No. _____

IN THE

Supreme Court of the United States

JESSE GUARDADO ,

Petitioner,

v.

STATE OF FLORIDA,

Respondent.

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

APPLICATION FOR STAY OF EXECUTION

THIS IS A CAPITAL CASE
WITH AN EXECUTION SCHEDULED FOR
THURSDAY, NOVEMBER 5, 2026, AT 6:00 PM

Karin Moore*
**Counsel of Record*
Florida Bar Number 351652
Karin.Moore@ccrc-north.org

Capital Collateral Regional Counsel - North
1004 DeSoto Park Drive
Tallahassee, Florida 32301
(850) 487-0922

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, Jesse Guardado, for **November 5, 2026, at 6:00 p.m.** The Florida Supreme denied relief on October 29, 2026. Mr. Guardado 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. Guardado's petition are sufficiently meritorious for a grant of a writ of certiorari. The underlying issues present significant, compelling questions of constitutional law and a stay is necessary to avoid Mr. Guardado being executed in violation of the Sixth, Eighth, and Fourteenth Amendments to the United States Constitution.

As explained in Mr. Guardado's underlying petition, Mr. Guardado's case presents important constitutional issues which deserve to be fully addressed by the Court free from the constraints of a warrant.

In the court below, Guardado challenged Florida's clemency process as violative of the Due Process Clause of the Fourteenth Amendment because clemency to a death-sentenced prisoner has not been granted since 1983 and the current governor has stated that he will not grant clemency to murderers and felony sex-offenders. Governor Ron DeSantis has signed 50 death warrants since he took office in 2019 (21 in 2026 alone and 19 in 2025) without a single grant of mercy. One-hundred and thirty-eight prisoners have been executed since the last grant of clemency in 1983.

The lower court has stated that it follows Justice O'Connor's concurring opinion in *Ohio Adult Parole Authority v. Woodard*, 523 U.S. 272, 288-290 (1998), which provides for "some minimal procedural safeguards" in clemency proceedings. *Id.* at 289. Justice O'Connor envisioned judicial intervention "in the face of a scheme whereby a state official flipped a coin to determine whether to grant clemency, or in a case where the state arbitrarily denied a prisoner any access to its clemency process." *Id.* In Florida, no clemency has been granted for the last 138 death-sentenced prisoners and the governor has stated he will deny all clemency to murderers. There is no due process when a hollow proceeding is held when the outcome is predetermined arbitrarily by the governor and the coin flipped says denied on both sides.

Furthermore, a stay of execution would ensure a meaningful review process and make certain that Mr. Guardado is not denied due process. "The fundamental requirement of due process is the opportunity to be heard '***at a meaningful time and in a meaningful manner***.'" *Armstrong v. Manzo*, 380 U.S. 545, 552 (1965) (emphasis added). The issues present in the instant case require appellate review that is not truncated by the exigencies of an imminent execution. A stay of execution should be granted.

It is undisputable Mr. Guardado will be irreparably harmed if his execution is allowed to go forward, and the balance of equities weighs heavily in favor of a stay. Florida's interest in the timely enforcement of judgments handed down by its courts must be weighed against Mr. Guardado's continued interest in his life. *See Ohio Adult Parole Auth. v. Woodard*, 523 U.S. 272, 289 (1998) ("[I]t is incorrect . . . to say that a prisoner has been deprived of all interest in his life before his execution.") (O'Connor, J., plurality opinion). Florida has a minimal interest in finality and efficient enforcement of judgments, but Mr. Guardado has a right in ensuring that his execution comports with the Constitution. This right includes the ability to have meaningful judicial review of the complex constitutional claims he raises.

Public interest demands a stay and Mr. Guardado's claims deserve to be considered outside of the accelerated constraints of his execution being scheduled mere days later. In addition, the irreversible nature of the death penalty frequently supports in favor of granting a stay. "[A] death sentence cannot begin to be carried out by the State while substantial legal issues remain outstanding." *Barefoot*, 463

U.S. at 888. Should this Court grant the request for a stay and review of the underlying petition, Mr. Guardado submits there is a significant possibility of the lower court's reversal. This Court's intervention is urgently needed to prevent Mr. Guardado's imminent execution despite the protections from the death penalty provided by the Sixth, Eighth, and Fourteenth Amendments.

CONCLUSION

For the foregoing reasons, Mr. Guardado respectfully requests that the Court grant his application for a stay of his November 5, 2026, execution to address the compelling constitutional questions in his case on the merits.

Respectfully submitted,

/s/ Karin Moore
Karin Moore*
**Counsel of Record*
Florida Bar Number 351652
Karin.Moore@ccrc-north.org

Capital Collateral Regional Counsel - North
1004 DeSoto Park Drive
Tallahassee, Florida 32301
(850) 487-0922

October 30, 2026
Dated