

**IN THE SUPREME COURT OF FLORIDA  
CASE NO: SC\_\_\_\_\_**

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**MELVIN TROTTER,**  
Petitioner,  
**v.**  
**STATE OF FLORIDA,**  
Respondent.

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**PETITION FOR WRIT OF HABEAS CORPUS  
CAPITAL CASE - DEATH WARRANT SIGNED**

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## **PRELIMINARY STATEMENT**

This petition asserts substantial claims of error under the Eighth, and Fourteenth Amendments to the Constitution of the United States. Correspondingly, this petition asserts substantial claims of error under Article I, Sections 2, 9, 10, 13, 17, 21, and 24(a) of the Florida State Constitution. The petitioner, Mr. Melvin Trotter, demonstrates that his execution will be carried out in violation of his fundamental rights and liberties.

## **JURISDICTIONAL STATEMENT**

Article I, Section 13, of the Constitution of the State of Florida provides: “The writ of habeas corpus shall be grantable of right, freely and without costs.” In turn, under Article V, Section 3(b)(9), “[t]he Supreme Court . . . [m]ay, or any justice may, issue writs of habeas corpus returnable before the Supreme Court or any justice, a district court of appeal or any judge thereof, or any circuit judge.” Further, Article V, Section 3(b)(7), authorizes this Court to “issue writs of prohibition to courts and all writs necessary to the complete exercise of its jurisdiction.” Although the All Writs Provision is not an independent basis for jurisdiction, this Court may invoke it to

“preserv[e] jurisdiction that has already been invoked or protect jurisdiction that likely will be invoked in the future.” *Roberts v. Brown*, 43 So. 3d 673, 677 (Fla. 2010); *Petit v. Adams*, 211 So. 2d 565, 566 (Fla. 1968) (finding All Writs provision applicable to preserve status quo and preserve future jurisdiction).

Here, this Court has jurisdiction to entertain this petition and grant the writ of habeas corpus. See Art. V, § 3(b)(9), Fla. Const. (1998). Moreover, each justice of this Court possesses independent authority to grant the writ. See *Id.*

**REQUEST FOR ORAL ARGUMENT**

Through counsel, Mr. Trotter respectfully urges this Court to grant oral argument in this matter.

**STATEMENT OF THE FACTS IN SUPPORT OF PETITIONER’S  
PETITION FOR WRIT OF HABEAS CORPUS**

On January 23, 2026, Florida’s governor signed Melvin Trotter’s death warrant. On January 27, 2026, Trotter filed two Demands for Additional Public Records held by the Florida Department of Corrections (“FDOC”) and Florida Department of Law Enforcement (“FDLE”). On January 28, 2026, both FDOC and FDLE filed written objections and responses to Trotter’s demands. The circuit court

entered an oral order denying Trotter's demands, and subsequently entered written orders denying Trotter's demands on January 29, 2026.

Trotter subsequently petitioned this Court to review the circuit court denial of both public records demands on January 30, 2026, which is still pending before this Court in SC2026-0168. During the pendency of the petition seeking review of the circuit court denial of public records, Trotter filed a Successive 3.851 Motion and a Stay of Execution in circuit court in compliance with the circuit court scheduling order. The State filed a response to Trotter's motion for a stay of execution on February 3, 2026 and the circuit court heard oral closing argument on February 4, 2026. The circuit court entered an order denying the stay on February 6, 2026.

Trotter now seeks this Court to enter an Order staying his execution on February 24, 2025 and order an independent investigation of Florida Department of Corrections ("FDOC") compliance with the lethal injection procedure.

Trotter respectfully moves for this Honorable Court to enter an Order staying the execution of Melvin Trotter until and unless the Departments disclose records demanded and/or until there is a full

and independent investigation completed regarding FDOC's compliance with and carrying out of lethal injection executions in compliance with the constitutionally accepted lethal injection procedure/protocol.

### **SUMMARY OF ARGUMENT**

Florida Statute § 922.06 allows for a stay of “the execution of a death sentence ...incident to an appeal.” (2025). “A stay of execution pending the disposition of a successive motion for postconviction relief is warranted only when there are ‘substantial grounds upon which relief might be granted.’” *Chavez v. State*, 132 So. 3d 826, 832 (Fla. 2014) (citing, *Buenoano v. State*, 708 So. 2d 941, 951 (Fla. 1998) (citing *Bowersox v. Williams*, 517 U.S. 345, (1996))).

