

**IN THE SUPREME COURT OF FLORIDA
CASE NUMBER: SC2023-0732
Lower Tribunal Case: 501984CF004000AXXXMB**

EXECUTION SCHEDULED FOR JUNE 15, 2023, at 6:00 P.M.

DUANE EUGENE OWEN,
APPELLANT,

v.

STATE OF FLORIDA,
APPELLEE.

_____ /

APPELLANT'S MOTION FOR STAY OF EXECUTION

COMES NOW the Appellant, Duane Eugene Owen, by and through undersigned counsel and respectfully moves this Court to enter a stay of the scheduled execution, currently set for Thursday, June 15, 2023. Appellant states:

1. Owen is under a sentence of death and under a Death Warrant signed by Governor Ron DeSantis on Tuesday, May 9, 2023. Owen is currently scheduled to be executed on Thursday, June 15, 2023, at 6:00 p.m.

2. Concurrent with this motion, Owen has filed an initial brief in this Court on his appeal from the Fifteenth Judicial Circuit Court in and for Palm Beach County's order summarily denying his

Fourth Successive Motion to Vacate Judgment of Conviction and Sentence of Death Pursuant to Florida Rule of Criminal Procedure 3.851 After Death Warrant Signed, as well as denial of a Motion for Determination of Competency Pursuant to Florida Rule of Criminal Procedure 3.851(g) and a Motion for MRI and PET Scan.

3. Owen’s case presents important constitutional issues which deserve to be fully addressed by this Court free from the constraints of a warrant, including challenges to Owen’s death sentence and execution due to competency, evidence related to brain damage and dementia, denial of due process, and other claims raised under the Sixth, Eighth, and Fourteenth Amendments.

4. Owen respectfully requests that this Court enter a stay of execution. A stay of execution is appropriate “when there are ‘substantial grounds upon which relief might be granted.’” *Chavez v. State*, 132 So. 3d 826, 832 (Fla. 2014) (quoting *Buenoano v. State*, 708 So. 2d 941, 951 (Fla. 1998)).

5. This Court may enter a limited stay to meaningfully consider complex legal claims even if, on first appearance, the possibility of relief appears remote. *See King v. Moore*, 824 So. 2d 127, 128 (Fla. 2002) (Harding, J., concurring) (agreeing with the

issuance of a stay due to the “possibility” of merit, despite prior actions by the United States Supreme Court “seemingly send[ing] a clear message” that no relief was due).

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

7. In addition, a stay of execution would ensure a meaningful process and make certain that Owen is not denied due process. “The fundamental requirement of due process is the opportunity to be

heard ‘**at a meaningful time and in a meaningful manner.**’”

Armstrong v. Manzo, 380 U.S. 545, 552 (1965) (emphasis added).

8. The issues present in the instant case require appellate review that is not truncated by the exigencies of an imminent execution. A stay of execution should be granted.

Respectfully submitted,

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CERTIFICATE OF SERVICE

We hereby certify that on this 24th day of May, 2023, the foregoing document has been transmitted to this Court through the Florida Courts E-Filing Portal which will send a notice of electronic filing to the following: Assistant Attorney General Celia Terenzio at Celia.Terenzio@myfloridalegal.com and capapp@myfloridalegal.com; Assistant Attorney General C. Suzanne Bechard at carlasuzanne.bechard@myfloridalegal.com; Assistant Attorney General Leslie Campbell at Leslie.Campbell@myfloridalegal.com; and the Florida Supreme Court, at warrant@flcourts.org.

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