

**In the
Supreme Court of the United States**

JAMES AREN DUCKETT, *Petitioner*,

v.

STATE OF FLORIDA, *Respondent*.

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

RESPONSE TO APPLICATION FOR A STAY OF THE EXECUTION
EXECUTION SCHEDULED FOR JULY 28, 2026, at 12:00 P.M.

On July 25, 2026, Duckett, represented by Capital Collateral Regional Counsel – South (CCRC-S), filed a petition for a writ of certiorari in this Court raising two questions in this active warrant case. He also filed an application for a stay of the execution for this Court to decide his pending petition. This Court, however, should simply deny the petition for the reasons given in the State’s brief in opposition and then deny the stay of execution.

Stays of Executions

Stays of executions are not granted as “a matter of course.” *Hill v. McDonough*, 547 U.S. 573, 583-84 (2006). Rather, a stay is “an equitable remedy” and “equity must be sensitive to the State’s strong interest in enforcing its criminal judgments without undue interference from the federal courts.” *Id.* at 584. There is a “strong equitable presumption against the grant of a stay where a claim could have been brought at such a time as to allow consideration of the merits without requiring entry of a stay.” *Nelson v. Campbell*, 541 U.S. 637, 650 (2004). Equity must also consider “an inmate’s attempt at manipulation.” *Gomez v. U.S. Dist. Ct. for N. Dist. of Cal.*, 503 U.S. 653, 654 (1992).

Both the State and the victims of crime have an important interest in the

timely enforcement of a sentence. *Calderon v. Thompson*, 523 U.S. 538, 556 (1998). This Court has highlighted the State’s and the victims’ interests in the timely enforcement of a death sentence. *Bucklew v. Precythe*, 587 U.S. 119, 149-151 (2019). The people of Florida, as well as surviving victims and their families, “deserve better” than the “excessive” delays that now typically occur in capital cases. *Id.* at 149. This Court has stated that courts should “police carefully” against last minute claims being used “as tools to interpose unjustified delay” in executions. *Id.* at 150. This Court has also repeatedly stated that last minute stays of execution should be the “extreme exception, not the norm.” *Barr v. Lee*, 591 U.S. 979, 981 (2020) (vacating a lower court’s grant of a stay of a federal execution quoting *Bucklew*, 587 U.S. at 151).

The Three Factors Required for a Stay

To be granted a stay of execution in this Court, Duckett must establish three factors: (1) a reasonable probability that the Court would vote to grant certiorari; (2) a significant possibility of reversal if review was granted; and (3) a likelihood of irreparable injury to the applicant in the absence of a stay. *Barefoot v. Estelle*, 463 U.S. 880, 895 (1983). He must establish all three *Barefoot* factors.

(1) Probability of this Court granting certiorari

As to the first factor, there is little chance that four justices of this Court would vote to grant certiorari review of either of the two questions raised in the petition. As explained in detail in the accompanying brief in opposition, neither question is worthy of certiorari review. Indeed, both questions are solely a matter of state law, over which this Court lacks jurisdiction.

Regarding the first question concerning Florida’s prohibition on filing successive DNA motions including items that were known but not included in the first DNA motion, it is solely a matter of state law over which this Court lacks jurisdiction, as explained in the accompanying brief in opposition. *Foster v. Chatman*, 578 U.S. 488, 497 (2016) (citing *Harris v. Reed*, 489 U.S. 255, 260 (1989)); 28 U.S.C. § 1257; *Johnson*

v. Williams, 568 U.S. 289, 309 (2013) (Scalia, J., concurring). There is also no conflict with this Court’s decision in *Bouie v. City of Columbia*, 378 U.S. 347 (1964), and the Florida Supreme Court following its existing precedent of *Reynolds v. State*, 373 So. 3d 1124, 1126-27 (Fla. 2023), in this case. To be a *Bouie* violation, the court’s interpretation must be “unexpected and indefensible by reference to the law which had been expressed prior to the conduct in issue.” *Rogers v. Tennessee*, 532 U.S. 451, 461 (2001) (quoting *Bouie*, 378 U.S. at 354). Nor is there any conflict with the federal circuit courts, who also, as a matter of practice, prohibit successive causes of action. *Steele v. United States*, 144 F.4th 316, 324 & n.4 (D.C. Cir. 2025).

Nor is there a reasonable probability that this Court would vote to grant certiorari review of the second question raised in the petition. Duckett asserts that the Florida Supreme Court’s decision finding that the state postconviction court did not abuse its discretion in denying the public records request for DNA Labs International’s protocols of the Single Nucleotide Polymorphism (SNP) DNA testing it conducted violates due process under *Dist. Atty’s Office for Third Jud. Dist. v. Osborne*, 557 U.S. 529 (2009). But, as explained in the accompanying brief in opposition, the question of public records under Florida Rule of Criminal Procedure 3.852 is solely a matter of state law over which this Court lacks jurisdiction. *Foster v. Chatman*, 578 U.S. 488, 497 (2016) (citing *Harris v. Reed*, 489 U.S. 255, 260 (1989)); 28 U.S.C. § 1257; *Johnson v. Williams*, 568 U.S. 289, 309 (2013) (Scalia, J., concurring).

