

*** CAPITAL CASE ***

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

JAMES AREN DUCKETT, et. al.,
Petitioners,

vs.

RON DESANTIS,
Governor, State of Florida, et al.,
Respondents.

On Petition for Writ of Certiorari to the
United States Court of Appeals for the Eleventh Circuit

PETITION FOR WRIT OF CERTIORARI

DEATH WARRANTS SIGNED
EXECUTIONS SET JULY 28, 2026, AT 12:00 P.M. AND 6:00 P.M.

Mary Elizabeth Wells
Law Office of M.E. Wells
623 Grant Street SE,
Atlanta, GA 30312
mewells27@comcast.net
**Counsel of Record for Both Petitioners*

Capital Collateral Regional
Counsel - South

Brittney N. Lacy
Assistant CCRC-South
lacyb@ccsr.state.fl.us

Courtney M. Hammer
Assistant CCRC-South
hammerC@ccsr.state.fl.us
110 SE 6th Street, Suite 701
Fort Lauderdale, FL 33301

Capital Collateral Regional
Counsel – Middle Region

Ali A. Shakoor
Assistant CCRC-South
shakoor@ccmr.state.fl.us

Debra Roganne Bell
Assistant CCRC-South
bell@ccmr.state.fl.us

Mahham Syed
Assistant CCRC-South
syed@ccmrs.state.fl.us
12973 N. Telecom Parkway
Temple Terrace, Florida 33637
Tel (813) 558-1643

July 27, 2026

CAPITAL CASE

QUESTIONS PRESENTED

On not one occasion in the last 25 years have two executions been successfully carried out on the same day in the same jurisdiction without error or pain. In other words, there is a history of gratuitous superadded pain in 100% of the prior double executions. Florida, who has executed 29 men in the last 19 months—an unprecedented pace in the state in the modern death penalty—has now scheduled the executions of Mr. Duckett and Mr. Occhicone just six hours apart. The trauma and fatigue that multiple executions induce in prison staff is a potent risk factor, and, in practice, as the evidence shows, causes staff to be incapable of complying with the Constitution’s prohibition on cruel punishments as to at least one of the scheduled executions. Therefore, the question presented is

Given the presence of harm in *all* prior double executions in the last 25 years, have Mr. Duckett and Mr. Occhicone shown that Florida’s proposed “method presents a risk that is sure or very likely to cause . . . needless suffering[.]” *Glossip v. Gross*, 576 U.S. 863, 877 (2015)(citing *Baze v. Rees*, 553 U.S. 35, 50 (2008)).

PARTIES TO THE PROCEEDINGS BELOW

Petitioner James Aren Duckett, a death-sentenced Florida inmate, was a Petitioner/Appellant in the Eleventh Circuit Court of Appeals.

Petitioner Dominick Occhicone, a death-sentenced Florida inmate, was a Petitioner/Appellant in the Eleventh Circuit Court of Appeals.

Respondent Ron DeSantis, Governor of the State of Florida, was a Respondent/Appellee in the Eleventh Circuit Court of Appeals.

Respondent Richard Comerford, Secretary of the Florida Department of Corrections, was a Respondent/Appellee in the Eleventh Circuit Court of Appeals.

Respondent Randall Polk, Warden of Florida State Prison, was a Respondent/Appellee in the Eleventh Circuit Court of Appeals.

Respondent Mark Glass, Commissioner of the Florida Department of Law Enforcement, was a Respondent/Appellee in the Eleventh Circuit Court of Appeals.

LIST OF DIRECTLY RELATED PROCEEDINGS

In accordance with Supreme Court Rule 14.1(b)(iii), the following proceedings relate to the case at issue in this Petition:

MR. DUCKETT

Underlying Trial:

Fifth Judicial Circuit Court in and for Lake County, Florida
State of Florida v. James Aren Duckett, Case No. 1987-CF-1347
Judgment Entered: June 30, 1988

Direct Appeal:

Florida Supreme Court, Case No. SC1960-72711
James Aren Duckett v. State of Florida, 568 So. 2d 891 (Fla. 1990)
Judgment Entered: September 6, 1990
Rehearing Denied: November 14, 1990
Mandate Issued: December 17, 1990

Initial Postconviction Proceedings:

Fifth Judicial Circuit Court in and for Lake County, Florida
State of Florida v. James Aren Duckett, Case No. 1987-CF-1347
Judgment Entered: November 26, 2001

Florida Supreme Court, Case No. SC01-2149
James Aren Duckett v. State of Florida, 918 So. 2d 224 (Fla. 2005)
Judgment Entered: October 6, 2005
Rehearing Denied: December 22, 2005
Mandate Issued: January 9, 2006

United States Supreme Court, Case No. 05-11235
James Aren Duckett v. State of Florida, 549 U.S. 846 (2006)
Judgment Entered: October 2, 2006

State Habeas Proceedings:

Florida Supreme Court, Case No. SC02-1300
James Aren Duckett v. James V. Crosby, 918 So. 2d 224 (Fla. 2005)
Judgment Entered: October 6, 2005
Rehearing Denied: December 22, 2005
Mandate Issued: January 9, 2006

Federal Habeas Proceedings:

United States District Court, Middle District of Florida,
Case No. 5:07-cv-6-Oc-10GRJ
James Aren Duckett v. Sec'y, Fla. Dep't of Corr. and Attorney General,
701 F. Supp. 2d 1245 (M.D. Fla. Mar. 25, 2010) (unreported)
Judgment Entered: March 26, 2010
Motion to Alter or Amend Denied: June 1, 2010
Application for COA Denied: August 23, 2010

United States Court of Appeals, Eleventh Circuit, Case No. 10-13095
James Aren Duckett v. Sec'y, Fla. Dep't of Corr., Case No. 10-13095 (11th Cir.
Oct. 26, 2010) (unreported)
Application for COA Denied: October 26, 2010

United States Supreme Court, Case No. 10-10986
James Aren Duckett v. Sec'y, Fla. Dep't of Corr., 565 U.S. 860 (2011)
Judgment Entered: October 3, 2011

First Successive Postconviction Proceedings:

Fifth Judicial Circuit Court in and for Lake County, Florida
State of Florida v. James Aren Duckett, Case No. 1987-CF-1347
Judgment Entered: June 9, 2008

Second Successive Postconviction Proceedings:

Fifth Judicial Circuit Court in and for Lake County, Florida
State of Florida v. James Aren Duckett, Case No. 1987-CF-1347
Judgment Entered: March 15, 2013

Florida Supreme Court, Case No. SC13-719
James Aren Duckett v. State of Florida, 148 So. 3d 1163 (Fla. 2014)
Judgment Entered: June 26, 2014
Rehearing Denied: October 6, 2014
Mandate Issued: October 23, 2014

Third Successive Postconviction Proceedings:

Fifth Judicial Circuit Court in and for Lake County, Florida
State of Florida v. James Aren Duckett, Case No. 1987-CF-1347
Judgment Entered: April 1, 2016

Florida Supreme Court, Case No. SC16-793
James Aren Duckett v. State of Florida, 231 So. 3d 393 (Fla. 2017)
Judgment Entered: October 12, 2017

Rehearing Denied: December 28, 2017
Mandate Issued: January 16, 2018

United States Supreme Court, Case No. 17-8388
James Aren Duckett v. State of Florida, 138 S. Ct. 2625 (2018)
Judgment Entered: June 11, 2018

Fourth Successive Postconviction Proceedings:

Fifth Judicial Circuit Court in and for Lake County, Florida
State of Florida v. James Aren Duckett, Case No. 1987-CF-1347
Judgment Entered: June 18, 2018

Florida Supreme Court, Case No. SC18-1190
James Aren Duckett v. State of Florida, 260 So. 3d 230 (Fla. 2018)
Judgment Entered: December 28, 2018
Mandate Issued: January 17, 2019

United States Supreme Court, Case No. 18-8683
James Aren Duckett v. State of Florida, 139 S. Ct. 2964 (2019)
Judgment Entered: June 10, 2019

Fifth Successive Postconviction Proceedings (Under Warrant):

Fifth Judicial Circuit Court in and for Lake County, Florida
State of Florida v. James Aren Duckett, Case No. 35-1987-CF-1347
Judgment Entered: March 17, 2026

Florida Supreme Court, Case No. SC2026-0449
James Aren Duckett v. State of Florida, 428 So. 3d 40 (Fla. 2026)
Stay of Execution Granted: March 26, 2026

James Aren Duckett v. State of Florida, 429 So. 3d 1006 (Fla. 2026)
Motion to Lift Stay Denied: March 30, 2026

James Aren Duckett v. State of Florida, No. 2026-0449, 2026 WL 1970442
(Fla. July 8, 2026) (unreported)
Judgment Entered: July 8, 2026
Mandate Issued: July 8, 2026

Second State Habeas Proceedings (Under Warrant):

