

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
JACKSONVILLE DIVISION**

**ANTHONY FLOYD WAINWRIGHT**

Plaintiff,

CASE NO. 3:25-cv-607

v.

**EMERGENCY  
INJUNCTION SOUGHT**

**RON DeSANTIS**, Governor,  
in his official capacity;

**EXECUTION OF STATE  
DEATH SENTENCE SET:  
JUNE 10, 2025 @ 6:00 P.M.**

**JAMES UTHMEIER**, Attorney General,  
in his official capacity;

**RICKY D. DIXON**, Secretary, Department of Corrections,  
in his official capacity;

**DAVID ALLEN**, Warden, Florida State Prison,  
in his official capacity;

**THE HONORABLE CARLOS G. MUÑIZ**, Chief Justice of the Florida  
Supreme Court,  
in his official capacity;

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**42 U.S.C. § 1983 COMPLAINT**  
**FOR DECLARATORY AND INJUNCTIVE RELIEF**

**I. NATURE OF ACTION**

1. This is a civil action brought under 42 U.S.C. § 1983 for violations of Plaintiff Anthony Floyd Wainwright's federal constitutional due process and equal protection rights.

2. Mr. Wainwright, a death-sentenced Florida prisoner, seeks declaratory relief, injunctive relief, and a stay of his scheduled June 10, 2025, execution, pending this Court’s review of this action and, ultimately, the defendants’ provision of postconviction proceedings that comport with the Due Process and Equal Protection Clauses of the Fourteenth Amendment.

## II. PARTIES TO THE COMPLAINT

### PLAINTIFF

3. Anthony Floyd Wainwright is a prisoner on Florida’s death row pursuant to his 1994 conviction for first-degree murder and associated charges originating from Hamilton County. *Wainwright v. State*, 704 So. 2d 511 (Fla. 1997), *cert denied*, 523 U.S. 1127 (1998). He is a citizen of the United States and a resident of the State of Florida. On May 9, 2025, Governor Ron DeSantis signed a warrant for Mr. Wainwright’s execution, setting it for June 10, 2025, at 6:00 pm at Florida State Prison, in Raiford, Florida.

### DEFENDANTS

4. Defendant Ron DeSantis is the Governor of Florida. Governor DeSantis is responsible for the selection, timing, and signing of Florida death warrants. He is sued in his official capacity.

5. Defendant James Uthmeier is the Attorney General of Florida. He represents the interests of the State of Florida and the Florida Department of Corrections. He is sued in his official capacity.
6. Defendant Ricky D. Dixon is the Secretary of the Florida Department of Corrections. He supervises and ultimately enforces all regulations concerning Mr. Wainwright's conditions of confinement. He is sued in his official capacity.
7. Defendant David Allen is the warden of Florida State Prison in Raiford, Florida, in the Middle District of Florida, where Mr. Wainwright is currently incarcerated. He is sued in his official capacity.
8. Defendant Honorable Carlos G. Muñoz is the Chief Justice of the Florida Supreme Court. He is sued in his official capacity.

### **III. JURISDICTION AND VENUE**

#### **JURISDICTION**

9. This action arises under federal statute and presents a federal question within this Court's jurisdiction under Article III of the Constitution and 28 U.S.C. §§ 1331 and 1343(a)(3). This action is brought pursuant to 42 U.S.C. § 1983. This Court has the authority to grant declaratory and injunctive relief pursuant to 28 U.S.C. § 2201(a), § 2202, and Federal Rule of Civil Procedure 65.

## **VENUE**

10. Pursuant to 28 U.S.C. § 1391(b), venue is appropriate in the Middle District of Florida because Defendant David Allen resides in this district and, as discussed below, a substantial part of the events or omissions giving rise to this claim occurred in this District.

### **IV. RELEVANT FACTUAL AND PROCEDURAL HISTORY**

11. On May 9, 2025, Defendant Ron DeSantis signed Mr. Wainwright's death warrant and scheduled him for execution on June 10, 2025, at 6:00 p.m. The warrant period set by Defendant Ron DeSantis is a mere thirty-two days.

12. That same day, Defendant Muñiz issued an expedited briefing schedule for the circuit court proceedings. App. A (Florida Supreme Court's Scheduling Order).

13. Mr. Wainwright has been on death row since 1994, over thirty years. Upon receipt of the warrant, Mr. Wainwright was transported from Union Correctional Institution to Florida State Prison where he began Phase I of death watch.

