

IN THE SUPREME COURT OF THE UNITED STATES

WILLIAM FRANCES SILVIA,

Petitioner,

v.

STATE OF FLORIDA,

Respondent.

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

**RESPONSE TO APPLICATION FOR STAY OF EXECUTION
EXECUTION SCHEDULED FOR AUGUST 18, 2026, AT 6:00 P.M.**

William Frances Silvia, a Florida prisoner under an active death warrant with an execution scheduled for August 18, 2026, asks this Court to stay his execution for the brutal murder of his estranged wife, committed nearly 20 years ago, while it considers whether to grant certiorari review. The petition raises one issue, whether the Florida Supreme Court misinterpreted Florida law in holding that there is no state right to effective assistance of counsel in postconviction proceedings.

As more fully explained in the accompanying Brief in Opposition, this Court lacks jurisdiction to review Silvia's question because the decision below was based on independent and adequate state law grounds and because Silvia failed to present his equal protection argument below. Even without the jurisdictional bar to certiorari

review, Silvia's question does not merit this Court's review because it presents neither a conflict of decisions nor any unsettled question of federal law. Ultimately, because the decision below is correct, review by this Court would be futile. As such, both the petition and the stay should be denied.

Stays of Execution

A stay of execution is an equitable remedy, not available as a matter of right, and equity must be sensitive to the State's strong interest in enforcing its criminal judgments. *Hill v. McDonough*, 547 U.S. 573, 584 (2006) (citing *Nelson v. Campbell*, 541 U.S. 637, 649-50 (2004)). 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*, 541 U.S. at 650. 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 the death sentence. *Bucklew v. Precythe*, 587 U.S. 119, 149-151 (2019). The people of Florida, as well as the families of the victims of capital crimes, deserve better than the excessive delays that now typically occur in capital cases. *Id.* at 149. The 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) (quoting *Bucklew*, 587 U.S. at 151, and vacating a lower court’s grant of a stay of a federal execution).

To obtain a stay of execution for his long-final sentence,¹ Silvia must establish a reasonable probability (1) that four members of the Court would vote to grant certiorari, (2) a significant possibility of reversal if review was granted, and (3) irreparable injury to the applicant in the absence of a stay. *See Barefoot v. Estelle*, 463 U.S. 880, 895 (1983) (quoting *White v. Florida*, 458 U.S. 1301, 1302 (1982)). He must establish *all* three. *Id.* This Court has further emphasized that last-minute litigation, dilatory claims, and speculative theories weigh heavily against a prisoner’s request for the equitable relief of a stay of execution. *See Bucklew v. Precythe*, 587 U.S. 119, 149-51 (2019); *Gomez v. U.S. Dist. Ct. for N. Dist. of Cal.*, 503 U.S. 653, 654 (1992). Here, Silvia, who knowingly and voluntarily waived all postconviction proceedings *fourteen* years ago, does not provide any unique or special argument as to why a last-minute stay is warranted in his specific case that outweighs the State of Florida’s interest in enforcing the law.

Probability of This Court Granting Certiorari Review

As to the first factor, there is little chance that four justices of this Court would vote to grant certiorari review on the issue raised here. As an initial matter, for the reasons fully stated in the brief in opposition, this Court lacks jurisdiction to grant

¹ *Silvia v. State*, 60 So. 3d 959, 963 (Fla. 2011). Silvia did not seek certiorari review from the Florida Supreme Court’s affirmance on direct appeal, so his convictions and sentences became final 90 days after the Florida Supreme Court mandate issued. *See* Fla. R. Crim. P 3.851(d)(1)(A).

review because: (1) this Court lacks jurisdiction to overturn a state supreme court’s interpretation of state law; and (2) Silvia’s claim to a supposed state-law right to “effective counsel” was found by the Florida Supreme Court to be procedurally barred as a matter of Florida law and, thus, was resolved on independent and adequate state-law grounds.² *Walker v. Martin*, 562 U.S. 307, 315 (2011). *Cf. Glossip v. Oklahoma*, 145 S. Ct. 612, 624 (2025) (“In the context of direct review of a state court judgment, the independent and adequate state ground doctrine is jurisdictional.”). Such independent and adequate state procedural grounds are strong indications that certiorari should be denied and thus the stay as well. Additionally, this Court’s Rule 10 states that certiorari review will be granted “only for compelling reasons,” which include the existence of conflicting decisions on important questions of federal law among federal courts of appeals or state courts of last resort; a conflict between the lower court’s decision and the relevant decisions of this Court; or an important question of federal law that has not been but should be settled by this Court. Sup. Ct. R. 10. No such situation exists here. Silvia has cited no conflict of decisions or important question of law warranting this Court’s review. Indeed, Silvia’s petition does not address the Rule 10 standard for granting certiorari review at all.