Florida Supreme Court, Case No. SC2026-0450
James Aren Duckett v. State of Florida, 428 So. 3d 40 (Fla. 2026)
Stay of Execution Granted: March 26, 2026

James Aren Duckett v. State of Florida, 429 So. 3d 1006 (Fla. 2026)
Motion to Lift Stay Denied: March 30, 2026

James Aren Duckett v. Sec’y, Fla. Dep’t of Corr., No. SC2026-0450,
2026 WL 1970442 (Fla. July 8, 2026) (unreported)
Judgment Entered: July 8, 2026
Mandate Issued: July 8, 2026

Postconviction DNA Testing Proceedings (Under Warrant):

Fifth Judicial Circuit Court in and for Lake County, Florida
State of Florida v. James Aren Duckett, Case No. 35-1987-CF-1347
Judgment Entered: April 1, 2026

Florida Supreme Court, Case No. SC2026-0528
James Aren Duckett v. State of Florida, 431 So. 3d 990 (Fla. 2026)
Judgment Entered: April 30, 2026
Mandate Issued: April 30, 2026

Sixth Successive Postconviction Proceedings (Under Warrant):

Fifth Judicial Circuit Court in and for Lake County, Florida
State of Florida v. James Aren Duckett, Case No. 35-1987-CF-1347
Judgment Entered: July 17, 2026

Florida Supreme Court, Case No. SC2026-1083
James Aren Duckett v. State of Florida, No. SC2026-1083, 2026 WL 2137081
(Fla. July 24, 2026) (unreported)
Judgment Entered: July 24, 2026
Mandate Issued: July 24, 2026

Second Postconviction DNA Testing Proceedings (Under Warrant):

Fifth Judicial Circuit Court in and for Lake County, Florida
State of Florida v. James Aren Duckett, Case No. 35-1987-CF-1347
Judgment Entered: July 17, 2026

Florida Supreme Court, Case No. SC2026-0528
James Aren Duckett v. State of Florida, No. SC2026-1084, 2026 WL 2137081
(Fla. July 24, 2026)
Judgment Entered: July 24, 2026
Mandate Issued: July 24, 2026

United States Supreme Court, Case No. 26-5156 and 26A119
James Aren Duckett v. State of Florida, Filed July 25, 2026, pending*

Civil Complaint For Declaratory and Injunctive Relief Pursuant to 42 U.S.C. § 1983:

United States District Court, Middle District of Florida,
Case No. 5:26-cv-524-JEP-PRL
James Aren Duckett v. William Gladson, State Attorney for the Fifth Judicial Circuit, et al., Case No. 5:26-cv-524-JEP-PRL (M.D. Fla. July 27, 2026) (unreported)
Motion to Stay Denied and Motion to Dismiss Granted: July 27, 2026

Civil Complaint For Declaratory and Injunctive Relief Pursuant to 42 U.S.C. § 1983:

United States District Court, Northern District of Florida
Case No. 4:26-cv-00354-TKW-MJF
James Aren Duckett v. Richard Comerford, et al, Case No. 4:26-cv-00354-TKW-MJF (N.D. Fla. July 24, 2026) (unreported)
Motion to Stay Denied: July 24, 2026

MR. OCCHICONE

Trial and Sentencing

Circuit Court of the Sixth Judicial Circuit, Pasco County
Docket Number: 1986CF001355CFAWS
Case Caption: *State of Florida v. Dominick Occhicone*
Date of Entry of Judgement: Convicted, September 18, 1987; Sentenced, November 9, 1987
Unreported

Direct Appeal

Supreme Court of Florida
Docket Number: SC1960-71505
Case Caption: Occhicone v. State
Date of Entry of Judgement: Denied, October 11, 1990; Rehearing Denied, December 26, 1990
Occhicone v. State, 570 So. 2d 902, 904 (Fla. 1990)_

Petition for Writ of Certiorari

Supreme Court of the United States
Docket Number: 90-7541
Case Caption: Occhicone v. Florida
Date of Entry of Judgement: Denied, May 20, 1991

Occhicone v. Fla., 500 U.S. 938, 111 S. Ct. 2067, 114 L. Ed. 2d 471 (1991)_

Petition for Writ of Habeas Corpus

Supreme Court of Florida

Docket Number: 80234

Case Caption: *Occhicone v. Singletary*

Date of Entry of Judgement: Denied, April 8, 1993; Rehearing Denied, June 7, 1993

Occhicone v. Singletary, 618 So. 2d 730, 730 (Fla. 1993)_

Motion for Postconviction Relief

Circuit Court of the Sixth Judicial Circuit, Pasco County

Docket Number: 1986CF001355CFAWS

Case Caption: *Dominick Occhicone v. State of Florida*

Date of Entry of Judgement: Denied in Part, July 17, 1995, Order Granting in Part, September 12, 1996; Evidentiary Hearing Concluded, November 18, 1997; Denied, May 19, 1998

Unreported

Motion for Belated Appeal (Pro Se)

Supreme Court of Florida

Docket Number: SC1960-92887

Case Caption: *Occhicone v. State*

Date of Entry of Judgement: Denied, August 17, 1998

Occhicone v. State, 718 So. 2d 1234 (Fla. 1998)_

Appeal from Denial of Motion for Postconviction Relief

Supreme Court of Florida

Docket Number: SC1960-93343

Case Caption: *Occhicone v. State*

Date of Entry of Judgement: Denied, June 29, 2000; Rehearing Denied October 10, 2000

Occhicone v. State, 768 So. 2d 1037, 1039 (Fla. 2000)_

Federal Petition for Writ of Habeas Corpus

United States District Court, Middle District of Florida

Docket Number: 8:01CV2136T27TGW

Case Caption: *Occhicone v. Moore*

Date of Entry of Judgement: Denied, March 31, 2005

Occhicone v. Moore, No. 8:01CV2136T27TGW, 2005 WL 1073936, at *1 (M.D. Fla. Mar. 31, 2005), *aff'd sub nom. Occhicone v. Crosby*, 455 F.3d 1306 (11th

Cir. 2006)

Appeal from Denial of Federal Petition for Writ of Habeas Corpus

United States Court of Appeals, Eleventh Circuit
Docket Number: 05–12502
Case Caption: Occhicone v. Crosby
Date of Entry of Judgement: Denial Affirmed, July 14, 2006
Occhicone v. Crosby, 455 F.3d 1306, 1313 (11th Cir. 2006)

Petition for Writ of Certiorari

Supreme Court of the United States
Docket Number: 06-7160
Case Caption: Occhicone v. McDonough
Date of Entry of Judgement: Denied, January 8, 2007
Occhicone v. McDonough, 549 U.S. 1122, 127 S. Ct. 944, 945, 166 L. Ed. 2d 722 (2007)

Successive Motion for Postconviction Relief (*Hurst* Relief)

Circuit Court of the Sixth Judicial Circuit, Pasco County
Docket Number: 1986CF001355CFAWS
Case Caption: Dominick Occhicone v. State of Florida
Date of Entry of Judgement: Denied, May 18, 2017
Unreported

Petition for Writ of Habeas Corpus (*Hurst* Relief)

Supreme Court of Florida
Docket Number: SC2017–1112
Case Caption: Occhicone v. State
Date of Entry of Judgement: Denied, January 30, 2018
Occhicone v. State, 235 So. 3d 299, 300 (Fla. 2018)

Petition for Writ of Certiorari

Supreme Court of the United States
Docket Number: 17-9497
Case Caption: Occhicone v. Florida
Date of Entry of Judgement: Denied, October 1, 2018
Occhicone v. Fla., 586 U.S. 863, 139 S. Ct. 181, 202 L. Ed. 2d 112 (2018)

Successive Motion for Postconviction Relief (Post Warrant)

Circuit Court of the Sixth Judicial Circuit, Pasco County
Docket Number: 1986CF001355CFAWS
Case Caption: Dominick Occhicone v. State of Florida
Date of Entry of Judgement: Denied, July 10, 2026
Unreported

Appeal from Denial of Successive Motion for Postconviction Relief (Post Warrant)

Supreme Court of Florida
Docket Number: SC2026-1042
Case Caption: Occhicone v. State
Date of Entry of Judgement: Denied, July 21, 2026;
Occhicone v. State, 2026WL2097359 (Fla. 2026)

JOINT PROCEEDINGS

Civil Complaint For Declaratory and Injunctive Relief Pursuant to 42 U.S.C. § 1983:

United States District Court, Northern District of Florida
Case No. 4:26-cv-00355-TKW-MAF
James Aren Duckett, et al., v. Ron DeSantis, Governor of the State of Florida,
et al., Case No. 4:26-cv-00355-TKW-MAF (N.D. Fla. July 24, 2026)
(unreported)
Motion to Stay Denied and Motion to Dismiss Granted: July 24, 2026

United States Court of Appeals, Eleventh Circuit, Case No. 26-12595
James Aren Duckett, et al., v. Ron DeSantis, Governor of the State of Florida,
et al., No. 26-12595 (11th Cir. July 26, 2026) (unreported)
Motion to Stay Denied: July 26, 2026