Newly discovered information regarding the FDOC lethal injection logs suggest FDOC's deviation from the protocol and an affidavit from Dr. Daniel Buffington supports a substantial likelihood of serious injury and needless suffering. A stay of execution pending an investigation is warranted.

## **ARGUMENT**

Temporary suspensions of executions to permit a review regarding the way in which department of corrections are carrying out executions is not a novel or exceptional notion. When states have been faced with deficiencies in their execution protocols or deviations to established protocols, states, including Florida, historically have entered stays and meaningfully evaluated the way their department of corrections are executing people.

Trotter has put FDOC execution drug logs documenting the lethal injection chemicals used between January 2025 and September 30, 2025, in front of this Court and the circuit court, in support of his records demands and this Petition of Habeas Corpus which is requesting a stay of his execution. The State of Florida and FDOC's failure to acknowledge the protocol deviations suggested in the records filed in *Walls v. Dixon*, No.4:25-cv-0488, ECF 1 (N.D. Fla. Nov. 26, 2025) is precisely why judicial intervention is warranted to order a stay of execution and order an independent investigation as to FDOC's competency to carry out executions in accordance with the protocols which have been attested to before this Court.

Melvin Trotter pleads for this Court to enter a stay of his execution pending an independent investigation of FDOC's lethal injection protocol compliance.

**I. Noncompliance with the accepted lethal injection protocol requires judicial intervention.**

Fla. Stat. § 922.105(1) established lethal injection as the assumed means of execution replacing execution by electrocution in 2000. Since lethal injection was established in Florida, this Court has determined that lethal injection does not violate the Eighth Amendment of the United States Constitution. *Sims v. State*, 754 So. 2d 657 (Fla. 2000). However, this determination has not precluded judicial review or oversight regarding FDOC's performance of the lethal injection protocol in accordance with the Eighth Amendment of the United States Constitution. Since Florida legislature enacted the legislation in 2000, both lethal injection and FDOC's protocol have been the subject of review by this Court.

In *Sims v. State*, this Court reviewed whether "DOC's execution day protocol fail[ed] to provide sufficient details and procedures for administering lethal injection..." 754 So. 2d at 666. The trial court held an evidentiary hearing in which it heard testimony from FDOC

personnel and experts. *Id.* at 667-668. The trial court concluded that the defendant failed to “sufficiently demonstrate that the procedures currently in place [were] not adequate to accomplish the intended result in a painless manner.” *Id.* at 668. This Court affirmed and found, “the procedures for administering the lethal injection *as attested* do not violate the Eighth Amendment's prohibition against cruel and unusual punishment.” *Id.* at 668. (emphasis added).

The holding in *Sims* has been echoed by this very Court for more than 25 years, however, newly discovered information discussed below in section III of this Brief, supports that Florida’s lethal injection protocol is not being carried out as attested to previously.

This Court revisited its holding in *Sims* in *Lightbourne v. McCollum*, 969 So. 2d 326 (2007) in which FDOC revised their lethal injection protocol after the horrendous lethal injection execution of Angel Diaz on December 13, 2006. In response to Angel Diaz’s execution, Florida’s governor created the “Governor’s Commission on Administration of Lethal Injection” to review FDOC’s lethal injection protocols and its administration of lethal injection. The Commission was directed to make findings and recommendations as to how the administration of the procedures and protocols could be revised. “The

Governor's Commission on Administration of Lethal Injection, Final Report with Findings and Recommendations," Mar. 1, 2007. On page eight (8) of the final report, the Commission made specific findings and recommendations, which included the finding that FDOC failed to follow protocols. The Commission made recommendations for modifications to FDOC's written lethal injection procedure and policies which included recommendations for documentation of actions and completed procedures during the execution. "The Governor's Commission on Administration of Lethal Injection, Final Report with Findings and Recommendations," Mar. 1, 2007, p. 10 (emphasis added).