14. Under Phase I, Mr. Wainwright's visitation and contact with the outside world is even more restricted than on death row. His tablet issued by Defendant Dixon, which generally allows inmates to contact friends and family through email, access movies, eBooks, audiobooks, music, and

educational content, was confiscated. His visitation is restricted to only individuals who were already on his approved visitation list. Legal phone calls are restricted to thirty-minute durations and are scheduled only upon the request of the attorney.

15. Baya Harrison was appointed as Mr. Wainwright's counsel on February 6, 2014, by the Circuit Court of the Third Judicial Circuit, in and for, Hamilton County, Florida. The appointment was in response to prior counsel's motion to withdraw. The circuit court had previously ordered Capital Collateral Regional Counsel-North to represent Mr. Wainwright for postconviction purposes, but because the office was not yet operational, the court appointed Harrison from the capital collateral registry. On February 24, 2014, Harrison filed a notice of appearance in Mr. Wainwright's state postconviction proceedings.<sup>1</sup> He has remained counsel of record despite several unsuccessful attempts by Mr. Wainwright over the following eleven years to have Harrison removed as his appointed registry counsel. App. B (Anthony Wainwright Declaration).

16. On May 9, 2025, at 9:51 p.m., Harrison emailed Linda McDermott, Mr. Wainwright's court-appointed counsel in his federal habeas proceedings,

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<sup>1</sup> Harrison initially and erroneously filed the notice of appearance in the Florida Supreme Court, which was then transferred to the circuit court.

asking if she wished to work together on Mr. Wainwright's death-warrant litigation:

“Linda, are you wishing to be in on this? Needless to say it would be appreciated. Please advise via email and know I am available to discuss this weekend. Please include Steve Alex.”

App. C (Email from Baya Harrison to Linda McDermott).

17. McDermott had also emailed Harrison several hours prior to inform him that her office represents Mr. Wainwright in his federal proceedings and that Harrison could contact her if he wanted to discuss anything regarding Mr. Wainwright's death warrant litigation. App. D (Email from Linda McDermott to Baya Harrison). Both agreed to speak the following morning over the phone. App. E (Linda McDermott Declaration).

18. During the May 10, 2025, phone call between Harrison and McDermott, McDermott and Katherine Blair shared some ideas for claims and issues that could be raised on Mr. Wainwright's behalf. Harrison affirmed that the ideas sounded good and the parties agreed to confer after the status hearing on May 12, 2025. App. E.

19. Also on May 10, 2025, a day after Mr. Wainwright's warrant was signed and he was transported to Florida State Prison, Harrison mailed Mr. Wainwright a letter informing him that Defendant DeSantis signed his death warrant. Harrison stated:

“I am doing all in my power to come up with additional grounds for post conviction relief for you to include a stay of execution and a new trial. I will consult with Ms. McDermott. I will keep you posted.

Because so much work needs to be done here, I cannot travel to the prison. Therefore I ask that you write me and call me. I will place a call to the prison to speak to you as well.”

App. F (Letter from Baya Harrison to Anthony Wainwright).

20. The letter was dated May 10, 2025, and postmarked May 13, 2025. The letter took over ten days to reach Mr. Wainwright, and was addressed sent to the incorrect institution and incorrect address, likely contributing to its delay in reaching Mr. Wainwright.
21. On May 11, 2025, without consulting his client, Harrison filed a response to the State’s proposed scheduling order in which, even though the Rule 3.851 had not been filed, he indicated that there was no need for an evidentiary hearing. App. G (Defendant’s Response to State’s Motion for Scheduling Order).
22. On May 12, 2025, the circuit court issued a scheduling order directing Defendant Dixon to provide Mr. Wainwright updated inmate records, and directing Mr. Wainwright to file any additional agency public records demands by May 13, 2025, at 3:00 p.m. App. H (Circuit Court Scheduling Order).