TABLE OF CONTENTS

QUESTIONS PRESENTED	i
PARTIES TO THE PROCEEDINGS BELOW	ii
LIST OF DIRECTLY RELATED PROCEEDINGS.....	iii
TABLE OF CONTENTS	xi
TABLE OF AUTHORITIES	xiii
CITATIONS TO OPINIONS AND ORDERS BELOW	1
STATEMENT OF JURISDICTION	1
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	1
INTRODUCTION.....	2
STATEMENT OF THE CASE	2
A. Relevant Facts Concerning the Instant Action.....	2
B. Florida’s Procedure for Issuing Death Warrants and Scheduling Executions.....	5
C. Florida’s Lethal Injection Procedures	6
D. FDOC’s Policies for Inmates Under Warrant on Their Execution Day 	11
E. The Historical Anomaly of Double Executions in the United States .	13
REASONS FOR GRANTING THE WRIT	17
I. Respondents’ Compressed Scheduling of Petitioners’ Executions Violates Their Right to the Eighth and Fourteenth Amendments to the United State Constitution.	17
II. Respondents’ Scheduling of Petitioners’ Executions Violates their Rights to Equal Protection Under the Fifth and Fourteenth Amendments to the United State Constitution.	27
CONCLUSION	31

TABLE OF CONTENTS – APPENDICES

APPENDIX A:	<i>James Aren Duckett, et al. v. Ron DeSantis, Governor, State of Florida, et al., Case No 26-12595 (11th Cir. July 26, 2026), Eleventh Circuit Order Denying Stay of Execution....</i>	1a
APPENDIX B:	<i>James Aren Duckett, et al. v. Ron DeSantis, Governor, State of Florida, et al., 11th Circuit Case No 26-12595, Plaintiffs’ Emergency Motion for Stay of Execution, Filed July 25, 2026</i>	9a
APPENDIX C:	<i>James Aren Duckett, et al., v. Ron DeSantis, Governor of the State of Florida, et al., Case No. 4:26-cv-355-TKW-MAF (M.D. Fla. July 24, 2026), Order Denying Stay of Execution</i>	22a
APPENDIX D:	<i>James Aren Duckett, et al., v. Ron DeSantis, Governor of the State of Florida, et al., District Court Case No. 4:26-cv-355-TKW-MAF, Emergency Motion for Stay of Execution, Filed July 23, 2026</i>	28a
APPENDIX E:	<i>James Aren Duckett, et al., v. Ron DeSantis, Governor of the State of Florida, et al., District Court Case No. 4:26-cv-355-TKW-MAF, Complaint for Declaratory and Injunctive Relief Pursuant to 42 U.S.C. § 1983, Filed July 23, 2026.....</i>	36a
APPENDIX F:	<i>James Aren Duckett, et al., v. Ron DeSantis, Governor of the State of Florida, et al., District Court Case No. 4:26-cv-355-TKW-MAF, Appendix to Complaint for Declaratory and Injunctive Relief Pursuant to 42 U.S.C. § 1983, Filed July 23, 2026.....</i>	73a
APPENDIX G:	<i>Tennessee v. Anthony Darrell Hines, No. M2025-00221-SC-DPE-DD, Declaration of Maria DeLiberato, Signed July 20, 2026.....</i>	226a
APPENDIX H:	<i>Erik Eckholm, IV Misplaced in Oklahoma Execution, Report Says, N.Y. Times (Sept. 4, 2014).....</i>	232a
APPENDIX I:	<i>Katie Freeland, Scene at Botched Oklahoma Execution of Clayton Lockett was a ‘Bloody Mess,’ The Guardian (Dec. 13, 2014).....</i>	234a

TABLE OF AUTHORITIES

Cases

<i>Arthur v. Thomas</i> , 674 F.3d 1257 (11th Cir. 2012)	32
<i>Baze v. Rees</i> , 553 U.S. 35 (2008).....	19, 24
<i>Carmell v. Texas</i> , 529 U.S. 513, 533 (2000)	30
<i>City of Cleburne, Tex. v. Cleburne Living Ctr.</i> , 473 U.S. 432 (1985)	32
<i>Duckett v. State</i> , 428 So. 3d 40 (Fla. 2026)	4
<i>Duckett v. State</i> , 431 So. 3d 900 (Fla. 2026)	4
<i>Duckett v. State</i> , 568 So. 2d 891 (Fla. 1990)	3
<i>Duckett v. State</i> , SC2026-0449 & SC2026-0450, 2026 WL 1970442 (Fla. July 8, 2026).....	4
<i>F.S. Royster Guano Co. v. Commonwealth of Virginia</i> , 253 U.S. 412, 415 (1920)	30
<i>Farmer v. Brennan</i> , 511 U.S. 825 (1994)	18, 19
<i>Gagnon v. Scarpelli</i> , 411 U.S. 778 (1973)	31
<i>Glossip v. Gross</i> , 576 U.S. 863 (2015)	i, 16, 19, 27
<i>Gregg v. Georgia</i> , 428 U.S. 153, 187 (1976)	20
<i>Hall v. Florida</i> , 572 U.S. 701 (2014)	3
<i>James Aren Duckett, et al. v. Ron DeSantis</i> , Governor, State of Florida, et al., Case No 26-12595 (11 th Cir. July 26, 2026)	1
<i>James Aren Duckett, et al., v. Ron DeSantis, Governor of the State of Florida</i> , et al., Case No. 4:26-cv-355-TKW-MAF (N.D. Fla. July 24, 2026).	1
<i>Lee v. Lovelace</i> , No. 26-11864, 2026 WL 1651147 (11th Cir. June 8, 2026)	27
<i>Long v. State</i> , 271 So. 3d 938 (Fla. 2019).....	26
<i>Louisiana ex rel. Francis v. Resweber</i> , 329 U.S. 459 (1947).....	18
<i>Nordlinger v. Hahn</i> , 505 U.S. 1 (1992)	33
<i>Occhicone v. State</i> , 570 So. 2d 902 (Fla. 1990).....	3

<i>Occhicone v. State</i> , SC2026-1042, 2026 WL 2097359 (Fla. July 21, 2026)	28
<i>Robinson v. California</i> , 370 U.S. 666 (1962).....	18
<i>Schweiker v. Wilson</i> , 450 U.S. 221 (1981).....	33
<i>Skinner v. State of Okl. ex. rel. Williamson</i> , 316 U.S. 535 (1942).....	30
<i>Sunday Lake Iron Co. v. Wakefield Twp.</i> , 247 U.S. 350 (1918)	33
<i>Trop v. Dulles</i> , 356 U.S. 86, 101 (1958).....	20
<i>Trotter v. Florida</i> , 146 S. Ct. 755 (2026).....	28
<i>Zobel v. Williams</i> , 457 U.S. 55 (1982)	33
Statutes	
§ 922.105(1), Fla. Stat. (2025)	6, 7
§ 922.11(1), Fla. Stat. (2000)	6
§ 945.10, Fla. Stat. (2024).....	10
28 U.S.C. § 1254.....	1
42 U.S.C. § 1983.....	2
Constitutional Provisions	
U.S. Const. amend. VIII	18
U.S. Const. amend. XIV.....	1, 2, 18, 29

CITATIONS TO OPINIONS AND ORDERS BELOW

The Eleventh Circuit Court of Appeals Order affirming the District Court's denial of an emergency stay of execution is unreported. *James Aren Duckett, et al. v. Ron DeSantis*, Governor, State of Florida, et al., Case No 26-12595 (11th Cir. July 26, 2026) (Pet. App. A). The District Court for the Northern District of Florida issued an order denying an emergency stay of execution is unreported. *James Aren Duckett, et al., v. Ron DeSantis, Governor of the State of Florida*, et al., Case No. 4:26-cv-355-TKW-MAF (N.D. Fla. July 24, 2026). (Pet. App. C).

STATEMENT OF JURISDICTION

The Eleventh Circuit Court of Appeals issued its order affirming the District Court's stay of execution on July 26, 2026. This Court has jurisdiction under 28 U.S.C. § 1254.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Fifth Amendment to the United States Constitution provides:

No person shall be ... deprived of life, liberty, or property without due process of law.

The Eighth Amendment to the United States Constitution provides:

Excessive bail shall not be required, nor excessive fines imposed, nor cruel of unusual punishments inflicted.

The Due Process Clause of the Fourteenth Amendment to the United States Constitution provides:

[N]or shall any State deprive any person of life, liberty, or property, without due process of law.

Section 1983 of Title 42 of the United States Code states, in relevant part:

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and law shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress. . . .

INTRODUCTION

Without this Court’s intervention, in less than 24 hours, Florida will execute James Duckett and Dominick Occhicone on the same day, 6 hours apart from one another without any procedures for conducting two executions on the same day and after having not done so since 1964. This sobering milestone marks not only the first time in 62 years that Florida will carry out executions of two death-sentenced individuals on the same day, but also the first time it will do so using lethal injection.