Florida's lethal injection procedure/protocol has incorporated the findings and recommendations made by the Governor's Commission since the recommendation in 2007. The current lethal injection procedure signed by Florida Secretary for the Department of Corrections on February 18, 2025, has incorporated the findings and recommendations by that Commission. The execution of Angel Diaz in 2006 is a reminder that we, the state of Florida, do not need to wait for an execution to go outrageously wrong, to evaluate whether

FDOC is carrying out executions in compliance and according to their protocols<sup>1</sup>. The limited records discovered in Frank Walls federal pleadings support that there are legitimate concerns and even rise to the level of the reasonable doubt that FDOC is in fact carrying out lethal injection executions in compliance with the protocol.<sup>2</sup>

Lethal injection protocols have not presented the only instances of a cruel death during an execution due to the failure to follow protocols. In 1990, FDOC's execution of Jesse Tafero became the subject of postconviction claims arguing that executions using the electric chair were cruel and unusual punishment in violation of the Eighth Amendment of the United States Constitution. During Jesse Tafero's execution, "smoke and flames instantaneously spurted from his head for a distance of as much as twelve inches. The flames and smoke emanated from the area around a metallic skull cap, inside of which was a saline-soaked synthetic sponge meant to increase the

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<sup>1</sup> The Ledger, "*Gov. Bush Suspends All Executions*," by Ron Word, Dec. 16, 2006, <https://www.theledger.com/story/news/2006/12/16/gov-bush-suspends-all-executions/25856712007/> (last accessed, Feb. 1, 2026).

<sup>2</sup> See Appendix A, "FDOC Log Records Part 1;" Appendix B, "FDOC Log Records Part 2."

flow of electricity to the head. The cap is the source of electricity administered to condemned prisoners by the electric chair.” *Buenano v. State*, 565 So. 3d 309, 310 (Fla. 1990).

FDOC **was ordered to investigate** the circumstances surrounding Jesse Tafero’s execution and ultimately found that it was the use the of the synthetic sponge. *Buenano v. State*, 565 So. 3d 309, 311 (Fla. 1990). This Court ultimately determined in *Buenano*, that judicial interference was unnecessary to determine “the competence of the Department of Corrections” because FDOC had already completed its investigation surrounding the circumstances of Jesse Tafero’s execution following an order from the governor. *Id.* at 311. FDOC had revised its protocol to prohibit the use of synthetic sponges. *Id.* at 311.

However, unlike the examples above, FDOC has prevented public transparency regarding its compliance with the procedures put in place and the State has not intervened. As seen in the examples above, the procedures and protocols do not stand as mere formality. The procedures and protocols put in place are the difference between

what could be a tortuous death and one that is determined to be constitutional within the current meaning of the Eighth Amendment.

In the present case before this Court, Melvin Trotter is in imminent danger that FDOC's failure to follow the protocols and procedures put in place could equally lead to a tortuous execution as seen in Angel Diaz or Jesse Tafero. We do not need to "wait and see what happens." History tells us what can happen when the procedures and protocols are not complied with.

FDOC has evaded public scrutiny and accountability surrounding how they are conducting executions by lethal injection. The true extent of FDOC's non-compliance can only be known through transparency, transparency which FDOC has objected to time and time again. Therefore, the only means for Melvin Trotter to have any remedy is judicial intervention entering a stay of execution and an investigation prior to his execution on February 24, 2026. The records that have been revealed give a peak into how FDOC is conducting itself during executions. The frequency in which FDOC appears to be compromising the integrity of the execution supports a pattern non-compliance with the protocol.

This creates the looming risk of needless suffering during Melvin Trotter's execution in violation of the Eighth Amendment. Therefore, Melvin Trotter calls for agency accountability and judicial intervention ordering independent investigation or in the alternative for FDLE to investigate and make the results available to the public and defendants.

The investigation should determine and specify that each and every protocol is being followed and reveal how FDOC is adhering to the specified protocols. As examples, including but not limited to, (1) what training and experience do the execution team members have, (2) reveal checklists have been maintained and all protocols have been documented. Identities do not need to be disclosed and confidentiality could be maintained. Trotter calls upon this Court to order an investigation as to whether or not FDOC is in compliance with the protocols put in place and to what end they are failing to comply with the protocol as accepted by this Court.

Trotter is left with no other remedy than to move this Court to enter a stay of his execution, unless and until, an investigation has been conducted into FDOC's compliance and competency to carry

out lethal injection executions in a manner that does not create a substantial risk of cruel and unusual punishment.

**II. Precedent in this State and other states support a stay of execution and judicial intervention.**

States across the country have halted executions when confronted with concerns that the protocols for executions are not being complied with or when concerns arise questioning the competency of the department of corrections to constitutionally carry out an execution. Without Florida's governor stepping in to address concerns, and Melvin Trotter's execution imminent, judicial intervention is necessary.

