No. _____

IN THE SUPREME COURT OF THE UNITED STATES

VICTOR T. JONES,

Petitioner,

v.

STATE OF FLORIDA and

SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS,

Respondents.

ON PETITION FOR WRIT OF CERTIORARI
TO THE SUPREME COURT OF FLORIDA

APPENDIX TO PETITION FOR WRIT OF CERTIORARI

VOLUME III

CAPITAL CASE

DEATH WARRANT SIGNED
EXECUTION SET SEPTEMBER 30, 2025, AT 6:00 P.M.

MARIE-LOUISE SAMUELS PARMER
Special Assistant CCRC-South
Fla. Bar No.: 0005584
Marie@samuelsparmerlaw.com

JEANINE L. COHEN
Staff Attorney CCRC-South
Fla. Bar No. 0128309
cohenj@ccsr.state.fl.us

BRITTNEY N. LACY
Assistant CCRC-South
Fla. Bar No. 116001
lacyb@ccsr.state.fl.us
ccrcpleadings@ccsr.state.fl.us

Capital Collateral Regional Counsel – South Office
110 S.E. 6th Street, Suite 701
Fort Lauderdale, FL 33301

COUNSEL FOR MR. JONES

September 26, 2025

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No. _____

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APPENDIX H

CAPITAL CASE

DEATH WARRANT SIGNED
EXECUTION SET SEPTEMBER 30, 2025, AT 6:00 P.M.

Initial Brief of Appellant, *Victor T. Jones v. State of Florida*, Florida Supreme Court, SC2025-1422 (Sept. 16, 2025)

IN THE SUPREME COURT OF FLORIDA

CASE NO. SC2025-1422

EXECUTION SCHEDULED FOR SEPTEMBER 30, 2025 AT 6:00 PM

VICTOR TONY JONES,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

ON APPEAL FROM THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT, MIAMI-DADE COUNTY, FLORIDA

LOWER CASE NO. 1990-CF-50143

INITIAL BRIEF OF APPELLANT

MARIE-LOUISE SAMUELS PARMER
Special Assistant CCRC-South
Fla. Bar No.: 0005584
Marie@samuelsparmerlaw.com

BRITTNEY N. LACY
Assistant CCRC-South
Fla. Bar No. 116001
lacyb@ccsr.state.fl.us
ccrcpleadings@ccsr.state.fl.us

JEANINE L. COHEN
Staff Attorney CCRC-South
Fla. Bar No. 0128309
CohenJ@ccsr.state.fl.us

Capital Collateral Regional Counsel – South Office
110 S.E. 6th Street, Suite 701
Fort Lauderdale, FL 33301

COUNSEL FOR JONES

September 15, 2025

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REQUEST FOR ORAL ARGUMENT

Jones respectfully requests oral argument by counsel pursuant to Florida Rule of Appellate Procedure 9.320. The resolution of the issues involved in this action will determine whether Jones lives or dies. Jones has raised meritorious issues that warrant an opportunity to be heard before this Court. A full opportunity to argue the issues at oral argument is appropriate in this case because of the seriousness of the claims at issue and the penalty that the State seeks to impose on Jones.

CITATIONS TO THE RECORD

References to the record will note the relevant proceeding on appeal and page number: Direct Appeal: (R. ___); Postconviction Proceedings: (PCR. ___); *Atkins* Proceedings: (PCR-*Atkins*, ___) and (PCR-*Atkins*-T. ___); *Hall* Proceedings: (PCR-*Hall*, ___); Warrant Proceedings: (WR. ___) and (Supp WR. ___).

To the extent that records from the previous records on appeal were attached to the warrant postconviction motion, citation is made to the warrant record for the convenience of the Court. All other references and citations are self-explanatory or explained herein.

STATEMENT OF THE CASE AND FACTS

A. Introduction

The State seeks to execute Victor Tony Jones, an intellectually disabled ("ID"), indigent Black defendant, who was brutally abused as a teenager by agents of the State of Florida at the Okeechobee School for Boys ("Okeechobee") and who suffered, through no fault of his own, neglect, abuse, exposure to criminality and drugs, including sexual violence, as a young child and continuing through adolescence. Trial counsel failed to properly investigate or present any abuse, and presented a false narrative that Jones had been rescued by his aunt Laura Long and provided a better life.

While it is without dispute that the murder of two people during a botched robbery is tragic and warrants punishment, Jones's crime is unquestionably neither the most aggravated nor the least mitigated of murders, in spite of the Florida courts' constant rejection of his mitigation. Instead, he falls within that category of criminal defendants—Black, poor, abused, ID, represented by counsel who failed to investigate his case—that the State of Florida, through repeated failings in its educational, social and judicial systems, tends to execute.

In the initial postconviction proceedings, collateral counsel presented testimony describing abuse at the hands of Long, and her son, and expert testimony about his low I.Q. and mental health deficits, but all of Jones's witnesses were neatly swept aside and deemed not credible. Throughout the history of Jones's case, the circuit court and this Court have astoundingly rejected *all mitigation presented*.

On January 6, 2025, for the first time in the history of Jones's case, the State of Florida admitted it abused Jones while he was confined as a child at Okeechobee, by acknowledging him as a victim of abuse and a member of the Dozier and Okeechobee School Victim Compensation Fund class.

Unlike in other warrant cases heard by this Court, where defendants who were not members of the recognized compensation class, raised claims of abuse at Dozier and argued that the passing of legislation recognizing the victims of abuse was newly discovered evidence, Jones's claim is different because *he is a member of the victim compensation class*.

To be eligible for victim compensation, Jones had to establish that he attended Okeechobee within the qualifying time frame *and*

that he was a victim of physical, mental, emotional or sexual abuse as defined in the application form created by the Office of the Attorney General. The State of Florida's January 6, 2025 letter to Jones finding him a victim of abuse at the hands of the State of Florida is new evidence, which was only discoverable this year. The letter is not an abstract report, law or data summary loosely connected to Jones, but is evidence directly related to Jones and material to his mitigation case and sentence of death.

The circuit court, in an unnecessarily truncated litigation process, summarily denied all of Jones's claims and public records requests. In so doing the circuit court failed to conduct the requisite analysis, misapprehended the law and made factual determinations on disputed facts without allowing Jones to present evidence. This Court should reverse for an evidentiary hearing and grant a stay so that Jones may have due process befitting the finality of this matter.

B. Guilt, Penalty Phase And Sentencing Proceedings

Jones was charged with two counts of murder and two counts of armed robbery for the deaths of Matilda and Jacob Nester on December 19, 1990. (WR- 94-96). Jones was found in the Nestors'

business and Ms. Nestor's purse was found on the couch in the office near where Jones was found, with the butt of a .22 caliber pistol protruding under his arm. *Jones v. State*, 652 So. 2d 346, 348 (Fla. 1995)). Jones had been shot in the head; the Nestors had been stabbed. Jones, who had been recently released from prison, had been hired by the Nestors to do work for their business. *Id.* Money, keys and "a small change purse" that would later be identified as belonging to Ms. Nestor, were found in Jones's pocket. *Id.* Jones purportedly told law enforcement at the scene that, "The old man shot me[,]" and told a nurse at the hospital that he killed the Nestors. *Id.* The jury found him guilty as charged. *Id.*

Following a penalty phase proceeding, where the advisory jury voted 10 to 2 for the murder of Matilda Nestor and 12 to 0 for Jacob Nestor, the trial court sentenced Jones to death for both murders. *Id.* The jury made no factual findings. The trial court found three aggravating circumstances: (1) under sentence of imprisonment; (2) prior violent felony; and (3) felony murder (robbery), which the court merged with the pecuniary gain aggravator, and sentenced Jones to death for both murders. *Id.* at 348-49. "Although Jones presented evidence that he had been abandoned at an early age by his

mother" and expert testimony to support the statutory mental mitigators, the trial court rejected all proposed mitigation. *Id*. at 349; (WR. 492).

C. Relevant Issues Raised On Appeal And Postconviction

On direct appeal, Jones raised, among other issues, that the trial court erroneously rejected the mitigation presented including the statutory mitigating factor of mental or emotional disturbance at the time of the crime, and that a new sentencing proceeding is required because the mental health experts who testified failed to bring the possibility that Jones suffered from fetal alcohol syndrome/fetal alcohol effect to the court's attention and because the court refused to consider Jones's abandonment by his mother as a mitigating circumstance. This court found no reversible error and affirmed Jones's convictions and sentences. *Jones*, 652 So. 2d at 353.

Jones timely filed an initial Rule 3.850 motion, which he amended twice, ultimately raising twenty-two issues, including that trial counsel rendered ineffective assistance ("IAC") in failing to adequately investigate and present mitigating circumstances in

Jones's childhood and early life. The postconviction court granted a hearing on this claim.

Jones presented the testimony of his sister, Pamela Mills, and his cousin, Carl Leon Miller. These witnesses described horrific abuse at the hands of their aunt, Laura Long, who had testified at trial that, as described by trial counsel, Jones's childhood was "idyllic." (PCR. 530).

Mills and Miller described cruel beatings where they were made to undress before being beaten, (PCR. 951), that Long called Jones slow and stupid and beat him for making bad grades, and that Long's son, who was approximately ten years older than Jones, Mills and Miller, also beat all three of them at Long's direction and also seemingly for his own pleasure, and raped Mills. (PCR. 951-52, 975-79). Jones witnessed at least one of these rapes and tried to intervene, but was beaten harshly for doing so. (PCR. 691). Mills gave birth at 14 as a result of these rapes, although she testified she thought she was ten years old. (PCR 952). That poor memory, of course, is symptomatic of childhood trauma is widely accepted within the scientific community.

The postconviction court denied relief on March 8, 2001, stating in full as to the lay witness testimony of childhood abuse:

> The Court heard from the Defendant's sister, Pamela Mills and the Defendant's cousin, Carl Leon Miller. The Court considers their testimony not credible and finds that there is no reasonable probability that the Defendant would have received a life sentence based on their testimony.

(PCR. 386). The postconviction court did not explain the basis of its credibility determination; the above paragraph was its entire reasoning as to these witnesses.

The postconviction determined that trial counsel's mitigation investigation that consisted of speaking to only Laura Long, Vera Edwards (a friend of Long's and Jones's teacher), Beatrice Brown (Long's sister) and Greg Whitney (Jones's childhood friend), was a sufficient capital mitigation investigation, which it clearly is not by any intellectually honest standard.[1] The postconviction court also

[1] Prevailing norms, established by the ABA Guidelines for the Appointment and Performance of Counsel in Death Penalty Cases, ("Guidelines"), impose a duty on counsel to perform an extensive search into the client's background:

> Because the sentencer in a capital case must consider in mitigation, "anything in the life of a defendant which might mitigate against the appropriateness of the death penalty for that

rejected the testimony of all of the defense mental health experts' concerning Jones's mental illness, low IQ, and childhood abuse, finding that "the experts cannot be considered reliable." (PCR. 388).

Jones timely appealed. This Court denied Jones's appeal, accepting the postconviction court's unexplained credibility determination as a basis to again reject all mitigation as the State urged this Court to do. This Court stated:

> [T]he court found both her testimony and that of appellant's cousin [ ] not credible and [] contradicted by the evidence appellant's trial counsel was actually able to obtain at the time of trial. Thus, there is no credible evidence that additional investigation by appellant's trial counsel for family mitigation would have been fruitful.

> defendant," penalty phase preparation requires extensive and generally unparalleled investigation into personal and family history.

§10.7, Commentary (citations omitted)."The obligation to investigate and prepare for the penalty portion of a capital case cannot be overstated—this is an integral part of a capital case." *State v. Lewis*, 838 So. 2d 1102, 1113 (Fla. 2002).

Developing a mitigation in a capital case is a time-consuming and extensive process because counsel is required to "develop as complete a picture as possible of the individual from birth all the way up to the present moment." (2PCR-989); Guideline §4.1, Commentary.

Jones v. State, 855 So. 2d 611, 618 (Fla. 2003). This was error as the postconviction court never gave a basis for finding the lay witnesses not credible; the postconviction court rejected the *expert testimony because it was contradictory*. But nonetheless, the fact remains that no court has ever credited or believed Jones's claims of abuse.

While Jones's case was pending appeal at this Court, the Supreme Court issued *Atkins v. Virginia*, 536 U.S. 304 (2002), holding that persons with intellectual disability ("ID") are constitutionally exempt from capital punishment. The Florida Supreme Court promulgated Florida Rule of Criminal Procedure 3.203, which delineated the procedures to be used for defendants seeking to raise ID as a bar to execution under *Atkins*.

Jones timely argued pursuant to Rule 3.203 that *Atkins* precluded his execution because he is ID. This Court relinquished jurisdiction for an evidentiary hearing. (PCR-*Atkins*. 47). At the hearing in 2006, Jones presented evidence demonstrating he met all three prongs of the intellectual disability requirements, including I.Q. scores all of which were 75 or below, a Jackon Memorial Hospital record from when Jones was 15 years old, identifying Jones as "mentally retarded," school records that show he struggled

in school starting in the second grade and continuing, and evidence of concurring adaptive deficits. The State inaccurately and improperly argued that because Jones's I.Q. scores were at or above 70 he could not be considered ID. The circuit court agreed, stating:

> Jones does not meet the statutory requirements to be defined as mentally retarded. His I.Q. has consistently been tested at above 70. Based on that alone he is not mentally retarded.