23. That same day, Harrison filed a notice that Mr. Wainwright did not seek additional public records from Defendant Dixon despite the circuit court's order. App. I (Defendant's Notice Regarding Public Records Demands). Harrison further represented that Mr. Wainwright did not seek any additional public records from any other agency. App. I. Harrison did not consult with Mr. Wainwright before filing the notice. App. B.
24. Harrison filed a single-claim Rule 3.851 motion on May 14, 2025, and mailed a copy to Mr. Wainwright.
25. That same day, Terri L. Backhus, pro bono counsel for Mr. Wainwright, timely filed a Rule 3.851 motion containing two fact claims, including a *Brady* claim, a motion for substitution of counsel, and a request for substitution of counsel by Mr. Wainwright. In the request, Mr. Wainwright represented that he consulted with pro bono counsel regarding the claims she intended to raise, and consented to the filing of the motion for postconviction relief on his behalf. App. J (Anthony Wainwright Authorization for Circuit Court).
26. The State objected to the motion for substitution of counsel, which it later amended, on May 14, 2025. It also moved for an emergency hearing on the motion for substitution of counsel, and moved to strike the successive postconviction motion filed by pro bono counsel.

27. An emergency hearing on the motion to substitute counsel was held on May 15, 2025. At the emergency hearing, Harrison falsely represented that McDermott agreed to communicate with Mr. Wainwright on his behalf; that filing public records request as general practice in death-warrant proceedings was a “complete and total waste of time”; that he did not have faith in the claims pro bono counsel sought to raise in her Rule 3.851 motion, referring to them as “gobbledygook”; and that while he had never worked with pro bono counsel, he did not believe that he could successfully.
28. Defendant Uthmeier protested pro bono counsel’s involvement in any capacity at the emergency hearing and in its filings.
29. The circuit court granted, in part, the State’s motion for substitution of counsel, and granted the State’s motion to strike pro bono counsel’s Rule 3.851 motion. It gave pro bono counsel and Harrison until 6:00 p.m. that evening to file an amended Rule 3.851 motion, with Harrison’s sole approval.
30. Following the hearing, Harrison provided pro bono counsel twenty minutes to review the amended Rule 3.851 motion. Pro bono did not think that was sufficient time and shared her concerns about properly preserving Mr. Wainwright’s claims. App. K (Terri Backhus Declaration). Harrison responded that pro bono counsel’s “improper delay tactics never change,” that

he would be filing without her input, and that she could “tell it to the judge.”

App. K.

31. Harrison then filed the amended Rule 3.851 motion including his single claim, and pro bono counsel’s two fact-intensive claims in a combined six pages. App. L (Amended 3.851 Motion for Postconviction Relief).

32. That day Mr. Wainwright’s Rule 3.851 was denied, pro bono counsel informed Harrison that Mr. Wainwright specifically requested pro bono counsel to file a state petition for writ of habeas corpus. App. K. She offered to provide Harrison a draft before filing the petition, and clarified that she hoped he would sign on to the petition. App. K.

33. Harrison issued two responses: in the first he indicated that he was preoccupied with the initial brief and wanted nothing to do with the state habeas petition; in the second he defended the actions of Clyde Taylor, Victor Africano, and Jerry Blair, whose conduct and representation were challenged in the state habeas petition. App. K. Harrison provided that they represent the “best of the legal profession,” and that, in his opinion, they did not trample Mr. Wainwright’s rights.<sup>2</sup> App. K.

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<sup>2</sup> On April 6, 2015, Harrison, on behalf of Mr. Wainwright, filed a sixth successive motion for postconviction relief which raised four claims, including that Victor Africano was ineffective for failing to explain the plea agreement to Mr. Wainwright and prepare him for questioning by law enforcement. *See State v. Wainwright*, Hamilton Cnty., Case No. 1994-CF-00150-A (Mar. 6, 2015).

34. On May 20, 2025, Mr. Wainwright, through Harrison and pro bono counsel filed a notice of appeal in the Florida Supreme Court under case number SC2025-0708.
35. That same day, Mr. Wainwright, through pro bono counsel only, filed a timely state petition for writ of habeas corpus<sup>3</sup> pursuant to the Florida Supreme Court's scheduling order, under case number SC2025-0709. App. A. The state habeas petition constituted an original proceeding under Florida Rule of Appellate Procedure 9.100(a), and the Florida Supreme Court had original jurisdiction under Florida Rule of Appellate Procedure 9.030(a)(3), and Art. V, §§ 3(b)(1) and (b)(9), Fla. Const.
36. Pro bono counsel also contemporaneously filed a Notice of Appearance, Motion for Stay of Execution, and a Notice of Filing an attached, notarized authorization by Mr. Wainwright. App. M (Anthony Wainwright's Authorization of Pro Bono Counsel for State Habeas). In the authorization, Mr. Wainwright indicated that he authorized pro bono counsel to represent

