

IN THE
SUPREME COURT OF THE UNITED STATES

DENNIS SOCHOR,

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 JULY 14, 2026, AT 6:00 P.M.**

Dennis Sochor, a Florida prisoner under an active death warrant with an execution scheduled for July 14, 2026, asks this Court to stay his execution for the kidnapping and brutal murder of Patricia Gifford committed on January 1, 1982, while it considers whether to grant certiorari. However, the question Sochor presents does not warrant a stay under *Barefoot v. Estelle*, 463 U.S. 880, 895 (1983). As thoroughly explained in the accompanying Brief in Opposition to certiorari, Sochor’s question does not merit this Court’s review. Therefore, this Court should deny the stay.

A stay of execution is not granted as a “matter of course.” It is an equitable remedy, and “equity must remain sensitive to the State’s strong interest in enforcing

its criminal judgments without undue interference from the federal courts.” *Hill v. McDonough*, 547 U.S. 573, 583–84 (2006). To obtain a stay, Sochor must establish a reasonable probability that four Justices would vote to grant certiorari, a significant possibility of reversal, and a likelihood of irreparable harm. *Barefoot*, 463 U.S. at 895. This Court has further emphasized that last-minute litigation and dilatory claims weigh heavily against equitable relief. *Gomez v. U.S. Dist. Ct. for N. Dist. of Cal.*, 503 U.S. 653, 654 (1992). Sochor cannot satisfy these requirements.

Sochor’s sole question asks whether the application of a state procedural time-bar improperly foreclosed his facial challenge to Florida’s long-established lethal injection protocol. Not only did the Florida Supreme Court reject his constitutional challenge on the state procedural ground that it was untimely, but that Eighth Amendment challenges to the lethal injection protocol including etomidate have been rejected repeatedly on the merits. *Sochor v. State*, No. SC2026-0971, 2026 WL 1970441, at *3 (Fla. July 8, 2026). Sochor has not shown that the application of a state time-bar or rejection of his Eighth Amendment facial challenge conflicts with a decision of this Court, a federal circuit court, or another state supreme court. There is no basis necessitating this Court’s review.

Stays of Execution

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). Equity does not reward last-minute litigation designed to delay the imposition of lawful sentences. *See Nelson*, 541 U.S. at 650 (holding that there is a “strong equitable presumption against the granting 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.”). The dilatory posture of Sochor’s claim weighs heavily against a stay.

“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, 149-51 (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. Also, this Court has stated that last-minute stays of execution should be the “extreme exception, not the norm.” *Id.*

To be granted a stay of execution, Sochor must establish three factors: (1) a reasonable probability that the Court would vote to grant certiorari; (2) a significant possibility of reversal if review were granted; and (3) a likelihood of irreparable injury to the applicant in the absence of a stay. *Barefoot v. Estelle*, 463 U.S. at 895. Sochor must establish all three factors, however, he has not.

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 on the issue raised here. Sochor has cited no conflict or unsettled question of law for this Court's review. In fact, the decision Sochor asks this Court to consider was found untimely by the Florida Supreme Court. The claim was untimely because it was filed more than a year after the lethal injection protocol adding etomidate, the challenged drug, was adopted. Such an independent and adequate state procedural ground is strong indication that certiorari should be denied and thus the stay should be denied. Sochor fails the first *Barefoot v. Estelle* factor, which alone is sufficient to deny the motion for a stay.

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 Sochor's constitutional challenge was meritless based on its multiple decisions rejecting similar facial challenges raised under *Baze-Glossip*.¹ See *Rogers v. State*, 409 So. 3d 1257, 1268 (Fla.) (rejecting challenge to etomidate protocol on the merits), *cert. denied*, 145 S. Ct. 2695 (2025); *Tanzi v. State*, 407 So. 3d 385, 393 (Fla.) *cert. denied*, 145 S. Ct. 1914 (2025); *Cole v. State*, 392 So. 3d 1054, 1064-65 (Fla.), *cert. denied*, 145 S. Ct. 109 (2024); *Long v. State*, 271 So. 3d 938, 944-46 (Fla.), *cert. denied*, 587 U.S. 1023 (2019) (rejecting as-applied and facial challenges to the lethal injection protocol); *Asay v. State*, 224 So. 3d 695, 700-02 (Fla. 2017). Sochor's challenge does not warrant certiorari consideration and shows that it is unlikely certiorari would be

¹ *Baze v. Rees*, 553 U.S. 35, 41 (2008); *Glossip v. Gross*, 576 U.S. 863, 877 (2015).

granted.

Significant Possibility of Reversal

As to the second factor, there is not a significant possibility of reversal on the issue raised by Sochor. Notably, etomidate, the focus of Sochor's challenge, was included in the protocol since August 1, 2017, *see Lightbourne v. McCollum*, 969 So. 2d 326, 328-29, 331 (Fla. 2007), *cert. denied*, 553 U.S. 159 (2008), and the current protocol contains the same provision. Yet, Sochor failed to challenge the lethal injection protocol during his fourth and fifth successive postconviction motions in 2018 and waited until after his death warrant was signed to make a facial challenge to the protocol. The time-bar imposed by the Florida Supreme Court is an independent and adequate basis for the decision below. As noted above, the claim was also found meritless given the multiple times the Florida Supreme Court reviewed the lethal injection with etomidate protocol. Moreover, he admitted that as of June 23, 2026, he had not yet secured any experts in support of his claim. (WPCR 1521, 1539-41). This Court does not grant review where the decision below rests on independent and adequate state law, one that would not support reversal on the merits. Likewise, review is not likely given the speculative and conclusory allegations raised in state court. Thus, Sochor fails this factor as well.

Irreparable Injury

As to the third factor of irreparable injury, there is none. While the execution will result in Sochor'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. In the capital context, more should be required for irreparable injury rather than the execution itself. Otherwise, this factor would automatically be satisfied in every capital case. In other contexts, this Court has clarified that the “purpose of such a stay is to prevent the execution date from ‘interfer[ing] with the orderly processing of a petition on direct review by this Court.’” *Rodriguez v. Texas*, 515 U.S. 1307, 1307-08 (1995). And in *Williams v. Missouri*, 463 U.S. 1301, 1301-02 (1983), this Court explained that a stay would be warranted to prevent a defendant from being executed before having the opportunity to fully present his claim that his death sentence was unconstitutionally imposed. But those situations do not exist here. Likewise, this is not a case in which denying his stay would result in the execution of a defendant who should not be executed. Sochor faces no actual identifiable harm by the denial of his motion for stay under these circumstances. His challenge is a pure facial one. Again, a challenge he could have raised as early as 2017. *See Smith v. Johnson*, 440 F.3d 262, 263 (5th Cir. 2006) (affirming denial of a stay for unreasonable delay where “Smith has been on death row for more than nine years but decided to wait to challenge a procedure for lethal injection that has been used by the State during his entire stay on death row.”).

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. Here, Sochor 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's interest in enforcing the law. Without finality, "the criminal law is deprived of much of its deterrent effect." *Calderon v. Thompson*, 523 U.S. 538, 555-56 (1998). The real finality is the execution. Because Sochor points to no specific argument in support of this factor other than the imposition of his lawful sentence, he fails this prong as well.

Sochor fails to meet any of the three factors for being granted a stay of execution. Therefore, the application for a stay of execution should be denied.

Respectfully submitted,

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