(PCR-*Atkins*. 495-506). This Court affirmed stating "*See Zack v. State,* 911 So.2d 1190, 1201 (Fla.2005) ('Under Florida law, one of the criteria to determine if a person is mentally retarded is that he or she has an IQ of 70 or below.')." *Jones v. State*, 966 So. 2d 319, 329 (Fla. 2007).

This, of course, is the law that would be held unconstitutional seven years later in *Hall v. Florida*, 572 U.S. 701 (2014). *Jones* itself is infamous in its erroneous assessment of intellectual disability as noted in Jones's habeas petition filed with this Court on Friday September 12, 2025. *Jones v. Sec'y, Fla. Dep't. of Corr.*, Case No: SC2025-1423.

Following *Porter v. McCollum*, 558 U.S. 30 (2009), Jones timely argued that this Court and the postconviction court had

"unreasonably discounted his mitigation," and reduced the fact of his childhood abuse to irrelevance.[2] The postconviction court summarily denied relief and this Court affirmed. *Jones v. State*, 93 So. 3d 178 (2012).

As noted *supra*, the U.S. Supreme Court issued *Hall* in 2014 and Jones timely argued that *Hall* renders the *Atkins* postconviction court's ruling rejecting his ID claim, and this Court's affirmance of that ruling, unconstitutional. The postconviction court summarily denied this claim, relying on testimony at the prior I.D. hearing finding that Jones's adaptive skills placed him outside the range of I.D. This determination also ran afoul of *Hall*, as the circuit court's assessment of Jones's adaptive functioning was not in keeping with the consensus among the scientific and medical community. James W. Ellis et al., *Evaluating Intellectual Disability: Clinical*

[2] *Porter* is another Florida case where the U.S. Supreme Court found this Court's application of the death penalty wanting: "The Florida Supreme Court's decision that Porter was not prejudiced by his counsel's failure to conduct a thorough—or even cursory—investigation is unreasonable. The Florida Supreme Court either did not consider or unreasonably discounted the mitigation evidence [including childhood abuse] adduced in the postconviction hearing." *Porter,* 558 U.S. at 42 (2009).

Assessments in Atkins *Cases*, 46 Hofstra L. Rev. 1305, 1374-99 (2018).

On appeal, Jones argued that this Court should reverse and remand for an evidentiary hearing because the findings of the postconviction court years ago were not based on the prevailing standards of the medical community in contravention of *Hall*. This Court once again rejected Jones's claim, resting its decision on the same faulty reasoning. *Jones v. State*, 231 So. 3d 374 (2017). Nonetheless, it is without dispute that Jones has a very low I.Q.

D. Proceedings Under Death Warrant

Governor DeSantis signed a death warrant for Jones's execution on August 29, 2025. (WR. 107-08). This Court ordered a briefing schedule requiring the proceedings below to be concluded by Friday, September 12, 2025 at 11:00 a.m. (WR. 109). This Court ordered the record on appeal to be filed by Friday, September 12, 2025 at 5:00 p.m. (WR. 109).

The circuit court issued its scheduling order[3] on September 2, 2025 setting the following schedule: public records requests were

[3] Jones promptly submitted a Notice of Appearance on August 29, 2025 identifying counsel who would be handling this matter,

due September 4, 2025 at 12:00 p.m.; objections to the requests were due September 5, 2025 at 11:00 a.m.; a hearing on public records was set for September 5, 2025 at 1:00 p.m.; the court's order on the records was due September 5, 2025 at 5:00 p.m., and compliance, if any required, by September 6, 2025 at 3:00 p.m. (WR. 178).

The court ordered the motion for postconviction relief to be filed September 8, 2025 at 11:00 a.m.; the State's answer was due, September 9, 2025 at 1:00 p.m.; the case management conference was scheduled September 10, 2025 at 10:00 a.m.; the court's order addressing the case management conference was due September 10, 2025 at 4:00 p.m.; the evidentiary hearing, if any, was to be held September 11, 2025 at 10:00 a.m.; and the final ruling was due September 12, 2025 at 11:00 a.m. The Record on Appeal

(WR. 111-12), and on September 1, 2025, submitted a proposed scheduling order. (WR. 143-48). Jones served both documents on the State Attorney and Office of the Attorney General ("AG"). The State also submitted a proposed scheduling order, (WR. 115-26 and 127-38), but due to errors in entering the information on the e-portal, CCRC-South was never served. The AG didn't enter their Notice of Appearance until 2:00 p.m. on September 2, 2025. (WR149-52) Service errors of one sort or another continued throughout the unduly truncated lower court proceedings.

("ROA"), which would include all warrant filings and all transcripts, was due September 12, 2025 at 5:00 p.m. (WR. 178-85).

Public Records

Jones timely filed public records demands to eleven agencies. Pursuant to Rule 3.852(h)(3), he requested records from the Miami-Dade Sheriff's Office ("MDSO" and Metro-Dade Police Department at the time), the Office of the State Attorney, 11th Judicial Circuit ("SAO11"), and the City of Miami Police Department ("MPD"). Pursuant to 3.852(i), Jones requested records from the Okeechobee County Sheriff's Office ("OCSO"), the City of Okeechobee Police Department ("OPD"), the Office of the State Attorney, 19th Judicial Circuit ("SAO19"), the Department of Children and Families ("DCF"), the Office of the Attorney General ("AG"), the Executive Office of the Governor ("EOG"), and the Florida Commission on Offender Review ("FCOR").

The agencies were provided 23 hours to respond. Due to the short timeframe, at least two agencies argued they did not have any responsive records and later filed amended responses clarifying that the agencies did, in-fact, have records. (WR. 258, 343, 461, 814, 1216). Two additional agencies did not appear at the start of the

public records hearing which began 2 hours after the filing deadline for all responses and objections. At least one agency had to be contacted during the hearing to obtain their appearance.

MDSO conducted a search and discovered a few documents in Jones's case that had not been previously turned over. (WR. 400, 467). DCF likewise did not object to the demand and searched for records. DCF did not find any responsive records. (WR. 1192). The remaining agencies all filed written objections. Notably, three agencies objected to the demands even though they didn't even have any responsive records—MPD, OPD, and SAO19. (WR. 356, 338, 340). Of the remaining agencies—SAO11, OCSO, EOG, FCOR, and the AG— all either conceded the agency was in possession of the records or refused to search at all and all objected to the release of said records. The lower court sustained their objections. (WR. 403, 406, 411, 422, 429).

The following business day, the Monday following the public records hearing, Jones filed a renewed demand to OCSO and filed a demand to the Florida Department of Law Enforcement ("FDLE"). Both agencies filed objections, and the court again sustained the objections. (WR. 1255, 1315).

Motion for Postconviction Relief

Jones timely filed his Successive Motion to Vacate Judgments of Conviction and Death Sentence With Leave to Amend, and promptly, after realizing the motion failed to contain the requisite verification, filed a Corrected Successive Motion to Vacate Judgments of Conviction and Death Sentence With Leave to Amend. (WR. 833-59). Jones raised three claims, two of which he advances in this appeal: 1) newly discovered evidence that on January 6, 2025 the Attorney General's Office recognized Jones a victim of crime at the hands of the State while confined at the Okeechobee School for Boys is of such a nature that it would probably yield a less severe sentence and Jones is entitled to a new penalty phase proceeding; and, 2) the unreasonably truncated and surprise nature of the warrant process has denied Jones his due process right to a meaningful opportunity to be heard commensurate with the seriousness of the proceedings.

Jones attached several supporting documents to his motion, including among other items: 1) an expert report from Dr. Yenys Castillo, detailing the trauma, neglect and abuse Jones suffered, both as a young child abandoned by his mother and placed with a

sadistic caretaker, Ms. Long, and, in particular, the abuse he suffered at Okeechobee, (WR. 519-523); 2) an affidavit from an Okeechobee survivor explaining the abuse he suffered at Okeechobee and how no one believed him, including his own family, until he was recognized as a member of the victim compensation class, (WR. 534); 3) documents establishing that Jones attended Okeechobee as a "Colored" person in 1975 (WR. 568); and, 4) a January 6, 2025 letter from the Attorney General's Office, Division of Victim Services and Criminal Justice Programs, Bureau of Victim Compensation, stating that Jones was eligible for compensation through the Dozier and Okeechobee School Victim Compensation Fund. The letter stated: "[The Attorney General's Office is] *sorry* to hear of the circumstances that prompted you to apply for compensation." (WR. 641) (emphasis added).

Claim I

As to Claim I, Jones asserted that newly discovered evidence of the Attorney General's January 6, 2025 acknowledgment of abuse and Jones's entitlement to compensation as a victim of crimes, which occurred at the hands of the State while he attended Okeechobee was evidence of such a nature, that coupled with the

other mitigating evidence in his case, including his low I.Q., would probably result in a new trial under *Jones v. State*, 709 So. 2d 512, 521 (Fla. 1998) (*Jones II*); *Jones v. State*, 591 So. 2d 911, 915 (Fla. 1991) (*Jones I*). Jones further asserted that he was entitled to an evidentiary hearing to present his claim.

Jones's argument was not that the evidence of abuse was new, but that the State's long-standing cover up of the conditions at two Florida State Reform School campuses of Dozier and Okeechobee, and the State's January 6, 2025 admission that Jones suffered severe abuse warranting financial compensation, was new evidence directly tied to Jones that a jury deciding whether he should live or die should hear. Such an admission is particularly salient in Jones's case because the circuit court and this Court have repeatedly rejected Jones's evidence of abuse as not credible.

Jones set out in his successive motion that he was sentenced by the State of Florida to be confined at Okeechobee as a "Colored" juvenile [4] on four occasions: in 1975, 1976, 1977 and 1978. (WR.

[4] The school was segregated and ledgers of the children held there were divided by White and "Colored." See also affidavit of James Anderson stating the school was separated into two

562). While not as well-documented or infamous as the Dozier School, Okeechobee was equally horrific. Survivors have described beatings with a substantially the same or similar 3” inch wide leather belt with a piece of sheet metal inside as described by the Dozier survivors, rampant sexual abuse and frequent placement in solitary confinement. (WR. 633).

Jones asserted in his motion that while confined at the Okeechobee School, Jones was beaten multiple times with the thick leather strap, witnessed frequent gang-rapes of other vulnerable children, and to avoid being gang-raped himself had to fight off other boys, which resulted in his placement in solitary confinement. (WR. 520).

The effect of this treatment on Jones’s emotional and psychological development was pronounced, causing him to suffer from posttraumatic stress disorder, suicidal ideation and likely contributed to his drug addiction, increased his risk for criminal violence, and caused other mental deficits, all of which would have

campuses, one for White children and the other for Black children. (WR. 534)

been in existence prior to the crime and during the crime. (WR. 510-32). Additionally, although Jones told others, including authority figures about the conditions at Okeechobee, no one believed him.

In support of his motion Jones filed the affidavit of James Anderson, an Okeechobee survivor who also described suffering severe beatings, witnessing a boy assaulted with an industrial broom and repeated sexual assaults. (WR. 534). Anderson explained that he witnessed other abuse and cruelty that is too difficult for him to talk about. (WR. 534). Anderson also stated that it was a known fact that the Black children were treated more harshly than the White children. (WR. 534). Significantly, for purposes of this motion, Anderson explained that nobody believed him about what he saw and experienced at Okeechobee, not even his own family, until he himself was recognized as a member of the compensation class. (WR. 534).

Dr. Castillo, who evaluated Jones for purposes of Jones's motion, provided details in her report, which was attached to his motion and filed under seal with the circuit court, about the neglect and harsh physical and emotional abuse Jones suffered at

Okeechobee. While there, Jones "struggled academically and received no support for his learning difficulties." (WR. 689). Jones and the other children were subjected to harsh and indiscriminate physical abuse by the guards who were often drunk and which left Jones and the other boys bleeding. (WR. 690). Guards used derogatory and racist names for Jones and the other Black boys with whom he was confined. (WR. 690). Jones described a feeling of "pervasive fear and helplessness that defined [his] daily life at Okeechobee." (WR. 690).

Jones also described a culture of sexual abuse that was ongoing and pervasive. Jones described "'blanket parties,' where multiple boys would gang-rape another boy while covering him up with a blanket." (WR. 690). Jones also described how some of the boys would go to rooms with the guards and emerge hours later, leading him and others to suspect they were having sex with the guards. (WR. 690) "These boys would receive special privileges [ ] and were referred to as 'yes boys.'" (WR. 690).