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<sup>3</sup> Mr. Wainwright alleged that the Florida Supreme Court should reconsider its prior adversarial rulings in Mr. Wainwright's case because the pervasive, systemic failures that occurred at every stage of his proceedings hindered his ability to obtain meaningful review of his constitutional claims, rendering his death sentence manifestly unjust.

him in the original matter before the Court. App. M. Mr. Wainwright further indicated the following:

I have been informed and have consulted with Ms. Backhus about the issues to be raised in the petition for writ of habeas corpus. I have had no communication with court-appointed Registry Counsel about the petition or any other matter concerning my under-warrant litigation Ms. Backhus has consulted with me about the arguments she intends to raise in the petition and I hereby consent to her representing me in this litigation.

App. M.

37. Also on May 20, 2025, Defendant Muñiz entered an Acknowledgement of New Case confirming its receipt of Mr. Wainwright's state habeas petition and motion for stay of execution. Defendant Muñiz also issued a scheduling order for briefing on the state habeas petition and directed Defendant Ricky Dixon, represented by Defendant James Uthmeier, to file a response to the state habeas petition by Tuesday, May 27, 2025, at 10:00 a.m. Defendant Muñiz directed Mr. Wainwright to file a reply to Defendant Dixon's response by Wednesday, May 28, 2025, at 10:00 a.m. App. N (Florida Supreme Court's State Habeas Scheduling Order).

38. No other docket entries were entered until seven days later on May 27, 2025, when Defendant Ricky Dixon, through Defendant James Uthmeier, filed the response to the petition for writ of habeas corpus, and response to the motion for stay of execution.

39. Without notice to Mr. Wainwright, Defendant Muñiz entered an order on May 27, 2025, recognizing Baya Harrison as lead postconviction counsel and directing him to file a notice adopting the petition and motion for stay of execution, where failure to do so would result in the striking of said filings.
40. Harrison filed a response to the order on May 28, 2025, indicating that that he did not adopt the state habeas petition nor the motion for stay of execution.
41. Mr. Wainwright, through pro bono counsel, filed an emergency motion for rehearing attaching a proposed reply to the response to the petition for writ of habeas corpus, and Defendant Dixon, through Defendant Uthmeier, filed a Response to the motion.
42. Defendant Muñiz denied the emergency motion for rehearing, and struck the state habeas petition, stay motion, and reply.

## V. CAUSES OF ACTION

43. As described in more detail in Mr. Wainwright's accompanying memorandum in support of this complaint, Defendants violated his federal due process and equal protection rights by striking Mr. Wainwright's state habeas petition as unauthorized due to the unconstitutional restrictions on Mr. Wainwright's right to counsel of his choice.<sup>4</sup>

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<sup>4</sup> This complaint provides the factual background and basis for the cause of action. Mr. Wainwright has filed a separate memorandum outlining the legal support for his

44. Mr. Wainwright hereby incorporates by reference paragraphs [X-X] as though fully set forth herein.

**A. Defendants Violated Mr. Wainwright's Due Process Rights**

**i. Mr. Wainwright's Liberty Interest in State-Created Right to Habeas Process**

45. Mr. Wainwright was convicted and sentenced to death in 1994, and is currently in the custody of Defendant Dixon and Defendant Allen.

46. Mr. Wainwright petitioned the Florida Supreme Court for a writ of habeas corpus on May 20, 2025. He did so through pro bono counsel who contemporaneously filed a notice of appearance indicating her designation as lead counsel in the habeas proceeding, and in accordance with the Florida Rules of Appellate Procedure. Pro bono counsel also filed an authorization from Mr. Wainwright.

47. The habeas petition, notice of appearance, and notice of filing remained pending in the Florida Supreme Court before Defendant Muñiz for seven days until Defendant Uthmeier replied with his objection to Mr. Wainwright's ability to substitute counsel. Harrison's representation in the circuit court and

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positions, in addition to a motion for a stay of execution, so that this Court may consider these arguments without the exigencies of an active death warrant.

the Florida Supreme Court in the separate postconviction appeal entitles him to compensation paid for by Florida taxpayers. *See* §§ 27.711, Fla. Stat.

