPITAL CASE
WITH AN EXECUTION SCHEDULED FOR
THURSDAY, NOVEMBER 19, 2026, AT 6:00 PM

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To the Honorable Clarence Thomas, Associate Justice of the Supreme Court of the United States and Circuit Justice for the Eleventh Circuit:

The State of Florida has scheduled the execution of Petitioner Thomas Mitchell Overton for **November 19, 2026, at 6:00 p.m.** The Florida Supreme Court denied state court relief as well as Mr. Overton request for stay on [date]. Mr. Overton respectfully requests that this Court stay his execution, pursuant to Supreme Court Rule 23 and 28 U.S.C. § 2101(f), pending consideration of his concurrently filed petition for writ of certiorari.

STANDARDS FOR A STAY OF EXECUTION

The standards for granting a stay of execution are well-established. *Barefoot v. Estelle*, 463 U.S. 880, 895 (1983). There "must be a reasonable probability that four members of the Court would consider the underlying issue sufficiently meritorious for the grant of certiorari or the notation of probable jurisdiction; there must be a significant possibility of reversal of the lower court's decision; and there must be a likelihood that irreparable harm will result if that decision is not stayed." *Id*. (internal quotations omitted).

PETITIONER SHOULD BE GRANTED A STAY OF EXECUTION

The questions raised in Mr. Overton's petition are sufficiently meritorious for a grant of certiorari. The underlying issues present significant questions of constitutional law and are not subject to any legitimate procedural impediments.

As explained in Mr. Overton's underlying petition, the warrant and clemency process in Florida violates not only the separation of powers, but also Due Process and Equal Protection.

Mr. Overton's claims are not subject to any legitimate procedural impediments. In this case, the state courts have foreclosed adequate and substantive review. However, given the final nature of the death penalty there should be no point at which these considerations are foreclosed. "[E]xecution is the most irremediable and unfathomable of penalties . . . death is different." *Ford v. Wainwright*, 477 U.S. 399, 411 (1986) (citing *Woodson v. North Carolina*, 428 U.S. 280, 305 (1976) (opinion of Stewart, Powell, and Stevens, J.J.).

The irreparable harm to Mr. Overton is clear. *Wainwright v. Booker*, 473 U.S. 935, 937 n.1 (1985) (Powell, J., concurring) (finding the requirement of irreparable harm as "necessarily present in capital cases"). Additionally, the Florida Supreme Court's refusal to grant Eighth Amendment protections is not just a matter of life and death for Mr. Overton. The Eighth Amendment not only protects the individual from cruel and unusual punishment, it safeguards the public's interest in living in a humane society. See, e.g., *Ford*, *supra*, at 409-10 (Eighth Amendment restriction protects not only the individual, but "the dignity of society itself from the barbarity of exacting mindless vengeance[.]").

While the rest of society's standards of decency are evolving, the Florida courts have continued and will continue to foreclose relief in other similar cases and return Florida to its outlier status as regards the death penalty. This creates an

unacceptable risk that other similarly situated individuals will also be denied their crucial Sixth, Eighth, and Fourteenth Amendment protections.

This Court's intervention is urgently needed to prevent the imminent execution of Mr. Overton, who is undoubtedly deserving of the protections from the death penalty provided by the Eighth and Fourteenth Amendments. The Florida Supreme Court refuses to apply these constitutional protections; as a result, this Court should grant a stay of execution and grant a writ of certiorari.

CONCLUSION

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

Respectfully submitted,

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