

**IN THE SUPREME COURT OF FLORIDA
CASE NUMBER: 25-0497, 25-0517, & 25-0518.
Lower Tribunal Case: 1998-CF-1382**

EXECUTION SCHEDULED FOR May 1, 2025, at 6:00 P.M.

JEFFREY HUTCHINSON,
APPELLANT,

v.

STATE OF FLORIDA,
APPELLEE.

_____ /

APPELLANT'S MOTION FOR STAY OF EXECUTION

COMES NOW the Appellant, Jeffrey Hutchinson, by and through undersigned counsel and respectfully moves this Court to enter a stay of the scheduled execution, currently set for Thursday, May 1, 2025. Appellant states:

1. Appellant is under a sentence of death and under a Death Warrant signed by Governor Ron DeSantis on March 31, 2025. Appellant is currently scheduled to be executed on Thursday, May 1, 2025, at 6:00 p.m.

2. Prior to the signing of his warrant, Appellant had filed a meritorious successive motion for postconviction relief based on newly discovered evidence related to his brain damage and mental

health which would have resulted in an acquittal of first-degree murder and/or a life sentence.

3. After the case management conference, but before the circuit court had ruled on the motion, Governor DeSantis signed Appellant's death warrant. That case is currently on appeal. See SC25-0497.

4. Appellant is entitled to a stay so that this Court, the Supreme Court of the United States, and the lower federal courts may meaningfully consider his collateral appeals in that case.

5. Further, concurrent with this motion, Appellant has filed an initial brief in this Court on his appeal from the First Judicial Circuit Court in and for Okaloosa County's order summarily denying his Successive Motion to Vacate Judgment of Conviction and Sentence After Death Warrant Signed.

6. Appellant is also entitled to a stay so that this Court may meaningfully consider his contemporaneously filed appeals in cases SC25-0517 and SC25-0518.

7. Appellant's case presents important constitutional issues which deserve to be fully addressed by this Court free from the constraints of a warrant, including challenges to Appellant's death

sentence and execution due to evidence related to brain damage, denial of due process, and other claims raised under the Fifth, Sixth, Eighth, and Fourteenth Amendments.

8. Appellant respectfully requests that this Court enter a stay of execution. A stay of execution is appropriate “when there are ‘substantial grounds upon which relief might be granted.’” *Chavez v. State*, 132 So. 3d 826, 832 (Fla. 2014) (quoting *Buenoano v. State*, 708 So. 2d 941, 951 (Fla. 1998)). In the past, this Court has not hesitated to issue a stay of execution “if there is a meritorious postconviction claim pending or, if at the time the warrant is signed, the defendant brings a successive postconviction challenge that casts doubt on his or her guilt, the integrity of the judicial process, or the validity of the death sentence imposed.” *Abdool v. Bondi*, 141 So. 3d 529, 555 (Fla. 2014) (Pariente, J., concurring); *Valle v. State*, 70 So. 3d 525 (Fla. 2011) (granting stay based on lethal injection claim); *Bottoson v. Moore*, 824 So. 2d 115 (Fla. 2002); *King v. Moore*, 824 So. 2d 127 (Fla. 2002) (granting stay based on United State Supreme Court’s issuance of *Ring v. Arizona*); *Spaziano v. State*, 660 So. 2d 1363 (Fla. 1995) (granting stay to give new lawyers enough time to prepare); *Johnson v. Singletary*, 647 So. 2d 106 (Fla. 1994) (granting

stay based on newly discovered evidence); *Smith v. Dugger*, 565 So. 2d 1293 (Fla. 1990) (granting stay to provide trial court with an opportunity to conduct an evidentiary hearing); *Mills v. Dugger*, 559 So. 2d 578 (Fla. 1990) (granting an indefinite stay for trial court to hold an evidentiary hearing); *Harich v. State*, 542 So. 2d 980 (Fla. 1989) (granting stay to provide trial court with an opportunity to conduct an evidentiary hearing); *Suarez v. Dugger*, 527 So. 2d 190 (Fla. 1988) (granting Suarez's application for stay of execution pending a new proceeding on the Rule 3.850 motion); *Downs v. Dugger*, 514 So. 2d 1069 (Fla. 1987) (granting stay, vacating sentence of death based on *Hitchcock*); *Steinhorst v. State*, 498 So. 2d 414 (Fla. 1986) (granting stay because trial court denied 3.850 motion without reviewing the trial record); *Harvard v. State*, 486 So. 2d 537 (Fla. 1986) (granting stay based on new sentencing hearing); and *Groover v. State*, 489 So. 2d 15 (Fla. 1986) (granting a stay of execution and remanding to the trial court for an evidentiary hearing). Similarly, our sister courts have also not hesitated to issue a stay of execution when necessary. See, e.g., *Ray v. Comm'r, Alabama Dep't of Corr.*, 915 F.3d 689 (11th Cir. 2019); *Spivey v. State*, 273 Ga. 544 (2001); *High*