48. Mr. Wainwright did not seek to substitute Harrison as counsel in the habeas proceeding, as there was no prior proceeding before pro bono counsel electronically filed the petition, electronically served it on opposing counsel, and otherwise complied with the appellate rules.
49. Mr. Wainwright initiated the new state habeas proceeding through pro bono counsel, as demonstrated by Defendant Muñiz' May 20, 2025, issuance of the Acknowledgement of New Case and assignment of a case number distinct from that of his under-warrant postconviction appeal from the circuit court. This is further demonstrated by the Defendant Muñiz' briefing schedule that was issued soon after the acknowledgement of the new case.
50. Only after Defendant Uthmeier responded to the petition seven days after Defendant Muñiz acknowledged and accepting the filings and issued a briefing schedule did Defendant Muñiz issue an order that Harrison had to file a notice adopting the habeas petition and stay motion by 10:00 a.m. the following day or else both filings would be stricken. Defendant Muñiz provided no notice or opportunity to be heard by Mr. Wainwright.
51. Harrison filed a response to Defendant Muñiz' order indicating that he did not adopt the habeas petition nor the stay motion.

52. Defendant Muñoz then struck both filings in its May 28, 2025, order, eight days after accepting them and issuing a briefing schedule. Defendant Muñoz cited Fla. R. Crim. P. 3.851(b)(4)-(6).
53. Defendant Muñoz deprived Mr. Wainwright of his liberty interest in accessing the state-created habeas corpus process by initially accepting and then striking the filings eight days later; and by providing Mr. Wainwright opportunity to reply to Defendant Uthmeier’s response to the habeas petition and stay motion and then revoking it without notice or opportunity to be heard on the issue of counsel.
54. Defendant Muñoz further precluded Mr. Wainwright from petitioning for writ of habeas corpus *pro se* when it struck the petition pursuant to Fla. R. Crim. P. 3.851(b)(6), which forbids capital defendants from engaging in self-representation in a capital postconviction proceeding in state court.
55. Defendants Muñoz, Uthmeier, and DeSantis’ actions left Mr. Wainwright with no ability to access the state-created habeas corpus process.
56. Defendant Muñoz has further failed to monitor the quality of Harrison’s performance in capital collateral proceedings. § 27.711(12) of the Florida Statutes provides that Harrison’s performance is to be monitored by the court “to ensure that the capital defendant is receiving quality representation.”

Defendant Muñiz has failed to do so, as demonstrated by striking Mr. Wainwright's habeas petition, stay motion, and reply.

57. Defendant Muñiz adopted the misrepresentations made by Defendant Uthmeier in his response to the state habeas petition without allowing for further briefing on the dispute of whether Harrison's representation in the postconviction appeal was controlling over the original proceeding.

58. Defendant DeSantis signed Mr. Wainwright's death warrant on May 9, 2025. Defendant Uthmeier is actively prosecuting Mr. Wainwright's death warrant. Defendant Uthmeier objected to the state habeas petition and successfully dictated, despite being a party-opponents, that only Harrison may represent Wainwright in his original proceedings.

59. Defendants Muñiz, Uthmeier, Dixon, Allen, and DeSantis have obstructed Mr. Wainwright's ability to access the state habeas process entirely.

60. Florida's process for petitioning for state habeas corpus is constitutionally inadequate where Defendants Muñiz, Uthmeier, Dixon, Allen, and DeSantis' actions have prohibited Mr. Wainwright from accessing the process.

61. As a result of Defendants Muñiz, Uthmeier, Dixon, Allen, and DeSantis's actions, Mr. Wainwright suffered deprivations of the rights secured to him by the Fourteenth Amendment of the United States Constitution.

**ii. Mr. Wainwright's Property Interest in Having Pro  
Bono State Habeas Counsel**

62. Mr. Wainwright was convicted and sentenced to death in 1994 and has since been in the custody of Defendant Dixon.
63. After Mr. Wainwright's death warrant was signed, he obtained representation by pro bono counsel for the purpose of litigating the expedited warrant proceedings in the state courts.
64. Pro bono counsel has litigated numerous cases in death warrant proceedings and meets the minimum qualifications set forth in Fla. R. Crim. P. 3.112(k).
65. Mr. Wainwright petitioned the Florida Supreme Court for a writ of habeas corpus on May 20, 2025. He did so through pro bono counsel who contemporaneously filed a notice of appearance indicating her designation as lead counsel in the habeas proceeding, and in accordance with the Florida Rules of Appellate Procedure. Pro bono counsel also filed an authorization from Mr. Wainwright.
66. The habeas petition, notice of appearance, and notice of filing remained pending in the Florida Supreme Court before Defendant Muñiz for seven days until Defendant Uthmeier replied with his objection to Mr. Wainwright's ability to substitute counsel. Harrison's representation in the circuit court and

the Florida Supreme Court in the separate postconviction appeal entitles him to compensation paid for by Florida taxpayers. *See* §§ 27.711, Fla. Stat.