“The death penalty is the gravest sentence our society may impose,” *Hall v. Florida*, 572 U.S. 701, 724 (2014), and there is no justifiable reason to carry out Petitioner Duckett’s and Occhicone’s executions on such a compressed schedule where the risk for irreparable error is at its apex.

STATEMENT OF THE CASE

A. Relevant Facts Concerning the Instant Action

Petitioner James Aren Duckett was convicted of the 1987 sexual battery and murder of Teresa McAbee in the Fifth Judicial Circuit Court, in and for Lake County, Florida. Mr. Duckett was sentenced to death for the first-degree murder count following an advisory jury’s 8–4 advisory recommendation. *Duckett v. State*, 568 So. 2d 891 (Fla. 1990).

Petitioner Dominick Occhicone was convicted of two counts of first-degree murder for the 1986 deaths of Raymond and Martha Artzner in the Sixth Judicial Circuit Court, in and for Pasco County, Florida. Mr. Occhicone received a sentence of life in prison without the possibility of parole for 25 years for the death of Raymond Artzner but was sentenced to death for killing Martha Artzner following a jury's advisory recommendation of 7–5. *Occhicone v. State*, 570 So. 2d 902 (Fla. 1990), *cert. denied*, 500 U.S. 938 (1991).

On February 27, 2026, Respondent DeSantis signed a death warrant for Petitioner Duckett, designating the week beginning at 12:00 noon on Tuesday, March 31, 2026, through 12:00 noon on Tuesday, April 7, 2026, for his execution. As FSP's warden, Respondent Polk set the date and time of Mr. Duckett's execution for Tuesday, March 31, 2026, at 6:00 p.m. (Pet. App. F, 88a).

On March 26, 2026, the Florida Supreme Court entered an Order granting Mr. Duckett's motion to stay his execution due to DNA testing of biological evidence permitted by the circuit court. *Duckett v. State*, 428 So. 3d 40 (Fla. 2026); *Duckett v. State*, 431 So. 3d 900 (Fla. 2026). This stay remained in effect until the Florida Supreme Court disposed of Mr. Duckett's 3.851 appeal and habeas petition filed under warrant and vacated the stay on July 8, 2026. *Duckett v. State*, SC2026-0449 & SC2026-0450, 2026 WL 1970442, at *1 (Fla. July 8, 2026).

In the nearly 5 months since Mr. Duckett's warrant was signed, Respondent DeSantis has issued death warrants for 8 more Florida inmates, including Chadwick Willacy (DC# 707742), James Hitchcock (DC# 058293), Richard Knight (DC#

L36346), Andrew Lukehart (DC# 391485), Dusty Ray Spencer (DC# 321031), Dennis Sochor (DC# 639131), William Silvia (DC# 512579), and Petitioner Occhicone.

In addition to executing 2 others who were already under active death warrants when Mr. Duckett's warrant was signed, Billy Leon Kearse (DC# 138315) and Michael King (DC# 132254), FDOC has carried out the sentences of each individual named in above, except Mr. Silvia's¹ and Petitioner Occhicone's.

Respondent DeSantis issued the death warrant for Petitioner Occhicone on June 26, 2026, designating the week beginning at 12:00 noon on Tuesday, July 28, 2026, through 12:00 noon on Tuesday, August 4, 2026, for his execution. Respondent Polk set the date and time of Mr. Occhicone's execution for Tuesday, July 28, 2026, at 6:00 p.m. (Pet. App. F, 97a).

Meanwhile, in a letter dated July 14, 2026, the Attorney General for the State of Florida, James Uthmeier, notified Respondent DeSantis that the stay of execution in Mr. Duckett's case had been lifted and that "the record [was] legally sufficient to support the setting of a new execution date." (Pet. App. F, 110a).

That same day, Respondent DeSantis issued a letter resetting Mr. Duckett's execution, designating the week beginning at 12:00 noon on Tuesday, July 28, 2026, through 12:00 noon on Tuesday, August 4, 2026, for the sentence to be carried out. Respondent Polk set the date and time of Mr. Duckett's execution for Tuesday, July 28, 2026, at 12:00 noon. (Pet. App. F, 110a).

Petitioners Duckett and Occhicone are now set to be executed on the same day,

¹ Respondent DeSantis issued Mr. Silvia's death warrant on July 17, 2026. Mr. Silvia is not scheduled to be executed until August 18, 2026.

July 28, 2026, just 6 hours apart. If these executions proceed as scheduled, it will be the first time the State has carried out two capital sentences in the same day in the modern era. See Execution Database, Death Penalty Info Ctr., <https://deathpenaltyinfo.org/facts-and-research/data/executions?state=Florida&federal=No&page=3> (last updated July 21, 2026); see also Hayley Bedard, *Florida Sets Two Executions for the Same Day*, Death Penalty Info. Ctr. (July 20, 2026), <https://deathpenaltyinfo.org/facts-and-research/data/executions?state=Florida&federal=No&page=3> (noting that “[t]he last time Florida carried out two executions on the same day was with the electric chair in 1964”).

B. Florida’s Procedure for Issuing Death Warrants and Scheduling Executions

Florida law vests the Governor with the sole authority to issue death warrants and designate the time period for executing a capital sentence. § 922.052, Fla. Stat. This same statutory provision authorizes a warrant period of up to 180 days. *Id.*

Once the Governor signs a death warrant, it is transmitted to the warden of Florida State Prison where all executions in the state take place. Upon receipt of the warrant, the warden is required to “set the day for execution within the week designated by the Governor” § 922.11(1), Fla. Stat. (2000). The law and any other publicly available materials are silent as to any other factors governing the warden’s selection of an execution’s date and time. *Id.*

Under §section 922.105(1), Florida Statutes (2025), “[a] death sentence shall be executed by lethal injection, unless the person sentenced to death affirmatively

elects to be executed by electrocution.” Florida’s current three-drug protocol for lethal injections consists of a series of etomidate, rocuronium bromide, and potassium acetate injections.

Neither Mr. Duckett nor Mr. Occhicone have elected death by electrocution and stand to be executed by lethal injection on July 28, 2026, at 12:00 p.m. and 6:00 p.m., respectively. Their sentences will be executed under the direction of Respondent Comerford as FDOC Secretary or his designee. § 922.105(1), Fla. Stat.

C. Florida’s Lethal Injection Procedures

FDOC’s Execution by Lethal Injection Procedures (hereinafter Lethal Injection Procedures) were last certified by former Secretary Ricky D. Dixon on February 18, 2025.² (Pet. App. F, 73a). Former Secretary Dixon’s letter to Respondent DeSantis accompanying the protocol certified that:

The procedure has been reviewed and is compatible with evolving standards of decency that mark the progress of a maturing society, the concepts of the dignity of man, and advances in sciences, research, pharmacology, and technology. The process will not involve unnecessary lingering or the unnecessary or wanton infliction of pain and suffering. The foremost objective of the lethal injection process is a humane and dignified death. Additional guiding principles of the lethal injection process are that it should not be of a long duration, and that while the entire process of execution should be transparent, the concerns and emotions of all those involved must be addressed.

(Pet. App. F, 73a).

Former Secretary Dixon further certified that “[t]he Department is prepared to

² FDOC’s Lethal Injection Procedures have been effectively the same since January 2017 when the agency replaced Midazolam with Etomidate as the first drug in the three-drug protocol.

administer an execution by lethal injection and has the necessary procedures, equipment, facilities, and personnel in place to do so.” *Id.* This means that FDOC “has available the appropriate persons who meet the minimum qualifications under Florida Statutes and in addition have the education, training, or experience, including the necessary licensure or certification, required to perform the responsibilities or duties specified and to anticipate contingencies that might arise during the execution procedure.” *Id.* FDOC’s Lethal Injection Procedures advise that “[t]here will be a review of the lethal injection procedure by the Secretary of the Florida Department of Corrections, at a minimum of once every two years, or more frequently as needed.” (Pet. App. F, 87a). This “review [is required to] take into consideration the available medical literature, legal jurisprudence, and the protocols and experience from other jurisdictions.” *Id.*

To the best of Petitioners’ knowledge, Respondent Comerford has not yet undertaken this periodic review of Florida’s Lethal Injection Procedures since assuming his role as FDOC Secretary on July 1, 2026. Moreover, Respondent Comerford has only overseen one execution as FDOC Secretary during his tenure thus far, which was the execution of Dennis Sochor by lethal injection on July 14, 2026.

Florida’s Lethal Injection Procedures define the roles of the “Execution Team,” the “Executioner,” the “Institutional Warden” (Respondent Polk), and the “Team Warden” responsible for carrying out an execution.

The “Execution Team” refers to “correctional staff and other persons who are

selected by the team warden designated by the Secretary to assist in the administration of an execution by lethal injection, and who have the training and qualifications, including the necessary licensure or certification, required to perform the responsibilities or duties specified.” (Pet. App. F, 74a).