Historically, in other states such as Tennessee, Arizona, Alabama<sup>3</sup> and Oklahoma<sup>4</sup> (just to name a few,) governors have suspended executions pending review of their respective state's protocols. For example, Tennessee Governor Bill Lee suspended all executions by lethal injection in 2022 pending independent review, over concerns

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<sup>3</sup> <https://www.opb.org/article/2022/11/21/alabama-is-pausing-executions-after-a-3rd-failed-lethal-injection/>

<sup>4</sup> <https://www.npr.org/sections/thetwo-way/2014/04/30/308372080/oklahoma-governor-calls-for-independent-review-of-botched-execution>

that protocols were not followed in the preparation of the execution of Oscar Franklin Smith. In an official statement on the scheduled day of execution, Governor Lee stated:

Due to an oversight in preparation for lethal injection, the scheduled execution of Oscar Smith will not move forward tonight. I am granting a temporary reprieve while we address Tennessee Department of Correction protocol.

Similarly, Arizona Governor Hobbs suspended lethal injection in 2023, in order to conduct independent review into lethal injection protocol and procedures<sup>5</sup>.

Even here in Florida past governors have suspended executions to investigate this State's execution procedures following the executions of Jesse Tafero and Angel Diaz. Additionally, courts in other jurisdictions have issued stays of executions pending the establishment of a protocol or further inquiry into the department of corrections protocol compliance. See, *Morales v. Tilton*, 465 F. Supp.

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<sup>5</sup> Office of the Governor, "Statement on Oscar Smith Temporary Reprieve," Apr. 21, 2022, <https://www.tn.gov/governor/news/2022/4/21/statement-on-oscar-smith-temporary-reprieve.html> (last accessed Feb. 1, 2026).

2d 972, 973 (N.D. Cal. 2006) and *Taylor v. Crawford*, No. 05-4173-CV-C-FJG, 2006 WL 1779035, at \*4 (W.D. Mo. June 26, 2006).

**III. Newly discovered information creates reasonable doubt as to FDOC's competency to carry out lethal injection executions in accordance with the Eighth Amendment of the United States Constitution.**

FDOC carried out 19 executions in 2025. The FDOC drug logs filed in *Walls v. Dixon*, No. 4:25-cv-0488, ECF 1 (N.D. Fla. Nov. 26, 2025) provide insight into the executions which occurred between January 1, 2025 and September 30, 2025 in which the following 13 people were executed<sup>6</sup>:

James Ford executed February 13, 2025  
Edward James executed March 20, 2025  
Michael Tanzi executed April 8, 2025  
Jeffrey Hutchinson executed May 1, 2025  
Glen Rogers executed May 15, 2025  
Anthony Wainwright executed June 10, 2025  
Thomas Gudina executed June 24, 2025  
Michel Bell executed July 15, 2025  
Edward Zakrzewski executed July 31, 2025  
Kayle Bates executed August 19, 2025  
Curtis Windom executed August 28, 2025  
David Pittman executed September 17, 2025  
Victor Jones executed September 30, 2025.

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<sup>6</sup> “Death Penalty Information Center,” Execution Database, <https://deathpenaltyinfo.org/facts-and-research/data/executions?year=2025&state=Florida&federal=No> (filtered for year 2025, state: Florida) (Last Accessed February 5, 2026).

The FDOC logs provide a table which includes the drug name at the top and columns for “date,” expiration date, “received/used,” and “balance.” See, Appendix A, “FDOC Log Records Part 1,” and Appendix B, “FDOC Log Records Part 2.” Circumstantially, it may be deduced that many of the entries in the date columns correspond with dates in which FDOC carried out executions.

For example, Appendix A, “FDOC Log Part 1,” at APP/005, the record reflects entries for: “4-8-25;” “5-1-25;” and “5-15-25.” This corresponds with the dates FDOC executed Michael Tanzi, Jeffrey Hutchinson, and Glen Rogers. It can also be deduced from this particular page of the record that FDOC did not use expired etomidate 40 mg/20mL during the execution of Michael Tanzi but did “use” etomidate which had reached its expiration of “5-25” during the executions of Jeffrey Hutchinson and Glen Rodgers.

As seen in Appendix B, “FDOC Log Records Part 2,” of the record shows etomidate 40mg/20mL was “used” during additional dates which correspond with the dates of additional executions. APP/027. For instance, the dates which correspond to the executions of Kayle Bates, David Pitman, and Victor Jones reflect the etomidate expired “1/31/2025.” APP/027.