Jones "witnessed countless rapes," and had to "fight repeatedly" to avoid being raped himself. (WR. 690). As a result of these fights, Jones was placed in solitary confinement which "really

messed [him] up" mentally causing him to be depressed and suicidal; Jones thought he "was hearing things and losing [his] mind." (WR. 690). "Consistent with Jones experience, research suggests that solitary confinement can induce anxiety, depression, psychosis, and suicidality." (WR. 690-91). Dr. Castillo further explained that for young people, the effects of solitary confinement are particularly severe and can be irreversible. (WR. 691).

Jones reported trying to mentally block the abuse he suffered, "retreating to what he described as a 'twilight zone' to cope with the trauma." (WR. 691). He tried to "'leave mentally,' during the beatings, a form of dissociation recognized as a peritraumatic risk factor for developing posttraumatic stress disorder (PTSD)." (WR. 691).

Jones also reported that some of the boys at Okeechobee tried to escape. "Those who were caught faced severe beatings and in some cases were sent to work for local farmers without pay," which was perceived as a form of enslavement. (WR. 691). Dogs were used "to capture escapees." (WR. 691). Some boys just disappeared under "mysterious circumstances, raising suspicions that harm may have come from either the guards or the farmers." (WR. 691).

During the pendency of Jones's case, including through 2010, 2011, and longer, the State of Florida minimized or discounted in litigation, reports and public statements the rampant cruelty at both Dozier and Okeechobee. Okeechobee didn't close until 2020. FDLE issued a report in 2010 on Dozier as a result of a request made to then-Governor Charlie Crist by the "The White House Boys Survivor's Organization." (WR. 585). FDLE was tasked with determining if there were unmarked graves on the site, "if any crimes were committed, and if so, the perpetrators of those crimes." (WR. 585).

Despite taking statements from multiple survivors who described vicious beatings, rampant sexual abuse, and walking into the laundry and seeing "the face of a black male tumbling in the dryer," and being afraid to do anything for fear "he would also be placed into the dryer," (WR. 593), FDLE did not make a finding that abuse existed. By way of example, another survivor corroborated the laundry incident, describing seeing staff "carrying what he believed to be a male juvenile covered with a white sheet or blanket" from the laundry. (WR. 593). When he asked his supervisor what happened, the supervisor said, "Another one of you little bastards

just bit the dust." (WR. 593). But that witness, who saw the boy's arm under the sheet, said he thought the boy was white. (WR. 593).

Because there were "inconsistencies" in the witnesses' accounts of the laundry room death, and a lack of presence of blood in the White House Building when examined in 2009, many years after the abuse, FDLE ultimately determined that "no tangible physical evidence was found to either support or refute the allegations of physical or sexual abuse." (WR. 597). FDLE also discounted reports of beatings because there "was little to no evidence of visible residual scarring." (WR. 597). FDLE delivered their findings to the Office of the State Attorney, 14th Judicial Circuit, for review. There is no evidence that the State Attorney ever filed any charges or conducted any investigation.

In 2012, the Department of Justice ("DOJ") issued a report, (WR. 603), based on its investigation into Dozier. As in the FDLE report, there is no mention of Okeechobee. The DOJ report, however, found "credible reports of misconduct by staff," which "revealed systemic, egregious, and dangerous practices" that threatened the safety of the children confined there" and violated the "Fourteenth Amendment's mandate that youth in custody be

adequately protected from harm, undermining public safety by returning youth to the community unprepared to succeed and eroding public confidence." (WR. 605).

Between 2012 and 2016 forensic anthropologists from the University of South Florida led an excavation at the Dozier School and discovered human remains in 55 unmarked graves. (WR. 632). "A similar excavation has not been possible at the Okeechobee School, as the land sits on what is now private property." (WR. 632).

Okeechobee was investigated in 2015 but the Okeechobee County Sheriff found no physical evidence of abuse there and as noted in these 2025 news reports, the Okeechobee School was never investigated like the Dozier School. Jamie Ostroff, *From Darkness to Data: New Plans For the Florida School for Boys at Okeechobee Campus*, WPTV, (2025), https://www.wptv.com/wptv-investigates/from-darkness-to-data-new-plans-for-the-florida-school-for-boys-at-okeechobee-campus.

In June 2024, the Florida Legislature passed and Governor DeSantis signed into law the Dozier School for Boys and Okeechobee School Victim Compensation Program ("Program"). (WR. 632). The Program provided a $20 million fund to compensate

"living persons who were confined to the Dozier School or the Okeechobee School at any time between 1940 and 1975 and who were subjected to mental, physical, or sexual abuse perpetrated by school personnel while they were so confined." (WR. 637).

The law took effect on July 1, 2024 and required victims to apply to establish eligibility. On December 13, 2024, Jones received a declaration from the Florida Department of State, Records Custodian, affirming he was confined at the Okeechobee School and the dates of his confinement, which fell within the compensation time frame. (WR. 567-69).[5] After receipt of the document from the Records Custodian, Jones timely submitted his application to be included in the compensation class.

On January 6, 2025, Jones received a Notice of Determination of Eligibility from the Office of the Attorney General, Division of Victim Services, Bureau of Victim Compensation. (WR. 641). In its letter to Jones, the Bureau of Victim Compensation wrote, "*Please*

[5] In 1997, pursuant to a records request, the Eckerd Youth Development Center (the new name for Okeechobee) informed Jones's postconviction counsel that Jones's Okeechobee records were destroyed when he turned 19 pursuant to Florida law. (WR. 813).

know that we are sorry to hear about the circumstances that prompted you to apply for compensation." (WR. 641) (emphasis added). Jones was finally recognized after all these years as a true victim of abuse.

Jones further argued in his motion that because of the limited aggravation in his case, with no finding of HAC or CCP, and the compelling nature of the abuse Jones suffered, and the State's coverup of that abuse, there exists a reasonable probability that, in conjunction with all the other testimony previously presented, including his low I.Q. and mental health deficits, that a jury presented with the new admission of abuse Jones suffered at the hands of the State, and the extent of the cover-up of that abuse, a new jury would probably sentence him to life in prison. (WR. 847).

Claim III

In Claim III, Jones argued that the unduly truncated nature of the warrant process served to deprive him of the due process required by the constitution, particularly in a matter where the consequences are so serious and final. In support of his claim, Jones identified that his requests for records were all denied and that some agencies refused to comply or search and denied the

existence of records even though they did in-fact have records. The lower court sustained all the objections and denied evidentiary development on Jones's claim but could not have possibly familiarized herself in the short time frame allotted with the expansive record in this case spanning decades and comprising thousands and thousands of pages.

The State's Response

In Response, (WR. 1292- 1314), the State asserted that Claim I is untimely, procedurally barred and meritless. The State argued that the January 2, 2025 letter from the Victim's Compensation Fund does not make the "abuse" new and that Jones has known of the abuse for 50 years. (WR. 1297-98). The State relied on this court's decisions in *Barwick v State*, 361 So. 3d 785, 793 (Fla. 2023), *Cole v State*, 392 So. 3d 1054, 1061-62 (Fla. 2024), and *Zack v. State*, 371 So. 3d 335 (Fla. 2023), for the proposition that reports, data, resolutions, or passage of laws are not a basis for a newly discovered evidence claim:

> The rationale underlying our decision in cases like *Barwick* applies with equal force to Cole's claim. Like the APA resolution in *Barwick*, CS/HB 21 expresses a public stance predicated on reports, data and research that have been publicly available for years.

(WR. 1298); *Cole*, 392 So. 3d at 1061-62. The State asserted that the claim is procedurally barred because Jones knew of the abuse he experienced, (WR. 1299-1301), and that the claim is meritless because there was no mitigation at trial and the case is highly aggravated. (WR. 1302).

As to Claim III, that the unduly truncated and surprise nature of the warrant process deprives Jones of due process commensurate with the seriousness of the proceedings, the State asserted that "Jones has had ample notice and opportunity to be heard." (WR.1311). The State further asserted that Jones has no "right to *protest a procedural inconvenience* for a situation he brought upon himself by committing this double murder." (WR.1311) (emphasis added).

Circuit Court Proceedings and Rulings

The circuit court conducted a case management conference on Wednesday, September 10, 2025 at 10:00 a.m. During the proceeding, the court expressed concern that she had little time to enter her order and attempted to limit defense counsel's argument to ten minutes. (WR. 1659).

Ultimately, the court permitted 20 minutes for counsel's arguments. (WR. 1662).

The court entered an order denying evidentiary development at 3:22 p.m. on Wednesday, September 10, 2025. (WR.1448-52). The court entered its final order denying all claims at 9:42 a.m. on Friday, September 12, 2025. (WR.1461).

The lower court denied Claim I as untimely, relying on this Court's decisions in *Zack,* 371 So. 3d 335, *Cole,* 392 So. 3d 1054, and *Barwick,* 361 So. 3d 785. (WR. 1472-73). The court further determined that the claim is procedurally barred and lacks merit because "[a] letter from the State does not show specific abuse of Defendant that would have led to a lesser sentence." (WR. 1474).

The court denied Claim III, finding that this Court has previously rejected challenges to the short warrant period citing to *Tanzi v. Sate*, 407 So. 3d 385 (Fla. 2025). (WR. 1481-82). The lower court further rejected Jones's claim, noting that he "has not shown how the warrant schedule denied his opportunity to be heard." (WR. 1481). The lower court

criticized Jones's failure to file the public records requests prior to the filing of the warrant. (WR. 1482).

Jones timely filed his Notice of Appeal on Friday September 12, 2025 at 11:19 a.m.

The Clerk of Court filed the ROA an hour and a half late and failed to include any transcripts. The ROA is confusing, not in chronological order, includes duplicates, and wholly failed to include any transcripts. On Saturday, September 13, 2025, Jones filed emergency motions requesting this Court toll the time and enter an order directing the Clerk of Court to supplement the record, both of which this Court granted on Sunday, September 14, 2025, extending the time for filing the briefs in this matter.

The supplemental record was due Monday September 15, 2025 at noon. The clerk timely filed, however, the ROA was improperly paginated and had to be fixed. The clerk filed the corrected supplement at 2:20 p.m.

Jones's initial brief was initially due Monday, September 16, 2025 at 2:00 p.m., but in light of the record issues, the Court extended the deadline to today (Tuesday, September 16, 2025) at 2:00 p.m.

This timely brief follows.

SUMMARY OF ARGUMENTS

1. Newly discovered evidence that on January 6, 2025, the State of Florida recognized Jones as a victim of abuse while confined in State custody as a child at Okeechobee, is of such a nature as to warrant a new penalty phase proceeding. Throughout Jones case, the circuit court and this Court have rejected all of Jones's claims of abuse as not credible. In denying Jones's postconviction motion under warrant, the lower court's order was wrong in three ways: the court misapplied the law, the court made factual determinations without an evidentiary hearing, and the court misapprehended Jones's claim. The court erred in ruling that *Cole*, *Barwick*, and *Zack* apply as each are materially distinguishable. This Court should reverse for an evidentiary hearing or any other such relief the Court deems proper.

2. Jones was denied full and fair postconviction proceedings in violation of his right to due process under the United States and Florida constitutions. The 32-day warrant proceedings are so truncated that they preclude any meaningful hearing on record demands and claims that could not have been raised before the

death warrant. Jones was prejudiced in a number of ways among which include, insufficient time to allow the lower court to require all of the relevant agencies to conduct public records searches, insufficient time for the court to review all of the claimed exemptions asserted by each agency in camera, and inadequate time to complete investigating and presenting his claim.

In order to ensure a full, fair, and meaningful process that comports with Jones's constitutional rights and counsel's duties, Florida should follow the lead of other states and promulgate a warrant process that provides adequate time for warrant litigation and removes the unnecessary strain on the courts, staff, and the system.

3. Jones's counsel is obligated to seek and obtain every public record in existence in this case, and the failure of counsel to do so will result in a procedural default. Florida Rule of Criminal Procedure 3.852 provides for the production of public records after a warrant is signed. Jones filed demands for public records to several state agencies pursuant to Rule 3.852(h)(3) and (i). The agencies did not have the requisite time needed to conduct a thorough and accurate search; and for the agencies that did locate

records, the lower court did not have the requisite time to conduct an in camera inspection of these records to ensure that the agency asserted the proper exemptions. Although most agencies did not assert proper objections, the circuit court sustained every agency objection, not rendered moot, and denied access to additional public records to which Jones is entitled.

Jones was denied access to files and records to which all other individuals are able to routinely obtain, depriving him of his rights to due process and equal protection guaranteed by the Fifth and Fourteenth Amendments to the U.S. Constitution and the corresponding provisions of the Florida Constitution. Access to public records is critical to meaningful postconviction review. Records produced under warrant in other cases have led to the discovery of exculpatory evidence, claims for postconviction relief, and stays of execution. The lower court's rote denial of access to the public records in Jones case renders Rule 3.852 a hollow exercise on an execution check-list.

STANDARD OF REVIEW

Because the circuit court denied postconviction relief without an evidentiary hearing, this Court must accept the factual

allegations presented in Jones's motion as true to the extent that they are not conclusively refuted by the record. *Ventura v. State*, 2 So. 3d 194, 197-98 (Fla. 2009). Further, this Court "review[s] the trial court's application of the law to the facts de novo." *Green v. State*, 975 So. 2d 1090, 1100 (Fla. 2008). A postconviction court's decision whether to grant an evidentiary hearing is likewise subject to de novo review. *Rose v. State*, 985 So. 2d 500, 505 (Fla. 2008).