There is no conflict with this Court’s decisions and the Florida Supreme Court’s decision in this case. There is no federal constitutional right to information. *Houchins v. KQED, Inc.*, 438 U.S. 1, 10 (1978). The “Constitution itself is not a Freedom of Information Act.” *McBurney v. Young*, 569 U.S. 221, 232 (2013) (quoting *Houchins*, 438 U.S. at 14)). There is also no federal constitutional right to discovery in criminal

cases, much less a right to discovery in successive state postconviction proceedings involving DNA testing. *Weatherford v. Bursey*, 429 U.S. 545, 559 (1977) (stating there “is no general constitutional right to discovery in a criminal case”). The “Due Process Clause has little to say regarding the amount of discovery which the parties must be afforded.” *Weatherford*, 429 U.S. at 559 (quoting *Wardius v. Oregon*, 412 U.S. 470, 474 (1973)); *Gray v. Netherland*, 518 U.S. 152, 168 (1996). There is also no conflict between the federal circuit courts and the Florida Supreme Court’s decision. The federal circuit courts do not recognize a general constitutional right to discovery in criminal cases. *See, e.g., United States v. Dugan*, 136 F.4th 162, 170 (4th Cir. 2025) (quoting *Weatherford*, 429 U.S. at 559), *cert. denied*, 146 S. Ct. 265 (2025).

There is a low probability of this Court granting certiorari review of either of the two questions. Duckett fails the first *Barefoot* factor of four justices voting to grant certiorari review of either of the two questions, which alone is sufficient reason to deny his request for a stay because he is required to establish all three factors.

(2) Probability of this Court granting relief on the merits

As to the second factor, there is little possibility of Duckett prevailing on the merits of either of the two questions, if this Court were to grant review.

He would not prevail on the merits of his *Bouie* challenge to the Florida Supreme Court’s prohibition on successive DNA motions. To be a *Bouie* violation, the court’s interpretation must be “unexpected and indefensible by reference to the law which had been expressed prior to the conduct in issue.” *Rogers v. Tennessee*, 532 U.S. 451, 461 (2001) (quoting *Bouie*, 378 U.S. at 354). There was nothing “unexpected” or “indefensible” about the Florida Supreme Court following its existing precedent of *Reynolds*. A *Bouie* claim necessarily fails when a court is simply following their directly on-point and relatively recent precedent, as the Florida Supreme Court did in this case.

There is also little possibility of Duckett prevailing on the merits of his demand for the protocol of the private laboratory that performed the advanced Single (SNP) DNA testing

of slide Q-6(3) that ultimately incriminated him. If this Court were to grant review, it is highly likely to follow its existing precedent of *Weatherford v. Bursey*, 429 U.S. 545, 559 (1977); *Wardius v. Oregon*, 412 U.S. 470, 474 (1973), and *Gray v. Netherland*, 518 U.S. 152, 168 (1996), and hold that a capital defendant, in the postconviction DNA testing context, has no due process right to the protocols.

Duckett does not have a “significant” possibility of prevailing in this Court on the merits of either question, if this Court were to grant review. Duckett also fails the second *Barefoot* factor.

(3) Irreparable injury

As to the third factor of irreparable injury, none is identified in his application for a stay. Although the execution will result in Duckett’s death, that is the inherent nature of a death sentence. This Court has repeatedly held that a sentence of death is constitutional and has observed that the death penalty was, in fact, “the standard penalty for all serious crimes at the time of the founding.” *Bucklew v. Precythe*, 587 U.S. 119, 129 (2019) (stating that the “Constitution allows capital punishment”).

The factors for granting a stay are taken from the standard for granting a stay for normal civil litigation, which is not a natural fit in capital cases. *Barefoot*, 463 U.S. at 895-96 (citing *Times-Picayune Pub. Corp. v. Schulingkamp*, 419 U.S. 1301, 1305 (1974) (Powell, J., in chambers)). In the capital context, more should be required to establish irreparable injury than the execution itself. Duckett has identified no irreparable harm that is not a direct consequence of his valid, constitutional, and long-final death sentence.

Moreover, this Court has stated in the capital context that “the relative harms to the parties” must still be considered, including “the State’s significant interest in enforcing its criminal judgments.” *Nelson*, 541 U.S. at 649-50 (emphasis added).

Without finality, “the criminal law is deprived of much of its deterrent effect.” *Calderon v. Thompson*, 523 U.S. 538, 555-56 (1998). And finality in a capital case is the execution. The rape and murder of the eleven-year-old victim occurred nearly forty years ago, in May of 1987, and Duckett’s convictions and death sentence have been final since 1990. *Duckett v. State*, No. SC2026-0449, 2026 WL 1970442, at *1-*2 (Fla. July 8, 2026) (citing *Duckett v. State*, 568 So. 2d 891, 891 (Fla. 1990)).

Duckett fails the third *Barefoot* factor, in addition to failing the other two factors.

Accordingly, this Court should deny the application for a stay.

Respectfully submitted,

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