It can also be seen on the log that etomidate was “used” on “7/28/25” and “8/29/25.” APP/027. It is a reasonable conclusion from the record that these two dates correspond with the executions of Edward Zakrzewski and Curtis Windom because there are no entries for etomidate on the dates of their executions other than the entries near the time of their executions. Additionally, the entries suggest that etomidate “used” on July 28, 2025 had reached its expiration at the time of the July 31, 2025 execution. The etomidate used August 29, 2025 expired “1/31/2025.” This suggests that expired etomidate was used during the executions of Edward Zakrzewski and Curtis Windom.

The significance of using expired lethal chemicals was attested to by Dr. Daniel Buffington in his affidavit filed along with Trotter’s demand for public records in the circuit court. Appendix D, “Dr. Daniel Buffington, PharmD, MBA.” He affirmed that “[f]ailure to properly monitor and remove expired substances could result in the use of substances with *reduced pharmacologic effect* or produce unnecessary complications for the inmate or the abrupt and early termination of an execution.” App/062 (emphasis added). The FDOC logs support that **7 of the 13 men** executed between January 2025

and September 30, 2025, appear to have received expired etomidate. Etomidate is the first drug of the protocol used to “sedate” the person being executed so that they do not feel the pain or torture of the second and third drug killing them. This suggests that of the people executed between January 2025 and September 30, 2025, **that more than 50% of the executed men** received doses of etomidate that could have had the *reduced pharmacologic effect*. We, the people of Florida, would not know that the sedative had reduced pharmacologic effect because the second drug, rocuronium, is the paralytic causing muscle paralysis and the men experiencing pain would be prevented from indicating the cruel suffering they are experiencing.

This should shock the conscious of *this* Court and standing alone, warrant a stay of execution to allow for an independent investigation into the competency of FDOC to carry out lethal injection executions.

### **CONCLUSION AND RELIEF SOUGHT**

WHEREFORE, Mr. Trotter petitions this Court for an Order entering a stay of execution and an order directing an independent

investigation into FDOC's competency and compliance with the lethal injection protocol.

Respectfully submitted,

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### **CERTIFICATE OF COMPLIANCE**

Counsel certifies that this Petition Seeking Review of Nonfinal Order is produced in Bookman Old Style 14-point font in compliance with the requirements of Florida Rules of Appellate Procedure 9.045.

**CERTIFICATE OF SERVICE**

WE HEREBY CERTIFY that on this 6<sup>th</sup> day of February, 2026, the foregoing document has been electronically filed with the Clerk of the Circuit Court by using the Florida Courts e-portal filing system which will send a notice of electronic filing to the following: the Florida Supreme Court, [warrant@flcourts.org](mailto:warrant@flcourts.org), and [canovak@flcourts.gov](mailto:canovak@flcourts.gov); the State Attorney's Office Twelfth, Judicial Circuit, 1112 Manatee Avenue West, Bradenton, Florida 34205, Ed Brodsky, [ebrodsky@sao12.org](mailto:ebrodsky@sao12.org); the State Attorney's Office, Sixth Judicial Circuit, 14250 49<sup>th</sup> Street North, Clearwater, Florida 33762, Glenn Martin, [glennmartin@flsa6.gov](mailto:glennmartin@flsa6.gov), Sara Macks, [saramacks@flsa6.gov](mailto:saramacks@flsa6.gov), Todd Chapman, [toddchapman@flsa6.gov](mailto:toddchapman@flsa6.gov), and [eservice@flsa6.gov](mailto:eservice@flsa6.gov); the Office of the Attorney General, 3507 East Frontage Road, Suite 200, Tampa, Florida 33607-7013, Stephen D. Ake, [stephen.ake@myfloridalegal.com](mailto:stephen.ake@myfloridalegal.com), Michael Mervine, [michael.mervine@myfloridalegal.com](mailto:michael.mervine@myfloridalegal.com), Elizabeth Bueter, [Elizabeth.Bueter@myfloridalegal.com](mailto:Elizabeth.Bueter@myfloridalegal.com), Marilyn Muir, [Marilyn.Muir@myfloridalegal.com](mailto:Marilyn.Muir@myfloridalegal.com), Scott Brown, [Scott.Browne@myfloridalegal.com](mailto:Scott.Browne@myfloridalegal.com), Assistants Stephanie Tesoro,

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WE HEREBY FURTHER CERTIFY that a copy has also  
been furnished via U.S. mail, this 6th day of February, 2026,  
to Melvin Trotter, DOC # 573461, at Florida State Prison, P.O. Box  
800, Raiford, Florida 32083.

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