ARGUMENTS

Argument I

Newly Discovered Evidence Of The State Of Florida's Recognition Of Jones's Abuse At The Okeechobee And His Entitlement To Compensation As A Victim Of A Crime Is Material Evidence Which Renders His Death Sentence Unreliable And Would Likely Lead To A Life Sentence On Retrial.

The circuit court's order summarily denying this claim was wrong in three ways: 1) the court misapplied the law, 2) made factual determinations without an evidentiary hearing, and 3) misapprehended Jones's claim in a manner that suited the assessment of each prong that formed the basis of her denial. Additionally, *Cole, Barwick* and *Zack* are materially distinguishable. Jones will address each argument in turn.

A. Relevant Law

A court shall provide relief to a person under sentence of death if there is newly discovered evidence that would probably yield a less severe sentence on retrial. *Jones II*, 709 So. 2d at 521; *Jones I*, 591 So. 2d at 915). To obtain a new trial based on newly discovered evidence, a defendant must meet two requirements. *Jones II*, 709 So. 2d 512.

First, the evidence must not have been known by the trial court, the party, or counsel at the time of trial, and it must also appear that neither the defendant nor defense counsel could have known of such evidence by the use of diligence. *Id.*; *State v. Spaziano*, 692 So. 2d 174 (Fla. 1997). Second, the newly discovered evidence must be of a nature that it would probably produce an acquittal on retrial or yield a less severe sentence. *Jones II*, 709 So. 2d 512. This court must consider the newly discovered evidence, and evaluate the weight of the newly discovered evidence and the evidence that was introduced at trial. *Taylor v. State*, 260 So. 3d 151, 158 (Fla. 2018) (citing *Jones*, 709 So. 2d 512 (Fla. 1998)).

Because this claim involves a successive motion and evidentiary hearing, the lower court was required to evaluate all the

admissible newly discovered evidence at this hearing in conjunction with admissible evidence at prior evidentiary hearings and then compare it with the evidence that was introduced at trial. *Jones*, 709 So. 2d at 522.

The lower court could only deny Jones's successive postconviction motion without an evidentiary hearing if the motion, files, and records in the case conclusively show that the he is entitled to no relief. *Tompkins v. State*, 994 So. 2d 1072, 1080-81 (Fla. 2008). "A postconviction court's decision regarding whether to grant a rule 3.851 evidentiary hearing depends on the written materials before the court; therefore, for all intents and purposes, its ruling constitutes a pure question of law and is subject to *de novo* review." *Id. at* 1080-81 (internal quotations omitted). On review, this Court will "accept the defendant's allegations as true to the extent that they are not conclusively refuted by the record." *Id.*

The analysis of the mitigation evidence offered here, an acknowledgment of severe childhood abuse at the hands of the State, and previously offered mitigation that was not disputed or rejected (low I.Q, documented difficulties in school, prior psychiatric admission at the age of 15, abandonment by Jones's mother) is

substantial and of the type the U.S. Supreme Court has repeatedly recognized as relevant, mitigating, and warranting a new penalty phase proceeding.

> Under Florida law, mental health evidence that does not rise to the level of establishing a statutory mitigating circumstance may nonetheless be considered by the sentencing judge and jury as mitigating. Indeed, the Constitution requires that "the sentencer in capital cases must be permitted to **consider any relevant mitigating factor**."

Porter, 558 U.S. at 42 (2009) (citing *Eddings v. Oklahoma,* 455 U.S. 104, 112 (1982).(emphasis added) (internal citations omitted). "It is unreasonable to discount to irrelevance the evidence of [Jones'] abusive childhood, especially when that kind of history may have particular salience for a jury evaluating [Jones'] behavior in his relationship with the [Nestors]." *Id.* at 43.

The Supreme Court's opinion in *Sears v. Upton*, 561 U.S. 945, 947 (2010) is also instructive, describing what happened in Jones's case where the trial evidence painted a false picture of an "idyllic" childhood:

> During the penalty phase of Sears' capital trial, his counsel presented evidence describing his childhood as stable, loving, and essentially without incident. Seven witnesses offered testimony along the following lines:

> Sears came from a middle-class background [and] his actions shocked and dismayed his relatives[.]

The Court criticized the state courts' prejudice analysis which is strikingly similar to the errors in Jones's case:

> The mitigation evidence that emerged during the state postconviction evidentiary hearing, however, demonstrates that Sears was far from "privileged in every way." Sears' home life, while filled with material comfort, was anything but tranquil: His parents had a physically abusive relationship, and divorced when Sears was young; he suffered sexual abuse at the hands of an adolescent male cousin; his mother's "favorite word for referring to her sons was 'little mother fuckers;'" and his father was "verbally abusive," and disciplined Sears with age-inappropriate military-style drills, Sears struggled in school, demonstrating substantial behavior problems from a very young age. For example, Sears repeated the second grade, and was referred to a local health center for evaluation at age nine. By the time Sears reached high school, he was "described as severely learning disabled and as severely behaviorally handicapped."

Id. at 948 (internal citations and references omitted). *See also Williams v. Taylor*, 529 U.S. 362, 398 (2000) ("'the graphic description of Williams' childhood, filled with abuse and privation, or the reality that he was 'borderline mentally retarded,' might well have influenced the jury's appraisal of his moral culpability.")

In contravention of this law, the warrant court held that the claim was untimely, procedurally barred and without merit.

B. Jones's Claim is Easily Distinguishable from *Cole*, *Zack* and *Barwick*

The lower court premises its rulings on this Court's opinions in *Cole*, *Zack* and *Barwick*. In that line of cases, this Court has held as a general principle that "resolutions, consensus opinions, articles, research and the like do not satisfy the [newly discovered] evidence standard." *Cole,* 392 So. 3d at 1061 (citing *Barwick,* 361 So. 3d at 793). Reviewing the facts of these cases demonstrates how materially different they are than the circumstances in Jones's case.

In *Cole*, the defendant argued that "Florida has just recently acknowledged the mitigative atrocities that occurred at the Dozier School by virtue of the governor signing CS/HB 21, which became effective July 1, 2024." *Cole*, at 1061. Cole, however, was not a member of the Victim Compensation Class and there was no link between Cole's individual case and the signing of the law. Unlike here, where the January 6, 2025 letter is directly related to Jones and the State's acknowledgement of the abuse he suffered, which is highly relevant to Jones's case and particularly salient because the

State and the courts have repeatedly found Jones's claims of abuse not credible.

Barwick is even more easily distinguishable. Barwick tried to raise a claim that an American Psychological Association (APA) resolution constituted newly discovered evidence in his case. *Barwick*, 361 So. 3d at 793. This court properly found the claim lacking as there was no evidence linking that resolution directly to Barwick's case and was merely a broad resolution expressing "a public stance predicated on reports, data, and research that have been publicly available for years." *Cole,* at 1062.

Zack, likewise, is easily distinguishable. Zack tried to raise a newly discovered evidence claim "by asserting there is a new consensus—based on research articles and opinions—that FAS is now considered to be equivalent to an intellectual disability." *Zack,* 371 So. 3d at 345. Zack cited to a "'new scientific consensus' found in several articles published in 2017 and 2021[.]" *Id.* Thus, as this court determined, this evidence was not new, nor specifically related to Zack's case.

Here, the evidence Jones seeks to introduce is new, is directly related to him and is powerful – it is evidence that the State of

Florida amidst Jones was a victim of abuse perpetrated by the State of Florida.

C. The Claim is Timely

The warrant court held Jones's claim to be untimely. (WR. 1471-72). The court stated that the State of Florida's "recognition" of abuse by creating the Victim Compensation Fund, "does not make the abuse newly discovered." (WR. 1472). "The 2025 letter merely acknowledges general institutional abuse, not specific abuse of the defendant." (WR. 1472). The lower court's assessment is wrong because it mischaracterizes the import and meaning of the letter—which in fact does serve to recognize the specific abuse Jones suffered—and lumps it in with the passage of the law, which is a broad acknowledgment of abuse distinct from the specific, personalized acknowledgment of abuse and apology contained in the letter.

Further, making determinations about the import and scope of the letter without an evidentiary hearing, and after denying public records demands to the Attorney General's Office about this program and abuse at Okeechobee, amounts to a denial of due process and a factual determination without a hearing. The lower

court and this Court must accept Jones's allegations as true unless they are refuted by the record. *Ventura*, 2 So. 3d at 197-98. The record and Jones's assertions in his pleading establish that the letter was specific to him and that he only was admitted as a member of the Victim Compensation Class after making the threshold showing that he 1) attended Okeechobee within the specified time frame, *and 2)* that he himself was a victim of physical, emotional, sexual or other type of abuse.

The lower court again cited *Cole*, *Barwick* and *Zack* as a basis to find the claim untimely. (WR. 1472). "Because the letter and compensation are based on prior reports, they do not meet the standard and the claim is untimely." (WR. 1472). This reasoning is premised on conflating prior reports, which is the language used in *Cole*, *Barwick* and *Zack*, with a letter that is specific to Jones's case and did not previously exist. The court's reasoning does not withstand intellectual scrutiny.

The fact of the matter is that Jones filed his motion within one year of receiving the January 6, 2025 letter. The letter is personal to him, related to his mitigation case and new. Never before has the

State of Florida acknowledged that Jones was horribly abused, exposed to rape, beaten, placed in solitary confinement as a child.

Even to this day, at the case management conference, the State tried to assert that Jones's claims of abuse at Okeechobee are not credible. (WR. 1674). The Attorney General falsely argued that they "gave a letter to all children whether they were abused or not," and that Jones only "received a letter as being a resident there." (WR. 1675).

The court's reasoning fails.

D. The Claim is Not Procedurally Barred

In denying the claim as procedurally barred, the court disregards the January 6, 2025 letter and characterizes Jones's claim as simply the abuse he suffered at Okeechobee. (WR. 1473). The court states that "Defendant was aware of any specific abuse he *may* have suffered at Okeechobee at the time of trial and during all his prior postconviction motions[.]" (emphasis added). The court finds that because he could have raised the abuse before, the claim is barred, adding, "[e]ven the State's letter of recognition would have only served to corroborate that generalized abuse occurred." (WR.1473)

The court's reasoning cannot withstand scrutiny. The court attempts to twist Jones's claim into merely one of abuse at Okeechobee—which would be untimely—and then tries to minimize whether Jones suffered abuse stating the letter is only an acknowledgment of "generalized abuse." (WR.1473)

It is unclear what the court means by "generalized abuse." The never-ending personal stories of abuse, that the survivors have shared over the years, only to be disbelieved or minimized, cannot be denied any longer. The stories are so horrific that no child could not have been abused at Dozier and Okeechobee simply by living in that environment and witnessing the horrors. *See* (WR. 804) ("Mr. Levine found a very, thin small boy with a shaved head and pajama bottoms but no shirt lying on a concrete slab without a mattress; the guard informed Mr. Levine that the boy had been in the cell for some time for his own protection, as the other boys were sodomizing him with a broom handle. According to the guard, the boy's head was shaved because he had been pulling out his own hair.").

Calling the abuse at Okeechobee and Dozier "generalized" evidences a keen lack of insight and understanding of the extent

and nature of the abuse and the effect it would have on a child who even merely witnessed the acts of cruelty. It also evidences a desire by the court to minimize the weight of the newly discovered evidence, perhaps because it is so disturbing and unpleasant to read about the specifics of the abuse at Okeechobee and Dozier.

The State likewise minimizes the horrors Jones and others experienced by referring to them as "resident[s]," and not children confined by the State. (WR. 1674). Moreover, the State argued that "*[i]f [Jones] had been abused at Okeechobee*, it would have been mentioned in one motion," or "he would have let somebody know." (WR. 1674) (emphasis added). Yet, the State acknowledged at the case management conference that court appointed expert, Dr. Jane Ansley, wrote in her 1999 report that Jones expressly reported that he tried to commit suicide because he did not want to go back to Okeechobee. (WR. 1675; 572).

And, once again, the lower court made a determination of the meaning and import of the letter without an evidentiary hearing, which amounts to a factual determination that is inconsistent with Jones's allegation in his pleading and thus runs afoul of Florida law.

E. The Claim is Meritorious

The court then found that Jones's claim lacks merit because it cannot meet the *Jones* newly discovered evidence standard. (WR. 1474). In so doing, the court misstates the second prong requiring Jones to show a "likely" result of an acquittal or lesser sentence (WR. 1474). or that the evidence would change the outcome. (WR. 1474) ("Even if considered, the evidence *would not change* the outcome."). The court misapprehended the second prong of *Jones* and raised the burden Jones needed to meet. For this reason alone the court's analysis fails. Misunderstanding of the applicable legal standard is error.