The “Executioner” refers to “an individual selected by the team warden to initiate the flow of lethal chemicals into the inmate.” As explained in the procedures, “[t]he executioner’s sole function is to inject the chemicals into the IV access port by physically pushing the chemicals from the syringe,” and he or she “is only authorized to carry out this specific function under the direction of the team warden.” *Id.*

The “Institutional Warden” is the warden of FSP, “who shall be responsible for handling support functions necessary to carry out the lethal injection process.” *Id.* As noted above, the Institutional Warden is Respondent Polk, and he has been in this position since December 2025.

Lastly, the “Team Warden” refers to “the warden designated by the Secretary” who “has the final and ultimate decision making authority in every aspect of the lethal injection process.” (Pet. App. F, 75a).

The Lethal Injection Procedures further provide that “[t]wo (2) FDLE agents shall serve as monitors and shall be responsible for observing the actions of the execution team and the condition of the condemned inmate at all times during the execution process. (Pet. App. F, 78a). “The first FDLE agent shall be located in the executioner’s room and is responsible for observing the preparation of the lethal chemicals and documenting and keeping a detailed log as to what occurs in the

executioner's room at a minimum of two (2) minute intervals." *Id.* "The second FDLE agent shall be located in the execution chamber and will be [likewise] responsible for keeping a detailed log of what is occurring in the execution chamber at a minimum of two (2) minute intervals." *Id.*

The Lethal Injection Procedures, as well as sections 945.10(1)(g) and (j), Florida Statutes (2024), explicitly shield the identities of the Execution Team, Executioner, Team Warden, and FDLE monitors from public disclosure. The qualifications and licensure of any individual involved with an execution are absent from the protocol and likewise unknown.

The Lethal Injection Protocol calls for successive intravenous injections of 200 milligrams of etomidate, a sedative, followed by 1000 milligrams of rocuronium bromide, a paralytic agent, and 240 milliequivalents of potassium acetate, which stops the heart. (Pet. App. F, 79a-80a).

On the day of the execution, the designated executioner will prepare syringes with the required dosages to dispense during the lethal injection. That executioner is also instructed to prepare a second set that is not administered unless expressly ordered to by the team warden. *Id.*

The source of the drugs used in Florida's Lethal Injection Protocol is unknown, and the identity of the pharmacy that manufactures the chemicals used by Respondents in executions is confidential. § 945.10, Fla. Stat.

Thirty minutes before the execution is set to begin, a designated staff member will gain venous access to the prisoner through each arm. (Pet. App. F, 82a). One arm

will be connected to a primary IV line, and the second arm will be connected to a secondary line. *Id.* If the staff member cannot obtain IV access through the prisoner's arms, the procedures authorize that person to seek peripheral venous access by trying "other appropriate sites." *Id.* If peripheral venous access cannot be achieved, the procedures authorizes the staff member to gain access to the prisoner's veins through a cut-down method, wherein executioners cut directly into the prisoner's skin to insert the IV cannula. *Id.*

Multiple parts of the prisoner's body will be strapped down to the gurney, and their fingers will be taped down with a bandage binding his or her hands to the gurney to hide observable movement. Two heart monitors will be strapped to the prisoner's chest, to be monitored in a smaller room adjacent to the execution chamber, out of sight from witnesses. *Id.*

When the execution begins, a curtain will open, allowing witnesses to view the prisoner. (Pet. App. F, 84a). The executioner will administer the drugs from the smaller room. *Id.* The drugs will travel through a long stretch of IV tubing to reach the prisoner's veins.

The procedure begins with the injection of etomidate from two syringes containing 100mg of etomidate each. (Pet. App. F, 83a-84a). After that dosage is administered, the team warden will assess whether the prisoner appears sufficiently unconscious. *Id.*

If the team warden determines that the prisoner is still conscious, the execution team will assess the viability of the secondary IV line and perform a

cutdown procedure if that access point is compromised. *Id.* This will occur out of view from the witnesses. *Id.* Once an IV is again set, the process will continue, and etomidate will be injected a second time. *Id.*

If at that point the team warden is satisfied with the prisoner's appearance of unconsciousness, the execution will proceed. From the adjacent small room that is out of sight from the witnesses, the executioners will continue and administer 1000mg of rocuronium bromide and 240 milliequivalents of potassium acetate with syringes of saline solution in between. (Pet. App. F, 84a-85a).

When the heart monitors reflect a flat line reading, a physician will then inspect the prisoner to determine if he or she is still breathing and if there is a heartbeat. (Pet. App. F, 86a). That physician will pronounce the prisoner dead, concluding the execution. *Id.*

The Lethal Injection Procedures certified by former Secretary Dixon on February 18, 2025, do not address multiple executions being carried out on the same day.

D. FDOC's Policies for Inmates Under Warrant on Their Execution Day

FDOC policies promulgated by Respondent Polk provide the schedule for inmates on the day of their execution. (Pet. App. F, 120a). Included in this schedule are final social visits with the inmate's family or friends and visit with the inmate's spiritual advisor.

As to final social visits, the policy states that on "[t]he morning of the scheduled execution, social visits will be non-contact from 8:00 a.m. – 10:00 a.m." *Id.* The policy

additionally advises that “[a] final contact visit for the condemned inmate may be authorized by the Institutional Warden based on circumstances as deemed appropriate, from 10:00am until 11:00am.” *Id.*

As for the final religious visit, the policy states that on “[t]he day of the scheduled execution, religious visits by the designated religious leader will be non-contact, [with the] option for [a] contact visit cell front at [the] discretion of [the] institutional warden, during the hours of 12:00 pm – 2:00 pm.” *Id.*

FDOC policy states that the times described above “are approximate and subject to change according to the time of the execution.” *Id.* Like its Lethal Injection Protocols, FDOC’s scheduling policy does not address the logistics for carrying out multiple executions on the same day.

As such, after receiving notice that his execution date and time had been reset for 12:00 p.m. on July 28, 2026, Petitioner Duckett immediately contacted Respondent Polk’s assistant to inquire what the schedule would be for his final visit with his family and spiritual advisor. Respondent Polk’s assistant thereafter informed Petitioner Duckett via email that his final visit with his family would be on Monday, July 27, 2026, from 9:00 a.m. – 12:00 p.m. and that his visit with his spiritual advisor would be on the day of his execution from 6:00 – 8:00 a.m. (Pet. App. F, 123a).

Absent any change to his execution date or time, Petitioners Duckett and Occhicone will be the only death-sentenced defendants who do not get the opportunity to see their families on the day the State of Florida intends to kill them.

E. The Historical Anomaly of Double Executions in the United States

Conducting more than one execution on the same day is exceedingly rare and has only occurred *once* since the year 2000 when Arkansas executed Jack Harold Jones, Jr., and Marcel Wayne Williams via lethal injection on April 24, 2017. *See* Execution Database, Death Penalty Info. Ctr., <https://deathpenaltyinfo.org/facts-and-research/data/executions> (last updated July 23, 2026). The inherent difficulties and concerns arising from the practice has prompted several states to adopt rules expressly prohibiting it.

For instance, in 2014, Oklahoma attempted a double execution, which resulted in the botched execution of Clayton Lockett. The Lockett execution led to an investigation by the Oklahoma Department of Public Safety, who determined that the intravenous lines were mishandled for several reasons, including the “extra stress” stemming from the pressure of 2 executions on the same day. (Pet. App. F, 150a). This investigation resulted in a recommendation that “executions should not be scheduled within seven calendar days of each other” and that there be a sufficient time between executions for a review in which “all involved personnel [may] voice their opinion, concerns, and/or recommendations in order for continuous improvement to the process.” (Pet. App. F, 155a).

In 2022, Oklahoma thereafter sought to execute 25 capital defendants at an accelerated pace, only to conclude that an interval of less than 90 days was unsustainable for the staff or its Department of Corrections. *See* Joint Motion to Set the Phase Three Execution Dates at 90-Day Intervals, *In re the Setting of Execution*

Dates, filed January 30, 2024. (Pet. App. F, 157a).

When Oklahoma first addressed the execution scheduling, the Court of Criminal Appeals approved the 25 executions to occur at least four weeks apart and only on Thursdays. *Id.* The State of Oklahoma then filed a motion seeking to reset execution dates because “the then-current pace of executions—one every four weeks—was not sustainable for DOC.” *Id.* The Oklahoma Court of Criminal Appeals granted the motion and rescheduled execution dates for “approximately 60 days apart from each other.” *Id.*

A year later, the State of Oklahoma went back to the court to request 90-day intervals. Oklahoma’s Department of Corrections noted that there existed “a tremendous burden that executions, and the weeks of process leading up to each execution, place on DOC operations and staff.” *Id.* The Oklahoma Attorney General who attended and witnessed all of the executions supported the spacing to ensure that they were conducted in a constitutional manner. *Id.* Acknowledging the “unique nature of the situation,” the Court of Criminal Appeals explained that the “setting of executions in phases may exacerbate unforeseen delays that arise in any individual case.” *In Re the Setting of Execution Dates*, filed May 7, 2024. (Pet. App. F, 166a).