67. Mr. Wainwright did not seek to substitute Harrison as counsel in the habeas proceeding, as there was no prior proceeding before pro bono counsel electronically filed the petition, electronically served it on opposing counsel, and otherwise complied with the appellate rules.

68. Only after Defendant Uthmeier responded to the petition did Defendant Muñiz issue an order that Harrison had to file a notice adopting the habeas petition and stay motion by 10:00 a.m. the following day or else both filings would be stricken. Defendant Muñiz provided no notice or opportunity to be heard by Mr. Wainwright.

69. Harrison filed a response to Defendant Muñiz's order indicating that he did not adopt the habeas petition nor the stay motion.

70. Defendant Muñiz then struck both filings in his May 28, 2025, order, eight days after accepting them and issuing a briefing schedule. Defendant Muñiz cited Fla. R. Crim. P. 3.851(b)(4)-(6).

71. Defendant Muñiz deprived Mr. Wainwright of his property interest in having pro bono counsel in the state habeas proceeding when it awarded, and then revoked Mr. Wainwright's opportunity to reply to Defendant Uthmeier's response to the state habeas petition without notice or opportunity to be heard.

72. Defendant Muñiz' further precluded Mr. Wainwright from petitioning for writ of habeas corpus *pro se* when it struck the petition pursuant to Fla. R. Crim. P. 3.851(b)(6), which forbids capital defendants from engaging in self-representation in a capital postconviction proceeding in state court.
73. Mr. Wainwright seeks a state habeas proceeding compliant with due process. By allowing counsel in a separate proceeding to dictate whether Mr. Wainwright's state habeas petition is heard by the Florida Supreme Court, Defendants Muñiz, Uthmeier, Dixon, Allen, and DeSantis have deprived Mr. Wainwright of his due process property interest in the appointment of pro bono counsel to file a state habeas petition.
74. Florida's process for petitioning for state habeas corpus is constitutionally inadequate as Defendants Muñiz, Uthmeier, Dixon, Allen, and DeSantis' actions have simultaneously prohibited Mr. Wainwright from having pro bono counsel represent him in the proceeding, or from representing himself in the proceeding.
75. As a result of Defendants Muñiz, Uthmeier, Dixon, Allen, and DeSantis's actions, Mr. Wainwright suffered deprivations of the rights secured to him by the Fourteenth Amendment of the United States Constitution.

## **B. Defendants Violated Mr. Wainwright's Due Process Right to Access to the Courts**

76. Defendant DeSantis signed Mr. Wainwright's death warrant arbitrarily and without warning, setting an extremely restrictive 32-day deadline for all stages of briefing to be completed. Mr. Wainwright received no notice that the warrant would be signed and he would be transferred to death watch until his execution. Aside from knowing he was eligible for a death warrant, Mr. Wainwright's counsel was equally unaware that his execution was looming until the date had been set.

77. At that time, Mr. Wainwright was among about 100 death-warrant eligible Florida inmates. Mr. Wainwright's is the sixth death warrant the Governor has signed this year. The Governor is on track to carry out a record number of executions in 2025, even more than the six executions he carried out in 2023 when he was running for president.<sup>5</sup>

78. Neither the time from signing a warrant to immediately moving the condemned to near total isolation conforms with the practices of most other active death penalty states. Generally, much more notice of an execution is

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<sup>5</sup> James Call, *Gov DeSantis Nears Record as Florida Ramps Up Executions in 2025*, USA TODAY (May 30, 2025).

provided and inmates remain incarcerated as they were until much closer to their execution date.