The court attempted an analysis of the evidence at trial but makes factual errors. The warrant court stated that the trial court found four aggravating factors. (WR. 1474.) But, as this court explained on direct appeal of Jones's sentence: "As to each murder, the court found in aggravation: 1) Jones was under a sentence of imprisonment at the time of the murder, 2) Jones was convicted of a prior violent felony, 3) the murder was committed during the course of a robbery, and 4) the murder was committed for pecuniary gain, *which the court merged with the "during the course*

of a robbery" aggravating factor." *Jones,* 652 So. 2d at 348-49 (emphasis added). The trial court *only* found or assigned three aggravators, as he could not assign the fourth without running afoul of Florida law. To say there were four aggravators is inconsistent with the facts and basic principles of this Court's long-standing capital jurisprudence.

The warrant court also rested its reasoning that the prior violent felony aggravator is especially weighty, (WR. 1474), a finding which in isolation is not unreasonable. However, the court failed to place her analysis in perspective or realize that Jones's case is not the most aggravated of murders, as this Court is aware based on the highly aggravated cases that come before the Court involving rape-murders, the killing of children and law enforcement officers, and the burying of victims alive. Jones's case was a robbery gone bad, and while that is not an excuse for no punishment, his case is not the kind of case that involved prolonged, tortured suffering or cold, methodical planning. *See Buzia v. State,* 926 So. 2d 1203, 1216 (Fla. 2006)(quoting *Larkins v. State,* 739 So. 2d 90, 95 (Fla. 1999) (HAC and CCP are two of the weightiest mitigators in the Florida sentencing scheme)).

The lower court then rested on the fact that the trial judge made the absurd finding that Jones had "no mitigation" even though it was undisputed that he was abandoned by his mother, a fact which is unequivocally mitigating. Additionally, regardless of the merits of this Court's determination as to Jones's intellectual disability, it is equally unequivocal that Jones has a very low I.Q. An I.Q. of 70 places Jones in the bottom 2.3% of the population. Robert L. Schalock, et al., American Association on Intellectual and Developmental Disabilities, *Intellectual Disability: Definition, Classification, and Systems of Supports*, 17 (12th ed. 2021).

Perhaps, most importantly, the warrant court failed to give true weight and meaning to the January 2025 letter. It is a remarkable document that affirms that the State of Florida acknowledges that Jones himself was the victim of a crime or crimes at the hands of the State of Florida, and suffered so horribly that he is entitled to monetary compensation. A reasonable juror would give those facts great weight, especially in light of the State's argument or implication that Jones had failed to avail himself of the opportunities he was given at reform school and in prison.

And Jones, at a new trial, would be entitled to present evidence of the actual abuse he suffered at Okeechobee and its effect on his mental and emotional development to put the letter in context. Jones established a sufficient prima facie case of newly discovered evidence entitling him to an evidentiary hearing prior to the State of Florida executing him. He has presented new evidence that could not have been found through due diligence, and that evidence would probably result in a lesser sentence at a new trial.

The warrant court's summary denial of his claim violated his due process and Eighth Amendment rights. This Court should reverse the lower court and grant all appropriate relief. The seriousness of the matter demands nothing less.

Argument II

The Lower Court Abused Its Discretion In Denying Jones Access To Public Records In Violation Of The Fifth, Eighth And Fourteenth Amendments To The United States Constitution And The Corresponding Provisions Of The Florida Constitution.

Counsel for Jones has the duty to seek and obtain all relevant public records in existence in this case, and all records that are reasonably calculated to lead to the discovery of admissible evidence, as the failure of collateral counsel to do so will result in a

procedural default assessed against his client. *Porter v. State*, 653 So. 2d 375 (Fla. 1995). However, a concomitant obligation rests with the State to furnish the requested materials. *Ventura v. State*, 673 So. 2d 479 (Fla. 1996). This Court has held that when the State's failure to disclose public records results in a capital postconviction litigant's inability to fully plead claims for relief, the State is estopped from claiming that the postconviction motion should be denied or dismissed. *Id.* at 481 ("The State cannot fail to furnish relevant information and then argue that the claim need not be heard on its merits because of an asserted procedural default that was caused by the State's failure to act.").

A. Jones's Public Records Litigation Under Warrant

Following the signing of his death warrant, Jones timely filed demands for public records to several state agencies pursuant to Florida Rule of Criminal Procedure 3.852(h)(3) and (i). Jones focuses his appeal on the lower court's wrongful denial of his demands pursuant to Rule 3.852(i) concerning records relating to the Okeechobee School for Boys, made to four agencies:[6] the

[6] Jones requested similar records from the City of Okeechobee Police Department (OPD); however, OPD clarified in its response

Okeechobee County Sheriff's Office ("OCSO"), the Office of the Attorney General ("AG"), the Office of the State Attorney for the 19th Judicial Circuit ("SAO19"), and the Department of Children and Families ("DCF"). (WR. 192-334).

From OCSO, SAO19 and DCF, Jones requested:

(a) Reports, memos, notes, or communications relating to the investigation of the Okeechobee School, residents, or staff, during the following dates:

August 1, 1975 – October 1, 1975
June 1, 1976 – October 1, 1976
May 1, 1977 – April 1, 1978
August 1, 1978 – October 1, 1978

(b) Communications to or from [**EACH AGENCY**] relating to the investigation or prosecution of any cases originating from acts that occurred at the Okeechobee School for the above noted dates.

(WR. 236, 303, 313).

DCF informed undersigned counsel that the agency conducted a thorough search and could not locate any responsive records. DCF's retention policy requires that the agency keep records until the youngest child in the records reaches the age of 30. The

that the OPD was not in possession of any responsive records due to the fact that the Okeechobee School is not within the agency's jurisdiction. (WR. 338).

youngest child at Okeechobee during the time frame requested would be well over 30 years old now. DCF also indicated it had no objections to the request. Following its diligent search, DCF filed an affidavit of compliance. (WR. 1192).

SAO19 filed written objections. (WR. 335, 340). While SAO19 objected, asserting that the "demand is vague, overbroad, and unduly burdensome" and untimely under Rule 3.852(h)(3), ultimately SAO19 conducted a search and could not locate any responsive records. (WR. 335-37).

OCSO also filed written objections. (WR. 433). The agency refused to conduct any search of the records. OCSO asserted that Jones's demand was untimely and improper, arguing subsection (i) is an improper vehicle for the demand. (WR. 433-34). OCSO further argued the demand was not specific enough because it fails to "identify any case number, investigative file, or custodian of records within" OCSO, noting that Jones sought "broad categories of documents" over a "multi-year period." (WR. 435). Again, despite the fact that OCSO failed to conduct any search, it still asserted the demand was overly broad, vague and unduly burdensome claiming that the records "may not exist, may be incomplete, or may be

housed in archives not readily accessible to" OCSO. (WR. 435). Although OCSO failed to conduct any search, it represented to the court that the records *could* be exempt from disclosure. (WR. 435).

Jones also demanded records from the AG:

> (c) Memos or reports drafted or received by the **OFFICE OF THE ATTORNEY GENERAL** relating to the investigation of the Okeechobee School or Dozier School for Boys.
>
> (d) Communications including the **OFFICE OF THE ATTORNEY GENERAL** relating to the investigation or prosecution of any cases stemming from the Okeechobee School or Dozier School for Boys
>
> (e) Reports or memos drafted or received by the **OFFICE OF THE ATTORNEY GENERAL, BUREAU OF VICTIM COMPENSATION** relating to the Okeechobee School or Dozier School for Boys

(WR. 258).

The AG filed a written response at 10:43 a.m. and wholly failed to address these specific requested records. (WR. 438) The AG filed an amended response at 11:03 a.m., in which the AG asserted it was not in possession of any "records or communications related to the Okeechobee or Dozier School for Boys." (WR. 343-51). The AG further asserted, generally, that the demands are "overboard, vague, unduly burdensome, and not calculated to lead to a colorable claim." (WR. 351).

The circuit court held a hearing at 1:00 p.m., and sustained all agency objections.[7]

At the hearing, the AG unexpectedly conceded that the agency *is* in possession of responsive records.[8] (WR. 1599). Despite this acknowledgment, the court sustained the AG's objections and denied Jones access to records to which he is entitled.

Two days after the records hearing, the AG filed its *Clarification to the Attorney General's Response and Objections to Defendant's Demand For Public Records Regarding the Dozier and Okeechobee Schools*, in which the AG noted it "may have

[7] The lower court did not rule on objections from SAO19, MPD and OPD because all three agencies conducted searches and did not have any responsive records. All three agencies agreed with Defense counsel's request that the court not rule on the objections, since the lack of records rendered the objections moot. Although SAO11 indicated it had no records (before it did locate records and amend its response), SAO11 insisted the court rule on its objections.

[8] SAO11 also filed a clarification in which the agency conceded it was in possession of records not previously produced, but the SAO11 objected to releasing the records. Jones filed a motion requesting that the records be released, or in the alternative, that the court conduct a review of the records in camera. The court reviewed the records and again sustained SAO11's objections. The denial of SAO11 records is not at issue in this appeal; however, Jones maintains the lower court erred in denying the records.

communications from and/or records relating to victims from the two schools and possible compensation for past abuse," which the AG maintained would be exempt from disclosure. (WR. 462). The AG further argued:

> Additionally, **any records related to any investigation into the misconduct at the two schools or any prosecution stemming from that conduct is inappropriate for public records release** since, as argued in the original response, Jones's demands remain vague, overbroad, and unduly burdensome and are improper under Rule 3.852, especially in an active warrant context. Also, the demands are untimely in post—conviction litigation under an active death warrant since the misconduct and ensuing inquiries into it are decades old. Furthermore, none of these demands would lead to a colorable claim and are merely a fishing expedition.

(WR. 462-63) (emphasis added).

Without hearing argument or directing the Defense to respond, the lower court again sustained the AG's objections and denied Jones access to the public records. Jones sought rehearing and requested the court to review the records in camera to determine whether the asserted exemptions applied. (WR. 1225). The court denied rehearing, again accepting the AG's unsworn statements in support of its denial. The court did not conduct a review of the records in camera. (WR. 1250).

The Monday after the Friday public records hearing, Jones filed a renewed demand for public records to OSCO, narrowly tailoring his request to the following records:

(a) Reports, memos, notes, or communications relating to the 2015 investigation of claims of abuse and/or death of children at the Florida School for Boys, also known as the Okeechobee School or Okeechobee School for Boys, residents, or staff.

(b) Communications to or from OCSO relating to the investigation or prosecution of any cases originating from acts that occurred at the Okeechobee School for the above noted dates.

(WR. 905).

OCSO again objected, relying on the same grounds. (WR. 1280).

The same day, Jones also filed a demand for public records from FDLE, requesting the following:

(a) Reports, memos, notes, or communications relating to the 2008-2010 investigation of the Florida School for Boys, Dozier School for Boys, and Okeechobee School, also known as the Okeechobee School for Boys, residents, or staff.

(b) Communications to or from FDLE relating to the 2008-2010 investigation and any referrals for or prosecution of any cases originating from acts that occurred at the Okeechobee School that were discovered in and around the 2008-2010 investigation noted in paragraph 3.(a).

(c) Reports, memos, notes, or communications relating to reports of abuse or investigations of the Okeechobee School for boys between 1975-present.

(c) Reports, memos, notes, or communications with the Okeechobee County Sheriff's Office, the Office of the State Attorney for the 19th Judicial Circuit, or any other law enforcement agency concerning the investigation of reported abuse, assault, or other physical violence that occurred at the Okeechobee School.

(WR. 360). In response, FDLE asserted, among other objections, that Jones's demand should be denied because it was filed outside of the scheduling order. (WR. 1232). Like OCSO, FDLE refused to conduct any search of records.

The court heard brief argument on the demand to FDLE at the case management conference, and sustained each agency's objections, again denying Jones access to all relevant public records. The court did not hear argument on the renewed demand to OCSO or permit Jones to respond.

Jones submits that the lower court erred in denying him access to the files and records in his case to which all other individuals are able to routinely obtain and that he is being deprived of his rights to due process and equal protection guaranteed by the Fifth and Fourteenth Amendments to the U.S.

Constitution and the corresponding provisions of the Florida Constitution.

B. "[A]ccess to public records is an essential ingredient in any meaningful postconviction review." *Sims v. State*, 753 So. 3d 66, 71 n.10 (Fla. 2000) (Anstead, J., concurring).

Article I, section 24, of the Florida Constitution codifies the fundamental right of access to public records for "[e]very person"—"regardless of whether that access is sought by a death row inmate, a disinterested citizen or a member of the media." Art. I, § 24(a), Fla. Const; *Sims v. State*, 753 So. 3d 66, 71 (Fla. 2000) (Anstead, J., concurring). While this "'self-executing' right to open records is enforced through the Public Records Law, chapter 119 of the Florida Statutes" for all other citizens, *Rhea v. Dist. Bd. Trs. of Santa Fe College*, 109 So. 3d 851, 855 (Fla. 1st DCA 2013), this Court promulgated Florida Rule of Criminal Procedure 3.852 to govern the production of public records for capital postconviction defendants. Fla. R. Crim. P. 3.852(a).