Like Oklahoma, South Carolina has also recently determined that there needs to be a minimum time interval between executions in the state. *See Amended Order, Moore et al. v. South Carolina*, Case No. 2024-001373 (S.C. Aug. 30, 2024) (Pet. App. F, 180a). This ruling stemmed from a motion filed by five death-sentenced inmates requesting that the South Carolina Supreme Court require an interval of no less than

13 weeks between death notices and execution dates because “scheduling executions close in time to one another heightens the risk of serious error during the execution, likely resulting in cruel or unusual punishment.” Mot. to Direct or Stay the Issuance of Execution Dates at Intervals of No Less Than 13 Weeks (Pet. App. F, 182a).

While the South Carolina Supreme Court declined to adopt the specifically requested interval, the court “nevertheless recognize[d] that a reasonable interval between the issuance of death notices is warranted” and “direct[ed] the Clerk . . . to issue death notices in a manner to ensure an interval of at least thirty-five days between [them]” (Pet. App. F, 180a).

In a similar vein, Missouri limits the number of executions that can be carried out in a one-month period. This prohibition was established by the Missouri Supreme Court in 2016, which it adopted a rule to this effect that states “[t]he department of corrections shall not be required to execute more than one warrant of execution per month.” Mo. S. Ct. R. 30.30(f).

In states without express policies against such a practice, the infrequency of dual executions reflects an implicit understanding of the undue stress imposed on all parties involved in the execution process and risk that such a compressed schedule is “sure or very likely to cause serious illness and needless suffering” *Glossip*, 576 U.S. at 877 (quoting *Baze*, 553 U.S. at 50).

Several former correctional staff have publicly addressed the stress of overseeing and participating in the execution process.

For example, in support of the Oklahoma litigation challenging the carrying

out of 25 executions in a single year, nine senior former corrections officers in Oklahoma wrote a letter to the Attorney General urging that the schedule be reassessed. These officials explained that the risk to the staff was “heightened when multiple executions are carried out in rapid sequence” noting that “the prison never really returns to normal operations after the emotional and logistical upheaval of an execution.” (Pet. App. F, 195a). The letter emphasized:

compressed execution schedule also increases the risk of something going wrong during the execution process because the stress created by each execution compounds the difficulty of an already complex procedure. If even a routine execution can inflict lasting harm on corrections staff, the traumatic impact of a botched execution is exponentially worse.

(Pet. App. F, 195a).

Twenty-three former corrections officials from 16 states also sent a letter to the Arkansas Governor with respect to the eight executions in 2017. These officials warned of the “severe toll on corrections officers’ wellbeing” noting that the rapid pace of the executions was “needlessly exacerbating the strain and stress placed on these officers.” Ed Pilkington, Eight Executions in 11 days: Arkansas order may endanger staff’s mental health, *The Guardian* (Mar. 29, 2017). (Pet. App. F, 197a).

Dr. Allen Ault, former chairman of Florida Department of Corrections who has spoken publicly about the impact of executions on staff noting, “As the old saying goes, you dig two graves: one for the condemned, one for the avenger. That’s what will happen to this execution team – many of them will figuratively have to dig their own grave too.” *Id.*

Retired FSP warden Ron McAndrew has likewise expressed his concern as to the expediency of executions noting, “pace matters, because executions depend on human beings performing complex, high-risk tasks under extreme pressure.” Pamela Colloff, *Why is Florida Executing So Many Prisoners?*, New York Times Magazine (June 30, 2026). (Pet. App. F, 203a). McAndrew warns of both the toll the impact of the executions on the staff carrying out the execution, “who carry the memories long after the chamber is cleaned and the state moves on,” as well as the potential for error. *Id.*

This Petition now follows.

REASONS FOR GRANTING THE WRIT

I. Respondents’ Compressed Scheduling of Petitioners’ Executions Violates Their Right to the Eighth and Fourteenth Amendments to the United State Constitution.

The Eighth Amendment and the Due Process Clause of the Fourteenth Amendment, together, prohibit “execution by a state in a cruel manner.” *Louisiana ex rel. Francis v. Resweber*, 329 U.S. 459 (1947); *Robinson v. California*, 370 U.S. 660, 666 (1962). A prison official violates this prohibition if he acts with “*deliberate indifference* to a substantial risk of serious harm.” *Farmer v. Brennan*, 511 U.S. 825, 842 (1994) (emphasis added). “Deliberate indifference” is a subjective standard. *Id.* at 829 (requiring “a showing that the official was subjectively aware of the risk”). The prison official must have “acted or failed to act despite his knowledge of a substantial risk of serious harm.” *Id.* at 842 (noting “a factfinder may conclude that a prison official knew of a substantial risk from the very fact that the risk was obvious”).

Likewise, in the method-of-execution context, the Eighth Amendment

prohibits “*wanton exposure to objectively intolerable risk*, not simply the possibility of pain.” *Baze*, , 553 U.S. at 61-62 (plurality) (citation modified) (quoting *Farmer*, 511 U.S. at 846 n.9). A state’s execution protocol violates this prohibition if (a) the protocol presents “a substantial risk of serious harm,” meaning “an objectively intolerable risk of harm that prevents prison officials from pleading that they were subjectively blameless for purposes of the Eighth Amendment” and (b) there exists “an alternative that is feasible, readily implemented, and in fact significantly reduces a substantial risk of severe pain.” *Glossip*, 576 U.S. at 877.

Respondents have scheduled and intend to execute Petitioners Duckett and Occhicone *within 6 hours of each other on the same day*. This compressed execution schedule poses an unnecessary and objectively intolerable risk of substantial harm that is sure or very likely to occur absent intervention from this Court. The scheduling of Petitioner Duckett’s and Occhicone’s executions in this manner also runs afoul of “the evolving standards of decency that mark the progress of a maturing society.” *Trop v. Dulles*, 356 U.S. 86, 101 (1958).

“There is no question that death as a punishment is unique in its severity and irrevocability,” *Gregg v. Georgia*, 428 U.S. 153, 187 (1976) (citing *Furman v. Georgia*, 408 U.S. 238, 286-91 (1972) (Brennan, J., concurring)), which requires that the procedures for imposing it be implemented in a reasoned, deliberate, and constitutional manner. Thus state officials have a constitutional duty to ensure that death sentences are imposed in a careful and humane manner. Likewise, this Court must take seriously its duty to ensure that the justice system operates with fairness

as well as the appearance of fairness, as both are necessary for maintaining the integrity of the judicial system.

It is beyond dispute that any execution imposes an extraordinary amount of stress on everyone involved. Scheduling multiple executions in the same day unnecessarily exacerbates this stress and amplifies the risk of error since there is no opportunity for participants to engage in any sort of self-assessment or debriefing before the second execution occurs. The stress placed on corrections officers and others involved during the dual-execution day likewise heightens physical and mental fatigue, precludes any meaningful post-execution review of Florida's Lethal Injection Procedures, and correspondingly increases the risk that Petitioners will suffer during their executions.

Florida's Lethal Injection Procedures demonstrate the intricacies of the execution process. Each step requires sharp focus and attention to the most minute of details to prevent an irreparable mistake like what happened in previous executions where states attempted to execute two men on the same day.

Because Florida's execution process is shrouded in secrecy and the identities of everyone involved are unknown, Petitioners Duckett and Occhicone do not know whether the same execution teams or executioners will carry out both their executions. Conspicuously, the Lethal Injection Protocol contains no instructions for how to handle two executions on one day or for the necessity of having two separate teams trained to handle two executions in one day. While the Protocol provides for backup for the Executioner, (Pet. App. F, 75a), (2)(b), there is no similar provision for

backup for the rest of the team should there be a need for a second team. These Lethal Injection Protocols were promulgated long after the last dual execution in Florida, at a time when there was no real expectation that a dual execution would be scheduled. The very real risk of overlap heightens the risk that grave error will occur and Petitioners will unconstitutionally suffer.

The Lethal Injection Protocols require, at a minimum, simulations of the execution process on a quarterly basis. (Pet. App. F, 78a). Without more notice than occurred in Petitioners' cases that the executions would occur on the same day and the lack of any mention of preparing for this eventuality, it is unlikely that two execution teams had been properly trained. Due to the short length of Mr. Duckett's second warrant—two weeks—there would have been insufficient time per the protocol rules to properly train a second team. Thus, the likelihood of the same execution team handling both executions is great.

Moreover, preparation for Petitioners' executions requires attention to their unique medical conditions and vulnerabilities, including vein viability. Allowing a mere 6 hours in between each execution increases the chance that errors will arise when the execution team attempts to attain venous access. Given that the prison only learned there would be two executions on the same day 13 days ago, preparation for their executions is now happening on an overlapping basis without any meaningful consideration of the challenges their individual executions will present.