v. State, 273 Ga. 562 (2001); *Williams v. Head*, 272 Ga. 720 (2000); and *Zant v. Dick*, 249 Ga. 799 (1982).

9. This Court may enter a limited stay to meaningfully consider complex legal claims even if, on first appearance, the possibility of relief appears remote. See *King v. Moore*, 824 So. 2d 127, 128 (Fla. 2002) (Harding, J., concurring) (agreeing with the issuance of a stay due to the “possibility” of merit, despite prior actions by the United States Supreme Court “seemingly send[ing] a clear message” that no relief was due).

10. Further, the period set by the instant warrant is inadequate for review of the meritorious issues presented. Stays are particularly appropriate where, as in Appellant’s case, a warrant is set on a short timeframe. See *Jimenez v. State*, No. SC18-1321 (Fla. Aug. 10, 2018) (granting stay of execution on a 27-day warrant and modifying *nunc pro tunc* the expedited post-warrant scheduling order, without making any findings of substantiality on any issue); see also *Jimenez v. State*, 265 So. 3d 462, 493 (Fla. 2018) (Pariente, J., concurring) (explaining that the “extremely short warrant period” meant that “[t]he postconviction court and Jimenez’s attorneys were forced to race against the clock in reviewing and presenting all of

Jimenez's claims, respectively" and that without a stay there would be "inadequate time to thoroughly review his claims.").

11. In addition, a stay of execution would ensure a meaningful process and ensure that Appellant 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).

12. Denying Appellant full and fair access to the courts because the Governor signed his death warrant would violate due process. As a result, this Court should issue a stay and allow Appellant the time necessary to fully litigate his claims. *See Johnson v. Singletary*, 618 So. 2d 731, 732 (Fla. 1993) (Kogan, J., dissenting) ("I dissent as to the request for a stay. At a minimum I would grant a stay of execution to be dissolved automatically upon the denial of certiorari or the issuance of a mandate in the action Johnson now is pursuing in the United States Supreme Court. I do not think any civilized society can countenance the possibility that persons might be executed while their appeals still are pending in the nation's highest court as has nearly occurred at times in the past.").

13. The magnitude and complexity of the claims raised in both successive motions, taken together with the compelling nature of the evidence already presented, mean that undersigned counsel unquestionably required more time than that which was afforded in the scheduling order. While counsel has been laboring diligently under the existing time limits, more time is needed for counsel to fairly present and litigate Appellant's claims. The extremely short period between the signing of the death warrant and the execution date gives rise to the very real danger that substantial claims will be inadequately considered, or not considered at all. The courts must not take this kind of "fire drill" approach to Appellant's claims.

14. The Judiciary may not simply sidestep its responsibility to thoroughly review Appellant's substantial claims based on an arbitrary execution date set by the Executive. This Court has a legal obligation to consider the claims before it. Consistent with that duty, it should grant a stay of execution so that a full and fair evidentiary hearing, and full and fair appellate review, may be conducted in a reasonable manner.

15. For these reasons, Appellant respectfully requests that this Court stay his scheduled execution. 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.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing pleading has been furnished by electronic service to all counsel of record on this 14th day of April 2025.

/s/ CHELSEA SHIRLEY

Chelsea Shirley

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CERTIFICATION OF TYPE SIZE AND STYLE

Pursuant to Fla. R. App. P. 9.045, I hereby certify that this motion has been produced in Bookman Old Style 14-point font.

/s/ CHELSEA SHIRLEY

Chelsea Shirley

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