Rule 3.852, however, "was never intended to, and, indeed, [can]not, diminish a citizen's constitutional right to access to public records." *In re Amends. to Fla. R. Crim. P.–Cap. Postconviction Recs.*

Prod., 683 So. 2d 475, 477 (Fla. 1996) (Anstead, J., specially concurring); *Sims*, 753 So. 3d at 71-72 (Anstead, J., concurring) ("We need to be very careful that we not end up with an outcome where a death-sentenced defendant, whose life may literally be affected, is barred from enforcing his constitutional right as a citizen to access to public records that any other citizen could routinely access."). Rather, the rule was designed "[b]ased on the broad public records production authorized under chapter 119," and meant "to promote the prompt and efficient processing of capital cases in a fair, just, and constitutionally sound manner." *In re Amends. to Fla. R. Crim. P. 3.851, 3.852, et. seq.*, 797 So. 2d 1213, 1216-17 (Fla. 2001).

"[A]ccess to public records is an essential ingredient in any meaningful postconviction review," *Sims*, 753 So. 3d at 71 n.10 (Anstead, J., concurring), and in safeguarding a death-sentenced individual's due process rights under both the federal and state constitutions. *See Evitts v. Lucey*, 469 U.S. 387, 401 (1985). Rule 3.852 was not created to preclude access to records or hinder a capital postconviction litigant from thoroughly investigating their case. The rule was created to eliminate undue delay while still

"maintaining quality and fairness." *Amendments to Fla. R. Crim. P.*, 797 So. 2d at 1216.

The setting of an execution date does not vitiate these fundamental rights, as "[t]he language of section 119.19 and of rule 3.852 clearly provides for the production of public records *after* the governor has signed a death warrant." *Sims*, 753 So. 3d at 70. "It would be dangerous in the extreme, to infer from extrinsic circumstances, that a case for which the words of an instrument expressly provides shall be exempted from its operation." *Sturges v. Crowninshield,* 17 U.S. (4 Wheat.) 122, 202 (1819) (per Marshall, C.J.) "[T]he courts must . . . lean in favor of a construction which will render every word operative, rather than one which may make some idle and nugatory." Thomas M. Cooley, A Treatise on the Constitutional Limitations Which Rest Upon the Legislative Power of the States of the American Union 58 (1868). *See also Kungyz v.United States,* 485 U.S. 759, 778 (1988) (Scalia, J. plurality opinion) (calling it a "cardinal rule of statutory interpretation that no provision should be construed to be entirely redundant.").

"[E]xecution is the most irremediable and unfathomable of penalties." *Ford v. Wainwright*, 477 U.S. 399, 411 (1986) , and the

need for absolute transparency is at its apex when the State "tinker[s] with the machinery of death." *Callins v. Collins*, 510 U.S. 1141, 1130 (1994) (Blackmun, J., dissenting). Jones was denied "a fair opportunity to show that the Constitution prohibits his execution." *Hall v. Florida*, 572 U.S. 701, 724 (2014). Precluding client's access to records is antithetical to "[o]ur system of open government [that] is a valued and intrinsic part of the heritage of our state." Florida Office of the Attorney General, Government-in-the-Sunshine Manual, p. xii (2025 ed., Vol 47).

i. The Lower Court Erred In Determining Rule 3.852(I) Was The Improper Vehicle.

Rule 3.852(i) provides:

(1) In order to obtain public records in addition to those provided under subdivisions (e), (f), (g), and (h) of this rule, collateral counsel shall file an affidavit in the trial court which:

(A) attests that collateral counsel has made a timely and diligent search of the records repository; and

(B) identifies with specificity those public records not at the records repository; and

(C) establishes that the additional public records are either relevant to the subject matter of the postconviction proceeding or are reasonably calculated to lead to the discovery of admissible evidence; and

(D) shall be served in accord with subdivision (c)(1) of this rule.

Subsection (i) of Rule 3.852 is the proper vehicle for Jones's public records demands. As Rule 3.852 explains, a capital defendant must file a demand pursuant to subsection (i) for records that are not covered under subsections (g) and (h). Rule 3.852(g) governs the initial production of records following the mandate after a direct appeal (on cases final after 1998). Rule 3.852(h)(3) governs cases that were final prior to October 1, 1998. In cases final prior to 1998, the initial records requests were done prior to the rule and pursuant to Chapter 119. Subsection (h) was included to assist in the transition of cases from the use of 119 letters to requesting records under Rule 3.852. To assist in this process, subsection (h)(3) includes a provision for handling discovery during warrant litigation, providing that capital defendants can request updated records from agencies the defendant "has previously requested public records." Fla. R. Crim. P. 3.852(h)(3).

Because Jones's requests neither concerned the initial production of public records following this Court's affirmance on direct appeal nor the request of records from agencies Jones

requested records from in his initial postconviction process, the lower court's rulings that the requests were improper because they did not meet Rule (h)(3) are must be reversed.

ii. The Lower Court Erred in Finding Jones's demands Untimely.

Notwithstanding the fact that Rule 3.852(i) does not contemplate a time frame for filing, Jones showed good cause to request the records under warrant. On June 21, 2024, Governor DeSantis signed into law House Bill 21, which created the Dozier School for Boys and Okeechobee School Victim Compensation Program to provide reparations for the living survivors of abuse endured while at these facilities. Survivors were required to submit applications for the compensation by December 31, 2024 and applicants were approved or denied thereafter. After Jones applied, the AG's office *mailed* him a letter confirming he was a member of the class on January 6, 2025. (WR. 811). Jones made his demand for additional records well within the year contemplated for newly discovered evidence claims.

Jones's demand was not some "eleventh hour attempt to delay [his] execution," as it plainly sought records stemming from a

specific fact related to Jones himself that became known only on January 6, 2025 when Jones was recognized by the State as a victim of a crime and entitled to compensation for the abuse he suffered. *See Sims*, 753 So. 3d at 71 n.10 ("[A]ccess to public records is an essential ingredient in any meaningful postconviction review. . .") (Anstead, J., concurring). The records Jones seeks are part of "a focused investigation into . . . legitimate area[s] of inquiry" and related to a colorable claim as discussed *infra*. *Id.* at 70; *Muhammad v. State*, 132 So. 3d 176, 201 (Fla. 2013).

The agencies asserted arguments logically incongruent with one another, yet the court somehow found every agencies objections credible. OCSO, the AG, and FDLE argued that Jones should have asked about the investigations into the Okeechobee School decades ago, while SAO19 indicated it had no records of prosecutions stemming from the school. Each agency missed the very reason Jones asked for the records in the first place—no one believed the abuse occurred until recently. This is further supported by the fact that FDLE's report in 2010 concluded no abuse occurred. There is no reason to believe any agency would have released any internal documents to Jones about the abuse and torture of the children at

Okeechobee, and the State of Florida's cover up and failure to fully investigate that abuse, until the State of Florida acknowledged Jones was a victim of the abuse. Indeed, the State's cover-up continues to this day with their ill-founded objections to Jones's records requests.

iii. The Lower Court Erred in Denying Jones's Demands as Overly Broad and Vague.

Jones's demands identified records specific in date, location, and substance relating to reports, investigations, and prosecutions of abuse suffered by the victims that attended the Okeechobee School. In conformity with established Florida case law, Jones identified, with as much specificity as possible, the records requested. *See Jimenez v. State*, 265 So. 3d 462, 473 (Fla. 2018) (comparing *Muhammad v. State*, 132 So 3d 176, 201 (Fla. 2013)).

In response to Jones's first demand, requesting records of reports and investigations of abuse during the times he was a student at Okeechobee School, and any communications with other law enforcement agencies about the reports and investigations of abuse at that time, the OCSO argued:

> The request is overly broad in time and scope, spanning multiple years without regard to whether the Defendant's

> prosecution was in any way connected to those investigations.

(WR. 435). The court erred in sustaining this objection.

Notwithstanding the fact that records requests pursuant to Rule 3.852(i) are not limited to a capital defendant's prosecution, the claim that the demand is overly broad in time and scope is disingenuous. Jones asked for records concerning a specific time frame—the duration of time he attended the Okeechobee School—and for reports and investigations of abuse at the school. Jones's claim concerns the abuse and torture Jones experienced at the Okeechobee School at that time.

Each agency is in the best position to determine whether the requested records exists and can be produced. Jones was not privy to any continuing investigation of his case nor to any communication each agency would have had with one another or other law enforcement related to the investigation of abuse suffered at the Dozier School for Boys and Okeechobee School, or the cover-up of that abuse; and therefore, cannot know each record or specific investigation numbers each agency has.

The demands were not vague or overly broad. Neither were the demands unduly burdensome. Indeed, not one agency provided information about how the demand was unduly burdensome, and several agencies that asserted the demands were unduly burdensome were also able to conduct a search for the records in a matter of hours. Despite Jones's request, the lower court did not require any agency to provide evidence or details about how the record search was unduly burdensome.

The demands pertained only to a limited scope of records. It is not unduly burdensome to require an agency to simply turn over records about a confined issue, particularly when the issue pertains to whether a capital defendant will live or die. The finality of this proceeding should demand an agency make reasonable efforts and only good faith arguments.

Jones was denied due process and the ability to fully and fairly investigate and present his claims because the agencies refused to gather and produce records necessary for Jones to challenge the validity and reliability of his death sentence, particularly under threat of imminent execution.

The lower court's rulings that the demands were vague and unduly burdensome is not substantiated by competent evidence, were legally erroneous and should be reversed.

iv. The Lower Court Used An Improper Standard In Determining Jones Failed To Assert A Colorable Claim, And In Doing So, Improperly Made Findings As To The Merits Of Jones's Postconviction Claim.

The requested records relate to colorable claims for postconviction relief and the lower court erred in determining otherwise. *See Sims*, 753 So. 2d 66, 70 (Fla. 2000) (noting Rule 3.852 "clearly provides for the production of public records after the governor has signed a death warrant" but not "for records unrelated to a colorable claim for postconviction relief"). A "colorable claim" is "a plausible claim that may reasonably be asserted, given the facts presented and the current law (or a reasonable and logical extension or modification of the current law)." *Colorable Claim*, *Black's Law Dictionary* (12th ed. 2024).

Whether a claim will succeed on the merits is distinct from whether it is colorable. A claim may be *colorable* despite being *meritless* under current law. Rule 3.852 conditions records production on the former. Thus, a finding that one of Jones's claims

is meritless would not prevent production unless the claim would remain meritless even assuming reasonable extensions or modifications of current law. *See Tompkins v. State*, 994 So. 2d 1072, 1090 (Fla. 2008) (suggesting lethal injection records could be relevant to colorable claim if change in circumstances since prior denial of lethal injection claim "warrant[ed] the court revisiting its decision"). Furthermore, Rule 3.852 does not limit production to records that are strictly necessary to prove a colorable claim. Rather, the scope of production encompasses records "reasonably calculated to lead to the discovery of admissible evidence." Fla. R. Crim. P. 3.852(i)(2)(c).

Jones case is distinguishable from other cases this Court has reviewed wherein the requests concerned records for claims that are not yet cognizable. Here, Jones asserted a cognizable claim. Jones met that portion of the Rule and the inquiry should have ended there. The law enforcement agencies are **not** a party to Jones's case and are in no position to determine the merits of his claim, particularly before he filed his Rule 3.851 motion.

The State of Florida sent Jones to the Okeechobee School for Boys (Colored) in 1975. While at the school, Jones suffered extreme

abuse, neglect, and cruelty. In June of 2024, the State of Florida finally officially acknowledged the severity of the suffering of the boys who were sent to Dozier and Okeechobee by passing into law effective July 1, 2024 a requirement that the State create a compensation fund to be given to those individuals who could prove that they attended Dozier or Okeechobee within a specified date range of documented and acknowledged abuse, and that the applicant also demonstrate or identify the abuse he suffered.

The AG mailed a letter to Jones dated January 6, 2025, and upon receipt of the letter sometime in mid-January of 2025, Jones first learned he was officially a member of the recognized group of boys who suffered abuse, neglect and cruelty by the guards and staff at Okeechobee. Jones noted in his demands that he intended to raise a claim about the abuse he suffered, and he did. Jones could not have been any clearer, he requested records related to his colorable claim and also that would likely lead to admissible evidence relevant to his postconviction proceedings.

The lower court's ruling that Jones's Rule 3.852(i) demands related to the abuse at Okeechobee were not related to a colorable claim is incorrect and must be reversed.

v. The Lower Court Failed to Conduct an In Camera Review to Ensure That The Withheld Records Do Not Contain *Brady* Evidence That the State is Required to Turn Over.

The lower court erred in failing to conduct in camera inspections of records the agency's claimed were irrelevant or statutorily exempt from disclosure. In failing to do so, the court could neither ensure that the records met the statutory exemptions or that the records did not contain *Brady* [9] evidence that would be subject to disclosure. The court's failure to do so rendered Jones's records request meaningless and a nullity.

vi. The Lower Court Failed to Conduct an Evidentiary Hearing and Require the Agency's to Submit Sworn Testimony

The lower court erred in denying Jones's access to public records based on the agency objections without holding an evidentiary hearing. Whether demands are overly broad or unduly burdensome are disputed facts that require an evidentiary hearing to resolve. *See Leon Shaffer Golnick Advertising, Inc. v. Cedar*, 423

[9] *Brady v. Maryland*, 373 U.S. 83 (1963).