79. In Florida, immediately upon Defendant DeSantis signing his death warrant, Defendants Dixon and Allen moved Mr. Wainwright to Death Watch at Florida State Prison (FSP), within the Middle District of Florida, where he is now held in near total isolation. From death watch, Mr. Wainwright has no feasible way to meaningfully contribute to his legal proceedings and is more dependent on his counsel than at any prior juncture.
80. Mr. Wainwright has virtually no access to the outside world, which includes his counsel. Any communication with Mr. Wainwright must be initiated by counsel or his family. He is unable to send emails or access his tablet. Mr. Wainwright's ability to communicate is solely through U.S. Mail, which can take as long as three weeks to reach a recipient. *See* FLA. ADMIN. CODE. ANN. R. 33-601.830(15), 33-602.205(1).
81. Upon being moved to FSP, without Harrison's initiation, Mr. Wainwright lost all ability to effectively communicate with him due to the severe time restrictions of the death warrant. Mr. Wainwright was completely dependent in the dark as to what Harrison chose to investigate or litigate on his behalf.
82. Harrison, himself, displayed a troubling unfamiliarity with the conditions of death watch by instructing Mr. Wainwright to call him to discuss his case.

Had pro bono counsel not stepped in, Mr. Wainwright would have had no contact with his state court counsel during his death warrant proceedings.

83. Just days after the death warrant was signed, Harrison refused to entertain any claim or issue preferring instead to file a single-claim Rule 3.851 motion, despite the viability of that claim or any other potential claims. Harrison refused to file the state habeas petition without even reading it.

84. Mr. Wainwright expressly authorized pro bono counsel to file a state habeas petition on his behalf.

85. By striking the state habeas petition, Defendant Muñoz denied Mr. Wainwright any avenue to present a viable claim in the final weeks of his warrant period and deviated from the court's typical practice of allowing for the substitution of counsel and / or for different counsel to represent a capital defendant in state habeas proceedings and the appeal from the denial of a Rule 3.851 motion.

86. The State, overseen by Defendant Uthmeier, inappropriately influenced Mr. Wainwright's ability to exercise choice of counsel. Permitting the Defendant Uthmeier to select counsel for Mr. Wainwright, when there was no prejudice or delay to the proceedings, violates Mr. Wainwright's right to a fundamentally fair proceeding.

87. Defendants Uthmeier and Muñiz hindered Mr. Wainwright's choice of counsel and his ability to present issues to the court.

88. Because the death warrant schedule is so truncated, and Mr. Wainwright is completely barred from representing himself pro se in these proceedings, there was no feasible way for Mr. Wainwright to challenge the representation he received in the most important proceedings of his life. There was no feasible way for Mr. Wainwright to seek a *Nelson* hearing. He could not be present during any of the state-court proceedings concerning Mr. Harrison's representation of him. Fla. R. Crim. P. 3.851(b)(6).

89. In sum, despite the protection of the Due Process Clause, Mr. Wainwright faced three opponents during the postconviction review that concerned whether he is executed on June 10, 2025: the State, the courts, and his registry counsel.

### **C. Defendants Violated Mr. Wainwright's Equal Protection Rights**

90. It is a bedrock principle of the Sixth Amendment that criminal defendants who are not indigent are entitled to proceed with their chosen counsel. While the right does not extend for an indigent defendant to obtain specific counsel of his choice at the State's expense, Mr. Wainwright's choice of pro bono counsel was well qualified and willing to proceed at no cost or delay to the state.

91. Disallowing Mr. Wainwright's choice of pro bono counsel is a violation the Equal Protection Clause because he is being treated differently than any other non-capital litigant and any other non-indigent litigant who could have had retained counsel represent them before the courts.

## **VI. REQUEST FOR RELIEF**

92. Mr. Wainwright requests a preliminary injunction prohibiting Defendant's from executing him until this Court has had the opportunity to meaningfully consider his federal constitutional arguments. Mr. Wainwright's meritorious cause of action should not be decided in the context of an active death warrant.

93. Mr. Wainwright requests that the Court declare that Defendant's violated his federal constitutional rights to due process and equal protection guaranteed by the Fourteenth Amendment.

94. Mr. Wainwright finally requests that this Court grant a permanent injunction barring Defendants from executing him until Defendants provide him with a postconviction proceeding that comports with the United States Constitution.

## **VII. CERTIFICATION**

95. Katherine A. Blair, attorney for Plaintiff Wainwright in the above-entitled action, certifies that to the best of her knowledge and belief, the facts set forth in this complaint are true and correct.

Respectfully submitted,

/s/ Katherine A. Blair  
KATHERINE A. BLAIR  
Assistant Chief, Capital Habeas  
Unit

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