

IN THE SUPREME COURT OF FLORIDA  
CASE NO. SC17-653

ARAMIS AYALA, in her capacity as  
State Attorney for the Ninth Judicial  
Circuit of Florida,

*Petitioner,*

v.

RICHARD L. SCOTT, in his capacity  
as Governor of the State of Florida,

*Respondent.*

\_\_\_\_\_ /

**UNOPPOSED MOTION OF FLORIDA HOUSE OF REPRESENTATIVES  
FOR LEAVE TO FILE *AMICUS* BRIEF  
IN SUPPORT OF RESPONDENT GOVERNOR SCOTT**

Pursuant to Florida Rule of Appellate Procedure 9.370(a), the Florida House of Representatives moves this Court for leave to file, as an *amicus curiae*, a brief in support of Respondent Governor Rick Scott and in opposition to the extraordinary writ petition. The House asks that it have until May 3, 2017, to submit the brief if leave is granted. The House can provide the Court useful insight regarding the petitioner's position about the role of a state attorney as an arbiter of public policy adopted by the Florida Legislature. To support this motion, the House states the following:

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1. The House is one of two chambers of the Legislature, in which the Florida Constitution vests all legislative power of the State. *See* Art. III, § 1, Fla. Const; *cf. S. Alliance for Clean Energy v. Graham*, 113 So. 3d 742, 748 (Fla. 2013) (noting that “fundamental and primary policy decisions shall be made by members of the legislature who are elected to perform those tasks”) (quoting *Askew v. Cross Key Waterways*, 372 So. 2d 913, 925 (Fla. 1978)).

2. The Legislature, through various statutes, has set Florida’s policy regarding the availability of death as a punishment for the most egregious of felonious conduct. *See, e.g.*, §§ 775.082, 782.04, 794.011, 921.142, Fla. Stat. (2016); ch. 2017-1, Laws of Fla. (2017).

3. At issue in this case is whether the Governor acted within his authority when, via executive orders pursuant to section 27.14, Florida Statutes, he assigned another state attorney to serve as the prosecutor in a variety of capital cases being handled by the petitioner. Those executive orders sought to address the petitioner’s announced refusal to consider seeking death as a punishment upon conviction in those capital cases based on her express disagreement with Florida’s death penalty policy.

4. The House, if permitted to file a brief as *amicus curiae*, would address the exclusive role assigned by the Constitution to the Legislature in the setting of public policy for the State and the ill effects that flow from the refusal of a state

officer or agent to enforce a duly enacted legislative policy based on his or her disagreement with the rectitude or efficacy of that policy. The brief also could address, as an alternative to the authority provided by statute to the Governor, the authority of the Governor to suspend the petitioner under Article IV, section 7, of the Florida Constitution.

5. Undersigned counsel for the House conferred with counsel for both the petitioner and respondent and with counsel for the Attorney General about the relief sought in this motion. The undersigned has authority to represent to the Court that both parties and the Attorney General consent to the leave sought here. Counsel for the petitioner conditioned consent upon the House's agreement to submit a brief—if this Court otherwise permits—no later than May 3, 2017, which the House in turn asks the Court to set as the deadline if it grants the requested leave.

*[Prayer and signature block on next page]*

WHEREFORE, the Florida House of Representatives prays that the Court grant it leave to file a brief as *amicus curiae* in support of Respondent Governor Scott and that the Court allow the House until May 3, 2017, to file and serve that brief.

Respectfully submitted,

/s/ Adam S. Tanenbaum

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 13th day of April, 2017, a true copy of the foregoing motion was filed electronically with the Clerk through the Florida Courts eFiling Portal, which shall serve a copy via email to the following counsel, constituting compliance with the service requirements of Florida Rule of Judicial Administration 2.516(b) and Florida Rule of Civil Procedure 1.080(a).

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