So. 2d 1015, 1017 (Fla. 1982) (determining that an Attorney's "unsworn statements do not establish facts absent stipulation.").

Conclusion

Records produced under warrant have led to the discovery of exculpatory evidence, claims for postconviction relief, and stays of execution. *See*, *e.g.*, *Jimenez*, 265 So. 3d at 470-71; *see also State v. Mills*, 788 So. 2d 249, 250-51 (Fla. 2001). The lower court's rote denial of access to the public records Jones sought rendered Rule 3.852 a hollow exercise on an execution check-list.

Notably, of the agencies that refused to search for the records, none argued that the records did not exist. Not one agency argued that the abuse and torture of the victims in question did not happen or that the relevant agency was not involved in investigating the horrors that occurred at Okeechobee. Indeed, OCSO does not claim that Jones's name is not in any of the relevant and responsive records. The court denied Jones's access to records about the decades long cover-up of the abuse and torture of children who were in the State's care based on a misapplication of Rule 3.852(i).

The lower court's error in sustaining objections from FDLE, OCSO, and the AG, deprived. Jones's of right to a full, fair and

meaningful end-stage postconviction proceeding in contravention of his rights under the Fifth, Eighth, and Fourteenth Amendments and the corresponding provisions of the Florida Constitution and Florida statutory law and rules. The Florida Rules of Criminal Procedure provide for end-stage litigation that encompasses public records requests. Thus, Jones has a right to have those rules be given meaning and effect. The rules cannot simply be glossed over as window dressing.

While warrant litigation is taxing and difficult, lower courts cannot blithely ignore the rules and simply adopt the State's and agencies objections. Here, Jones met the requirements of the Rule and established he was entitled to the records. The refusal to give meaning to the Rules in place, which permit record requests under warrant, and permit Jones to seek records he is entitled to absent a legitimate showing of privilege or viable objection, renders the process meaningless. The court's failure here is especially egregious as Jones faces imminent execution The court's rulings are incorrect and must be reversed. This Court should grant all appropriate relief.

Argument III

Florida's Warrant Process Deprived Jones Of A Full And Fair Postconviction Proceeding In Violation Of His Constitutional Right To Substantive and Procedural Due Process Under The Fifth And Fourteenth Amendments To The United States Constitution And Corresponding Provisions Of The Florida Constitution, And The Proceedings Further Ran Afoul Of The Requirement for Heightened Reliability in Capital Cases.

The lower court erred in summarily denying Jones's claim that the absence of a reasonable warrant schedule denied him of full, fair, and meaningful postconviction proceedings in violation of the Due Process Clause of the Fifth and Fourteenth Amendments and Article I, Section 9, of the Florida Constitution. *See Cleveland Bd. of Educ. v. Loudermill*, 470 U.S. 532, 542 (1985) (noting "an essential principle of due process is that a deprivation of life . . . 'be preceded by notice and opportunity for **hearing appropriate to the nature of the case.**'") (quoting *Mullane v. Cent. Hannover Bank & Trust Co.*, 339 U.S. 306, 313 (1950)) (emphasis added).

In Claim 3 of his successive Rule 3.851 motion, Jones argued that the warrant procedure in Florida and its constituent proceedings are so truncated that they preclude a meaningful hearing on *any* of his claims, preclude counsel's meaningful and

effective representation, and causes unnecessary strain and chaos on the judicial system, particularly at the circuit court level.

The Due Process Clause of the Fourteenth Amendment guarantees that "no State shall . . . deprive any person of life, liberty, or property without due process of law." Amend. XIV, U.S. Const. Likewise, "one of the basic tenets of Florida law is the requirement that all proceedings affecting life, liberty, or property must be conducted according to due process." *Scull v. State*, 569 So. 2d 1251, 1252 (Fla. 1990) (citing Art. 1, § 9, Fla. Const.).

"Whether acting through its judiciary or through its legislature, a state may not deprive a person of all existing remedies for the enforcement of a right, which the state has no power to destroy, unless there is, or was, afforded to him *some real opportunity to protect it.*" *Brinkerhoff-Faris Trust & Savings Co. v. Hill*, 281 U.S. 673, 682 (1930) (emphasis added). "At a minimum," due process "require[s] that deprivation[s] of life, liberty or property by adjudication be preceded by notice and opportunity for hearing appropriate to the nature of the case." *Armstrong v. Manzo*, 380 U.S. 545, 550 (1965) (quoting *Mullane*, 339 U.S at 313).

As the U.S. Supreme Court held in *Mathews v. Eldridge*, "the fundamental requirement of due process is the opportunity to be heard 'at a meaningful time and *in a meaningful manner*." 424 U.S. 319, 333 (1976) (quoting *Armstrong*, 380 U.S. at 553) (emphasis added)..

Nowhere can these principles be more important than in a capital case, where the Supreme Court has repeatedly emphasized that the Eighth Amendment requires a heightened degree of reliability in the process. *See, e.g., Herrera v. Collins*, 506 U.S. 390 (1993); *McKoy v. North Carolina*, 494 U.S. 433 (1990); *Loudermill*, 470 U.S. at 542 (quoting *Mullane*, 339 U.S. at 313) (reiterating that the due process requirements of notice and opportunity must be "appropriate to the nature of the case"); *Eddings v. Oklahoma*, 455 U.S. 104 (1982); *Lockett v. Ohio*, 438 U.S. 586, 604 (1978) (plurality); *Woodson v. North Carolina*, 428 U.S. 280, 305 (1976).

Contrary to this Court's finding in *Hannon v. State*, 228 So. 3d 505, 509 (Fla. 2017), the "function" of the Eighth Amendment is not fulfilled "by the time that a defendant is warrant eligible." Indeed, both the imposition of a death sentence *and* the process of carrying out an execution must withstand constitutional scrutiny.

> If the Constitution renders the fact *or timing* of his execution contingent upon establishment of a further fact . . . "then that fact must be determined with the high regard for truth that befits a decision affecting the life or death of a human being."

Herrera, 506 U.S. at 405-06 (quoting *Ford*, 477 U.S. at 411).

The Supreme Court has held that factual determinations related to the constitutionality of a person's execution are "properly considered in proximity to the execution." *Id.* at 406 (noting competency to be executed determination is more reliable near time of execution whereas guilt or innocence determination becomes less reliable). In other words, whether the carrying out of a death sentence violates the Eighth Amendment depends on the facts existing after a death warrant is signed and the determination of these facts requires *increased reliability*.

Despite this requirement, warrant proceedings in Florida are unnecessarily truncated and fail to provide capital defendants a meaningful time or manner to challenge their convictions and sentences. This is particularly abhorrent when the end result is the ultimate penalty—actual death. The Eighth Amendment requires a principled way to distinguish between who is executed by a state

government *and* how much time they are afforded to investigate and present their claims under warrant.

Other active death penalty states, including Texas and Missouri, provide by statute or rule a minimum of 90 days in which to raise challenges under warrant. Tex. Code Crim. Proc. Ann. art. 43.141(c) (2015); Mo. Sup. Ct. R. 29.08 (2014). The Missouri Supreme Court Rules provide a window of between 90-120 days for the warrant period. Mo. Sup. Ct. R. 29.08. Oklahoma requires that an execution be set not be less than 60 days from the issuance of a warrant. Okla. Stat. Ann. tit. 22, §1001 (2025). Louisiana also requires a minimum warrant period of 60 days and provides up to 90 days from the warrant being issued. La. Stat. 15:567(B) (2024). In Ohio, the Supreme Court sets the execution date between 2-3 years in advance, thus there is no element of surprise on the parties and adequate time for stakeholders to conduct meaningful review.

Section 922.052, Florida Statutes, sets a maximum 180-day warrant period, but fails to provide a reasonable, minimum time to ensure meaningful process. Unlike other death penalty states, Florida's warrant stage litigation structure fails to ensure that capital defendants receive due process and a meaningful

opportunity to be heard in the final stages of a capital case. The reality is that this structure has resulted in practice to provide an essentially meaningless process that fails to conform with the requirements of the Fifth, Sixth, Eighth, and Fourteenth Amendments facially and as applied to Jones.

Counsel for Jones received notice at 12:07 p.m. on Friday, August 29, 2025, that a warrant had been signed. Jones's execution was scheduled for September 30, 2025. Within the hour, this Court issued a scheduling order directing "that all further proceedings in this case be expedited." Scheduling Order, *Jones v. State*, SC1960-81482 (Fla. Aug. 29, 2025). This Court directed all circuit court proceedings to be completed by 11:00 a.m. on Friday, September 12, 2025. Due to the holiday, the lower court was unable to hold a case management conference and address

scheduling of the circuit court proceedings[10] until Tuesday, September 2, 2025 at 11:00 a.m.[11]

Although the warrant period is 32 days in Jones's case, this Court's scheduling order provided approximately nine business days for circuit court proceedings. Jones had just three business days to file all public records demands and five business days to file any claims challenging his conviction and sentence. This extremely expedited schedule prevented Jones from having any meaningful process or opportunity to fully investigate and present his claims, hindered counsel in providing effective representation, and caused unnecessary strain and chaos for the courts and all parties involved.

Jones alerted the lower court to his concerns about the unnecessarily expedited and difficult schedule, which were dismissed. In declining to find any constitutional infirmity with the

[10] The AG filed a motion for a proposed scheduling order, however, counsel was never served and the Miami-Dade docket did not reflect this filing until later in the day on Monday, September 1, 2025.

[11] Notably, two holidays fall within Jones's warrant period—Labor Day and the Jewish New Year of Rosh Hashanah.

process, the lower court cited this Court's opinions rejecting arguments that a compressed warrant schedule violates a defendant's due process rights." (WR. 1481) (citing *Tanzi v. State*, 407 So. 3d 385 (Fla. 2025); *Barwick v. State*, 361 So. 3d 785, 789 (Fla. 2023)).

The lower court failed to engage at all with the constitutional inadequacies of the process and instead concluded that because this Court has rejected prior challenges to the expedited process, Jones could not possibly demonstrate how his due process rights have been violated. Although Jones specifically identified how the truncated process denied him a meaningful opportunity to investigate, present, and be heard on his claims, the lower court ignored all but two of Jones's examples, dismissing the remainder as "general claims." (WR. 1481).

The lower court's findings and conclusions fail to comport with the U.S. Supreme Court's and this Court's precedent and Jones's Fifth and Fourteenth Amendment Due Process Rights.

A. The Unreasonably Expedited Warrant Period and its Constituent Proceedings Resulted in the Unconstitutional Denial of Right to Access Public Records.

Jones promptly sought public records pursuant to Rule 3.852(h)(3) and (i). He filed demands on Thursday, September 4, 2025 at 12:00 p.m., per the circuit court's scheduling order. The agencies were required to respond within 23 hours, by 11:00 a.m. on September 5, 2025. (WR. 156). The lower court held argument just two hours after, at 1:00 p.m., and the court was to issue its written rulings by 5:00 p.m. the same day. (WR. 156-57). The agencies were ordered to comply with the disclosure of records by 3:00 p.m. the following day, Saturday, September 6, 2025. (WR. 157).

The public records hearing was held at 1:00 p.m. on Friday, September 5, 2025, and Jones's Rule 3.851 motion was due on Monday September 8, 2025 at 11:00 a.m. As a result, Jones was denied due process and his "constitutional right as a citizen to access public records[,]" *Sims v. State*, 753 So. 2d 66, 72 (Fla. 2000) (Anstead, J., concurring), because the time frame precluded meaningful search by the agencies, as will be shown below, and

precluded Jones's ability to meaningfully challenge some of the agencies' false claims of a lack of records and other agencies' failures to even comply with the rules.

This unnecessarily truncated process rendered Jones's constitutional right to records meaningless. Jones was hamstrung by the lack of time for agencies to conduct a thorough search, and by the fact that some agencies refused to search for records at all. OCSO failed to conduct any search for records, claiming the records "may not exist, may be incomplete, or may be housed in archives not readily accessible to the Sheriff's Office." (WR. 435). At the records hearing, the lower court declined to instruct OCSO to even conduct a search and represent that its assertions were in-fact true, and accepted the OCSO's unsworn, vague, and unsupported hypothesis about the records.

The schedule was so truncated that two agencies had to *clarify* or correct their responses to Jones's demands. The AG and SAO11 each argued at the public records hearing that neither had responsive records, yet in the days following, both realized they *are* in possession of responsive records. (WR. 461, 814). The lower court granted Jones's motion to review *in camera* the SAO11's records,

ultimately denying disclosure to Jones. The court wholly denied Jones's request for in camera review of the AG's records. to ensure the AG's claims of exemption were properly made and preserve the issue for appellate review. (WR. 1250, 1266).