Even without reliance on this independent and adequate state ground to deny certiorari, the granting of certiorari is unlikely because the Florida Supreme Court found that Silvia’s claim that he has a state statutory right to effective assistance of

² The Florida Supreme Court found that because Silvia validly waived all postconviction proceedings in 2012, his current motion was procedurally barred. *Silvia v. State*, SC2026-1162, 2026 WL 2333428, *7 (Fla. Aug. 12, 2026).

postconviction counsel was also meritless. In denying Silvia's claim, the court held that the statutory right to counsel means only that "a defendant be represented by an attorney during postconviction proceedings", and Silvia's statutory right to counsel was satisfied by the appointment of CCRC-M.³

There is little probability that the Court would vote to grant review under these circumstances. Silvia's application for stay fails on the first factor, which by itself is sufficient for this Court to deny his request.

Significant Possibility of Reversal

As to the second factor, there is not a significant possibility of reversal on the issues raised by Silvia. Again, this Court lacks jurisdiction to grant certiorari to begin with. Moreover, Silvia fails to identify any error of law by the Florida Supreme Court, let alone a conflict of decisions or an important or unsettled federal question that would require this Court's intervention to resolve.

In his question presented, Silvia contends that because the attorneys assigned to Silvia's case represented another inmate under death warrant—whose warrant period overlapped Silvia's by eleven days—Silvia's statutorily created right to "qualified counsel" was violated. According to Silvia, the overlap in warrants

³ Postconviction counsel must be competent—that is, an attorney meeting minimal requirements to competently handle capital postconviction proceedings. Fla. R. Crim. P. 3.112(a) sets minimum experience, qualification, and continuing-legal-education standards for attorneys serving as lead trial counsel, trial co-counsel, appellate counsel, and capital-postconviction lead counsel in Florida capital cases; Fla. R. Crim. P. 3.112(k) provides the minimum requirements specifically for lead counsel in capital postconviction cases, requiring counsel be a member of a bar in good standing for at least five years, have three years' experience in postconviction litigation, and have handled a combined total of five capital proceedings with at least two in capital postconviction proceedings.

rendered CCRC-M's performance ineffective because they lacked sufficient time to investigate his case to try to develop new postconviction claims. However, this Court's precedent is clear that there is no constitutional right to postconviction counsel at all, much less the right to challenge the constitutional effectiveness of such counsel. *Pennsylvania v. Finley*, 481 U.S. 551, 555 (1987); *see also Barbour v. Haley*, 471 F.3d 1222, 1227 (11th Cir. 2006).

A stay should not be granted on this basis. As the Florida Supreme Court stated, "the warrant is supposed to mark the end of the road for a defendant on death row, not the beginning of one last attack on how the State implements its otherwise lawful sentences of death". *Silvia v. State*, SC2026-1162, 2026 WL 2333428, *27 (Fla. Aug. 12, 2026) (Tanenbaum, J. concurring). This is especially so in this case, as Silvia knowingly and voluntarily waived his postconviction claims years ago.

Ultimately, there was no error at all in the proceedings below, let alone one that warrants certiorari review.

Irreparable Injury

As to the third factor of irreparable injury, none is identified. While the execution will result in Silvia's death, that is the inherent nature of a death sentence. The factors for granting a stay are taken from the standard for granting a stay as applied to 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)). Finality in a capital case is the execution, so some additional showing should be required to satisfy this factor. Silvia has not

identified any irreparable harm that is not a direct consequence of the valid, constitutional, and long-final death sentence that was imposed in 2009 for the murder of his estranged wife, Patricia Silvia.

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). Again, finality in a capital case is the execution. The murder for which Silvia was sentenced to death occurred in 2006, and his death sentence has been final since 2012. Silvia fails this factor as well. Accordingly, this Court should deny the motion to stay.

Equity Does Not Warrant a Stay

Finally, this Court has emphasized the “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*, 541 U.S. at 650. Equity does not warrant a stay under the facts of this case given that Silvia voluntarily waived his right to postconviction proceedings in 2012. Silvia’s claim is nothing more than an attempt to delay execution of sentence.

In summary, Silvia fails to meet any of the three factors for being granted a stay of execution, and *no* stay is warranted as a matter of equity. Therefore, the application for a stay of execution should be denied.

Respectfully submitted,

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