The increased difficulty with maintaining and storing execution drugs for two individuals, and the limited notice Mr. Duckett's short warrant would have provided

to the prison to prepare for storing drugs for two individuals separately, also increases the chance that the drugs will not be properly maintained resulting in a botched execution.

Contrary to the Eleventh Circuit's findings, the inherent danger Petitioners will face if their executions are back to back is not "pure conjecture." (Pet. App. A, 4a) Conjecture is defined as: "A guess; supposition; surmise." *Conjecture, Black's Law Dictionary* (12th ed. 2024). Petitioners here are not guessing, supposing, surmising as is evidenced by the gruesome scenes from the last two dual executions.

During the execution of Clayton Lockett in Oklahoma, multiple failures in the intravenous line and execution protocol resulted in a prolonged and visibly distressing execution. Nineteen minutes after the execution of Mr. Lockett began, officials closed the blinds inside the execution chamber so that no one could bear witness to the gruesome scene inside. Staff pricked Clayton Lockett more than 16 times in an attempt to find a suitable vein for the IV, ultimately accessing the femoral vein through his groin. Medical staff pushed the first of the three-drug cocktail, the sedative midazolam, at 6:23 pm. After ten minutes, Lockett appeared to be unconscious, at which point staff pushed the second drug (the paralytic vecuronium bromide), followed by the third (potassium chloride, which stops the heart). But after the second two drugs had been administered, Lockett began groaning, writhing, and lifting his head. One DOC employee held Lockett down while the phlebotomist instructed him to take deep breaths. The Associated Press reporters selected to witness the execution described Lockett as having been shaking uncontrollably,

gritting his teeth, and licking his lips. Edith Shoals, a victim advocate employee of Oklahoma's DOC, said that "it was like a horror movie . . . he kept trying to speak."

Lockett's femoral vein blew. The doctor had no way of discerning how much of the drugs had absorbed or how much had leaked out. Blood spewed everywhere; a paramedic shouted, "*you've hit an artery!*" The warden called Director Robert Patten for instruction. Patten asked if enough drugs had been administered to effectuate the execution and if another vein was accessible. The warden replied no to both questions. At 6:56 pm, Patten instructed the warden to stop Lockett's execution. At 7:06 pm, Lockett suffered a massive cardiac arrest and died. (Pet. App. H, 232a; I, 234a).

Likewise, in 2017, Kenneth Williams was executed three hours after the previous execution, the fourth prisoner in an unprecedented eight-day execution schedule in Arkansas. Witnesses reported repeated convulsive movements, coughing, and prolonged physical distress during the execution, leading numerous observers and experts to question whether the compressed execution schedule contributed to procedural failures and an unconstitutional risk of unnecessary pain. These incidents demonstrate that accelerated execution schedules place extraordinary strain on personnel and procedures, increasing the likelihood of constitutional violations. Where a State elects to conduct multiple executions in rapid succession, it knowingly heightens the risk that errors in preparation, administration, or monitoring will inflict gratuitous suffering, precisely the type of risk the Eighth Amendment prohibits. *See Baze*, 553 U.S. at 50 (recognizing that the Eighth Amendment forbids execution methods presenting a "substantial risk of serious harm"); *Glossip*, 576 U.S.

at 877–78 (2015).

These cases make clear that the risk of executing two men on the same day is well beyond conjecture, particularly when they go into the procedure already compromised due to their individual health issues. Petitioner Duckett has similar vein issues to Mr. Lockett, so he already faces increased odds of a botched execution. Mr. Duckett learned earlier *this week* that chemotherapy treatments “really mess up the veins” after a prison staff member examined Mr. Duckett and had difficulty finding a vein. As a result, venal access will likely require multiple painful needle insertions and blind attempts by the IV Team to locate the two required suitable veins. (Pet. App. F, 73a) (10)(h) (execution team members to designate two separate IV lines)). Even if the IV Team eventually does obtain intravenous access on Mr. Duckett to administer the lethal drugs, Mr. Duckett’s vein will likely lose structural integrity during the execution, leading to extravasation—the leakage of etomidate, rocuronium bromide, and potassium acetate into the soft tissue surrounding the vein. Extravasation can have two severely painful results: (1) an inadequate and/or inconsistent drug delivery, which can cause a prolonged and only partially anesthetized execution; and (2) an intense burning of the tissues surrounding the vein.

Assuming the IV Team is even able to find and enter the necessary two veins, the risk of extravasation means that Mr. Duckett will then be at substantial risk to experience even more intense pain as a result of a prolonged and only partially anesthetized execution as his soft tissue burns within his body. Given the fact that

the executioner will not be in the same room as Mr. Duckett, it is unlikely they will even be aware of the fact that extravasation has occurred. The truncated timeframe between executions provides Respondents with no opportunity to determine whether any errors occurred with Petitioner Duckett's execution before it proceeds with carrying out Petitioner Occhicone's sentence. If an issue does arise during Mr. Duckett's execution, the time period to prepare for Mr. Occhicone's execution will be further truncated and the stress on Mr. Occhicone's execution team increased.

Mr. Occhicone, who is one month shy of his 81st birthday, also faces health issues that increase his odds of difficulties arising during the execution. He has a history of substance abuse and has limited function of his kidneys—varying between 40-60% function—and his most recent MRI shows multiple cysts on his right kidney. Mr. Occhicone also has heart issues including an irregular heartbeat, sometimes skipping a beat and sometimes speeding up, and a blockage of the aorta. There is no question that Mr. Occhicone's advanced age and significant health issues put him at a greater risk of complications during the execution procedures.

The recent attempted execution of Tony Carruthers, who had similar health issues as Mr. Duckett, demonstrates why deviating from their standard method of providing two to three weeks between executions is not only warranted but is necessary to ensure that the Petitioners are not at risk of gratuitous superadded pain. (Pet. App. G, 226a). Maria Deliberato, counsel for Tony Carruthers was in the room during the attempted execution and describes in graphic detail how Mr. Carruthers was subjected to multiple attempts to gain veinous access for over an hour before the

Governor of Tennessee called off the execution. Of relevance to Petitioners' case is the apparent impact these difficulties caused on prison staff, and the added stress that occurs when difficulties arise as will likely happen when Petitioners enter the chamber with their existing health concerns.

Petitioners Duckett and Occhicone have both identified health concerns that heighten the risk of complications when the protocol is applied specifically to them, and rushing the process only elevates the risk of complications in a process already identified to cause needless suffering. For example, the protocols require the administration of a 200mg dose of etomidate without regard to the weight of the individual involved, which has been referred to as a "massive dose" by the Florida Supreme Court in *Long v. State*, 271 So. 3d 938, 944 (Fla. 2019). Autopsies of 33 individuals executed in Florida since 2017, shows that every inmate executed under the protocol has suffered flash pulmonary edema. Characterized by rapid flooding of fluid into the lungs, flash pulmonary edema causes severe air hunger akin to the dyspnea that the Eleventh Circuit found violative of the Eighth Amendment. *See Lee v. Lovelace*, No. 26-11864, 2026 WL 1651147 *2 (11th Cir. June 8, 2026) (citation modified) (remanding for consideration of firing squad as alternative to nitrogen hypoxia), *cert. denied, Lovelace v. Lee*, No. 25A1381, 2026 WL 1694504 (U.S. June 11, 2026).

Contrary to the Eleventh Circuit findings, these concerns are not conjecture when there is evidence that Florida has deviated from the established protocols resulting in routine maladministration of critical phases of the process. Florida used

expired etomidate in at least four executions that have occurred in the previous 11 months.³

No justifiable explanation exists for executing Petitioners on the same day, which will mark the first dual execution using lethal injection in Florida’s history. If Respondents proceed with the current schedule, they are doing so in deliberate violation of Petitioner Duckett’s and Occhicone’s constitutional rights. A State’s decision to materially alter its established execution protocols—such as by scheduling

³ Under warrant, Petitioners each sought public records from FDOC concerning the administration of its lethal injection procedures during recent executions. As support for their respective requests, Petitioners pointed to records obtained by federal counsel for now-executed inmate Frank Walls which demonstrate that FDOC has repeatedly failed to carry out executions in compliance with its own procedures through the use of expired drugs, incorrect drug doses, and non-protocol drugs, as well as logging errors that could be concealing additional mistakes. Petitioners maintained that these records were necessary to make the requisite showing that their executions are “very likely to cause serious illness and needless suffering” and pose a “substantial risk of serious harm” as required by this Court’s Eighth Amendment jurisprudence. *Glossip*, 576 U.S. at 877.

The state circuit courts, however, sustained FDOC’s objections to Petitioners’ requests for this information as speculative and unrelated to a colorable claim for relief—an outcome that the Florida Supreme Court has upheld in every capital case presenting this issue under warrant during the state’s current execution spree. *See, e.g., Occhicone v. State*, SC2026-1042, 2026 WL 2097359 (Fla. July 21, 2026). By doing so, Florida continues to place capital defendants in a “Catch-22,” faulting them for “not yet hav[ing] enough information to raise a ‘colorable’ Eighth Amendment claim” when “[t]he very reason the prisoners are seeking the records” is to do just that. *Trotter v. Florida*, 146 S. Ct. 755, 756 (2026) (Sotomayor, J., statement respecting denial of stay and certiorari).

Simply put, “[i]ndividuals seeking to challenge the method of their execution should not have to guess at whether the State is, or is not, following its execution protocol,” and the State of Florida does not “have any legitimate interest in shielding from inspection basic facts about the implementation of its execution protocol.” *Id.* “If the protocol is in fact being followed, then transparency instills confidence in the protocol for everyone—prisoners, the courts, and the public alike. If it is not, then secrecy is intolerable, and disclosure of the relevant records is indispensable for determining whether the lapses at issue are likely to lead to an Eighth Amendment violation.” *Id.*

two executions in a single day when its ordinary practice has been to conduct only one—creates additional operational burdens, compresses preparation and oversight, and increases the likelihood of human error in carrying out an inherently complex and irreversible process. The Constitution does not require an inmate to wait until those risks materialize into an actual botched execution before judicial intervention is warranted. Rather, where a protocol change foreseeably heightens the risk of serious pain without any legitimate penological necessity, the Eighth Amendment is implicated because it prohibits execution procedures that create a substantial and objectively intolerable risk of unnecessary suffering.

Respondents are on notice that conducting two executions in such quick succession is likely to result in objectively intolerable pain and suffering—particularly where there is no protocol in place that accounts for this practice.

How many executions have to be botched before we, as a society, decide that the imminent danger of needless suffering is sufficient? We know that we have not successfully executed two individuals in one day in twenty-five years. States who have examined the practice have chosen to place strict restrictions limiting how close in time executions can be carried out, none of which permit executions to take place less than a month apart. At a minimum, precluding two executions in one day is required to meet constitutional scrutiny.

II. Respondents’ Scheduling of Petitioners’ Executions Violates their Rights to Equal Protection Under the Fifth and Fourteenth Amendments to the United State Constitution.

The Fifth, Eighth and Fourteenth Amendments guarantee litigants due

process and equal protection of the laws. *See* U.S. Const. amends. V, VIII, XIV.

Respondents' execution schedule flouts the fundamental fairness interests enshrined in the Fourteenth Amendment's concept of Due Process. *See Carmell v. Texas*, 529 U.S. 513, 533 (2000) ("[T]here is plainly a fundamental fairness interest, even apart from any claim of reliance or notice, in having the government abide by the rules of law it establishes to govern the circumstances under which it can deprive a person of his or her liberty or life.").

While the United States Supreme Court has determined that challenging state actions under equal protection is "the usual last resort of constitutional arguments" the Court has determined review of such claims that "involves one of basic civil rights" is appropriate. *See Skinner v. State of Okl. ex. rel. Williamson*, 316 U.S. 535 (1942).

Respondents' scheduling of the executions of Petitioner's on the same day violates due process and equal protection, which the State of Florida has no rational basis for doing. *Village of Willowbrook v. Olech*, 528 U.S. 562, 564 (2000) (citations omitted); *see also Clubside, Inc. v. Valentin*, 468 F.3d 144, 159 (2d Cir. 2006) (requiring an "extremely high degree of similarity" between the plaintiff and those similarly situated).

The Equal Protection Clause guarantees that the State will treat similarly situated individuals equally. *See F.S. Royster Guano Co. v. Commonwealth of Virginia*, 253 U.S. 412, 415 (1920) ("all persons similarly circumstanced shall be treated alike"). And the Due Process Clause mandates "fundamental fairness" when the State extends procedural benefits to prisoners, even where those benefits or

protections are not themselves constitutionally required. *Gagnon v. Scarpelli*, 411 U.S. 778, 790 (1973). But in wielding its most solemn and awesome power, the power to execute its own citizens, the State has eschewed both equality and fairness.

The State of Florida has not scheduled two executions in one day in over 60 years. Nor have any capital defendants in the country been executed within seven days of one another since 2000. Since the advent of the modern death penalty, every person scheduled in Florida has been scheduled for individual execution days. By scheduling Mr. Duckett's and Mr. Occhione's executions on the same day, contrary to every other individual scheduled for execution post-Furman, Respondents have created two classes of death row prisoners. This arbitrary and disparate treatment—particularly in a matter of life and death such as determining the conditions under which the prisoners will die – is odious to the Constitution and this Court should not countenance it.

There is no question - as outlined in more detail in Section I—that Petitioners will suffer injury from having their executions scheduled on the same day that defendants with executions that are spaced out will not suffer. By scheduling them on the same day, the Respondents create a distinct, disfavored class of death-row prisoners in violation of the Equal Protection and Due Process Classes.

As a general matter, to state a claim for relief under the Equal Protection Clause, a petitioner must first “show that the State will treat him disparately from other similarly situated persons.” *Arthur v. Thomas*, 674 F.3d 1257, 1262 (11th Cir. 2012) (quotation omitted). A petitioner must also show that such disparate treatment

either burdens a fundamental right, targets a suspect class, or is not rationally related to a legitimate government interest. *See City of Cleburne, Tex. v. Cleburne Living Ctr.*, 473 U.S. 432, 440-41 (1985). Mr. Duckett and Mr. Occhicone can make that showing here.

First, the Petitioners are without question being treated disparately from all other men who have been executed by the State of Florida during the modern day, as is outlined more clearly in Reason I above. For example, by having their executions on the same day, they are at risk of an execution team who is exhausted or distracted from trying to keep up with separate protocol in two cases. They also are at risk of having their drugs mixed up because they are being stored together, or, of having their drugs improperly stored, because the Respondents do not have the necessary facilities to individually and properly store drugs for two executions on one day. Petitioner Duckett is the only capital defendant in Florida under the current death watch policies who will not be permitted a final visit with his family on the day of his execution. To Petitioner's knowledge, no other capital defendant has been given less than two weeks' notice of their execution, as was Mr. Duckett, in more than two decades.

In contrast, the other class of men—the death row prisoners whose executions have been spread out—faced none of these issues. There can be no clearer example of disparate treatment. *See, e.g., Nordlinger v. Hahn*, 505 U.S. 1, 10 (1992) (“[The Equal Protection Clause] keeps governmental decisionmakers from treating differently persons who are in all relevant respects alike.”); *see also Sunday Lake Iron Co. v.*

Wakefield Twp., 247 U.S. 350, 352 (1918) (“The purpose of the equal protection clause of the Fourteenth Amendment is to secure every person within the state’s jurisdiction against intentional and arbitrary discrimination, whether occasioned by express terms of a statute or by its improper execution through duly constituted agents.”).

Respondent’s disparate treatment of Petitioners with other death sentenced individuals whose executions have been spaced out is without any legitimate or penological interest and fails under rational basis review. Rational basis review is deferential, but it is not “toothless.” *Schweiker v. Wilson*, 450 U.S. 221, 234 (1981); *see also Zobel v. Williams*, 457 U.S. 55, 65 (1982) (finding equal protection violation under rational basis review because the State “show[ed] no valid state interests which are rationally served by the distinction it makes between citizens who established residence before 1959 and those who have become residents since then”). And Respondents’ distinction between the Petitioners and everyone else who has faced execution in the modern era of the death penalty is not rational.

Respondents’ arbitrary line drawing between these two classes of individuals is not rationally related in any way to legitimate state interest and this Court must intervene.

CONCLUSION

For the reasons set forth above, this Petition for Writ of Certiorari to review the judgment of the Florida Supreme Court should be granted.

Respectfully Submitted,

/s/ Mary E. Wells
MARY ELIZABETH WELLS
Law Office of M.E. Wells
623 Grant Street SE
Atlanta, GA 30312
mewells27@comcast.net
**Counsel of Record*

12973 N. Telecom Parkway
Temple Terrace, Florida 33637
T: 813-558-1643

/s/ Brittney N. Lacy
BRITTNEY LACY
Assistant CCRC-South
lacyb@ccsr.state.fl.us
ccrcpleadings@ccsr.state.fl.us

/s/ Courtney M. Hammer
COURTNEY M. HAMMER
Assistant CCRC-South
hammerC@ccsr.state.fl.us

CAPITAL COLLATERAL REGIONAL
COUNSEL-SOUTH
110 SE 6th Street, Suite 701
Fort Lauderdale, FL 33301
Tel. (954) 713-1284

/s/ Ali A. Shakoor
ALI A. SHAKOOR
Assistant CCRC
shakoor@ccmr.state.fl.us

/s/ Debra Roganne Bell
DEBRA ROGANNE BELL
Assistant CCRC
bell@ccmr.state.fl.us

/s/ Mahham Syed
Mahham Syed
Assistant CCRC
syed@ccmr.state.fl.us

CAPITAL COLLATERAL
REGIONAL COUNSEL-
MIDDLE REGION