The denial of due process is further violated because counsel has little time to assess which records to request and make the demands—usually 2-3 business days— and it is to be expected that additional demands may need to be filed, as is the nature of rapidly moving capital warrant litigation, and is what happened here.

The court improperly precluded Jones's access to records relating to his claim of recognized abuse at Okeechobee. The lower court sustained objections asserted by OCSO, SAO19, and FDLE—agencies that investigated the trauma and torture that occurred at the Okeechobee School. These records likely contain information that Jones is entitled to under *Brady v. Maryland*, 373 U.S. 83 (1963).

B. The Unreasonably Expedited Warrant Period and its Constituent Proceedings Resulted in the Unconstitutional Denial of Meaningful Opportunity to Investigate and Present Claims.

The warrant period further precluded Jones from investigating and collecting the evidence he would need substantiate his claims at an evidentiary hearing. On January 6, 2025, Jones became a recognized member of the class of victims who attended Okeechobee and suffered physical, mental and emotional abuse. Rule 3.851(d)(2)(A), provides one year to file claims arising from this newly discovered evidence. Jones's warrant was signed less than nine months into that period, causing him to lose nearly 4 months of time to investigate, seek records, and properly present his claim.

As noted *supra*, Jones was denied a meaningful opportunity and time to adequately request records relating to the decades long cover up of the abuse that occurred at Okeechobee. These records relate to the fact that claims of physical and sexual abuse and were covered-up and rejected for decades. And, available records further demonstrate that when the State finally recognized that children were being brutally victimized while in state custody, the initial focus was on Dozier, not Okeechobee. The court denied Jones's

claim as procedurally barred. Indeed, the court's denial of relevant records that would show the ways in which the stakeholders actively covered up the abuse and declined to prosecute any allegations stemming from Okeechobee prejudiced Jones ability to fully develop and plead his claim.

At the initial status conference, counsel alerted the court as to the tight window it would have between the case management conference and the court's deadline to issue a ruling. Counsel requested that the court consider moving the hearing up from Wednesday, September 10, 2025 at 10:00 a.m. to Tuesday, September 9, 2025, in the afternoon, so as to give the court more time to issue its ruling. (WR. 1548-51). The lower court denied the Defense's request and adopted the State's Wednesday suggestion. (WR. 1551). This very concern came to fruition at the at the case management conference. The court limited counsel's argument, noting how little time the court had to issue is order. (WR. 1660).

Bound by this Court's schedule, the lower court had limited time to become familiar with the record and process, as evidenced by several of the public records rulings that will be addressed below.

The lower court's ready acceptance of these truncated proceedings and the court's rush through motions and arguments evinces the broader theme of these proceedings—the lack of "any indicia of meaningfulness." *Barwick*, 361 So. 3d at 796 (Labarga, J. concurring); *Joint Anti-Fascist Refugee Committee v. McGrath*, 341 U.S. 123, 164 (1951) (Frankfurter, J. concurring) (quoting *Palko v. Connecticut*, 302 U.S. 319, 327 (1937)) ("The hearing, moreover, must be a real one, not a sham or a pretense.").

C. The Unreasonably Expedited Warrant Period Caused Unnecessary Disruption to the Judicial System and Chaos to the Litigation of Jones's Warrant.

The lower court's findings in denying Jones's challenges to the unreasonably expedited warrant period and scheduling orders further fail to account for the practical impossibilities they create and the strain they place on limited judicial resources. The signing of a warrant is a surprise to the Defendant, Defense counsel, and the courts.[12] The process is needlessly disruptive and unduly

[12] It appears the AG has some notice as indicated by the fact that the warrant is accompanied by a letter from the AG, dated the same day as the warrant, laying out the facts and procedural history of the case. Additionally, the AG filed a motion for a proposed scheduling order hours after the warrant was signed. (WR. 115). Notably, although undersigned counsel had already filed a

burdensome on all parties and the judicial system's limited resources. Trial level courts must quickly clear schedules and move other cases to accommodate the emergency hearings. While the lower court was able to set the hearings and clear her calendar, the assigned Judge had never heard proceedings in this case and was faced with an impossible task—becoming familiar in a matter of days with a case that spans decades, includes thousands of pages of records throughout which Jones has presented detailed and compelling evidence undermining the reliability of his sentence.

The burden on the court also impacts court staff and the proceedings. Neither the court reporter nor the clerk fulfilled their requirements in this case—to transcribe proceedings within hours and timely submit a complete ROA to this Court.

This Court's scheduling order provided Jones less than 72 hours to draft his initial brief on appeal following the filing of the ROA. The Miami-Dade Clerk of Court was required to file the ROA by 5:00 p.m. on Friday, September 12, 2025, just 4 hours after the

notice of appearance and served the AG's e-filing serve address, the AG did not serve undersigned counsel on its scheduling motion as noted *supra*.

deadline for the notice of appeal and 6 hours after the circuit proceedings were to be concluded. The Clerk filed the record over an hour and a half late, at 6:36 p.m.,[13] and did not provide a copy to counsel. Counsel obtained the record from this Court's capital clerk.

Upon review of the record, counsel discovered that the Clerk failed to include any transcripts of the proceedings below.[14] At 9:03 p.m., Saturday, September 13, 2025, Counsel filed an emergency motion requesting that the clerk be ordered to correct and supplement the record, which required that the Court also direct the court reporter to complete all transcripts and file all transcripts

[13] SAO11 filed its response to Jones's public record demand 11 minutes late, when counsel only had 2 hours to review its response, and the others, and prepare for the public records hearing. And, while counsel was served on this response, the response was not docketed. The filing was not properly filed and was rejected by the efiling portal. SAO11 didn't bother to refile the rejected pleading for more than three days.

[14] The ROA is difficult to navigate. The pleadings out of order, several pleadings are duplicated but each copy is labeled differently, documents are mislabeled, and none of the transcripts of any hearings below were initially included. Because the items are out of order and the nearly 1500-page document is not word searchable, it took counsel considerable time to figure out what was in the ROA and what was missing.

with the clerk of court. Jones simultaneously filed a motion to toll the time for Jones to file his initial brief. This Court granted both of Jones's motions and extended the deadline to file the initial brief by 24 hours.

The lower court failed to comply with Rule 3.851(h)(7) and ensure that the court reporter provide the transcripts to the clerk, and that the proceedings be transcribed expeditiously. Every transcript was provided days late, despite the lower court's directive to be complete within 24 hours. The initial status proceeding was held on September 2, 2025 at 11:00 a.m., and that transcript was provided more than 3 days later, on Friday, September 5, 2025, at 2:32 p.m. The transcripts were provided after the public records hearing had concluded.

The public records hearing was held on Friday, September 5, 2025 at 1:00 p.m., and that transcript was provided on Monday, September 8, 2025, at 2:53 p.m.—**4 hours after** Jones's 3.851 motion and all claims were due, precluding him from meaningfully addressing any issues that arose during the hearing.

Most notably, the court held the case management conference on Jones's successive Rule 3.851 at 10:00 a.m. on Wednesday,

September 10, 2025. The lower court did not provide transcripts from the hearing to counsel until Sunday, September 14, 2025, at 10:47 a.m., *more than 12 hours after Jones filed his emergency motion to supplement the record, and after this Court issued its Order granting Jones's motion.* Jones was already limited in his time to prepare an initial brief, which was due Monday 15, 2025 at 2:00 p.m., and having received the ROA on Friday at 6:35 p.m. Jones then had to take time away from preparing the brief to draft and file an emergency motion with this Court on Saturday, requesting that the court reporter be instructed to complete the transcripts and file all transcripts with the clerk for the ROA. Jones emailed opposing counsel who had not responded by the filing of the motion or even the next morning.

Jones then had to file a second emergency motion to supplement the record after discovering that SAO11's initial response to his Rule 3.852(i) demands was not included in the ROA. As noted in footnote 13, SAO11's initial response wasn't included in the ROA because it wasn't properly filed, thus it wasn't docketed.

Further demonstrating the damage the unnecessarily truncated process has on Florida's system of justice, the court

sustained SAO11's objections on the disclosure of notes from a prior completed hearing and placed the notes in the record to be sealed for appellate review. (WR. 1267). The Clerk of Court included the notes in the record but left them unsealed and available to view. Defense counsel notified the State of this error on the evening of Monday, September 15, 2025.

Throughout the circuit court litigation, service and notice was likewise chaotic and incomplete. Due to the incredible speed of the litigation, parties were left off service altogether and others were not served due to mistakes in entering email addresses into the e-filing portal. Also, several parties have multiple e-filing portal profiles which caused confusion and resulted in service to outdated email addresses.

As a result, not all parties were receiving notice of the filings. For example, the AG filed a Motion for Proposed Scheduling Order hours after the warrant was signed on Friday, August 29, 2025, but because the filer mistyped the email address for the acting CCRC-South, counsel for Jones never received this filing and was unaware of its existence until the Miami-Dade Clerk's website updated later in the day on Monday, September 1, 2025 documenting the filing.

Likewise, the order of judicial assignment used the AG's service list with email errors and never served CCRC-South. While SAO11 included assigned counsel in its certificate of service for each of its filings, it continued to include the incorrect email addresses for the Acting CCRC-South and prior (retired) counsel. Moreover, when the SAO11 filed its pleadings, the filer apparently never actually clicked the relevant parties on the e-filing portal, so lead counsel was not served on several SAO11 filings.

As indicated by the scheduling order, the Court expects counsel to work around the clock in order to meet the rigorous deadlines imposed. Counsel for Jones accepts that obligation and is proud of their representation and dedication to our system of justice. However, neither counsel nor experts have unfettered ability to meet with or speak with capital defendants under death watch in Florida' State Prison ("FSP"). Even under warrant, FSP allows counsel and experts to meet with clients only on weekdays during specific hours, and calls are limited to 30 minutes.

Calls, visits, and expert evaluations are approved subject to availability due to the overlapping warrants, which means at least two capital defendants are on death watch at a time. On three

occasions recently, including at the present moment, the prison has had to accommodate calls and visits for three defendants simultaneously on death watch. The process frustrates counsel's ability to meet ethical duties and ensure Florida's death penalty is administered consistent with basic notions of fundamental fairness and process which are the cornerstone of our system of justice.

Jones suffers from intellectual disability, brain damage, and post-traumatic stress disorder; limited phone calls impacts counsel's ability to communicate effectively with Jones about the proceedings. Jones is housed more than five hours from the CCRC-South office, making it impossible to meet with Jones as often as is necessary while *also investigating and presenting his claims*. Counsel cannot effectively represent Jones under these circumstances.

The unnecessarily truncated process coupled with the surprise nature of the signing of a warrant creates an untenable and impossible situation. While Judges and counsel for all parties must cancel necessary medical appointments, scheduled travel, or attend hearings notwithstanding any illness, regardless of severity, it is unreasonable to assume that experts, witnesses, and family of the

client and the parties (including outside agencies and court staff) are able to do the same.

Moreover, the process impacts counsel's ability to effectively represent other clients. While Rule 3.851(h)(2) provides that warrant proceedings take precedence over all other cases and courts may be willing to move previously scheduled hearings, counsel is not absolved from their ethical and constitutional obligations to other clients. The very nature of warrant proceedings under this truncated period requires around the clock representation of *a single client*.

Pointing to this Court's decision in *Tanzi v. State*, 407 So. 3d 385 (Fla. 2025), which relied on *Barwick*, 361 So. 3d 785, the lower court summarily denied Jones's claim as without merit because "the Defendant has not shown how the warrant schedule denied him notice or the opportunity to be heard." *See* (WR. 1481). The lower court's reliance on *Tanzi* and *Barwick* are misplaced.

Barwick held that neither ineffective assistance of collateral counsel nor case-specific "circumstances that happened to coincide with the beginning of the warrant period" deprived Barwick of notice or hearing. 361 So. 3d at 789-90. *Barwick* did not blanketly

approve 30-day warrant periods as the circuit court suggested. Rather, this Court affirmed the summary denial of a "consolidated claim" that "assert[ed] that due process depends on the effective assistance of counsel, and that the accelerated warrant schedule and other attendant circumstances made it impossible for Barwick to be provided with effective assistance of postconviction counsel." *Id.* at 789.

Barwick argued that his postconviction counsel could not provide effective assistance "due to certain circumstances that happened to coincide with the beginning of the warrant period." *Id.* at 789. Naturally, this claim depended on the existence of a right to effective assistance of postconviction counsel. *Id.* at 789-90. Finding no such right existed, this Court held "a claim of ineffective assistance of postconviction counsel does not provide a valid basis for relief." *Id.* at 791. Thus, even if Barwick's postconviction counsel was ineffective, that fact alone would not show that he was denied fair notice or hearing. *See Id.* at 789-91. Accordingly, this Court affirmed because Barwick "ha[d] not identified any matter on which he was denied notice or an opportunity to be heard before it was decided." *Id.*

Barwick said nothing about the 30-day warrant period *per se*. It addressed "the accelerated warrant schedule *and other attendant circumstances*," *i.e.*, "certain circumstances that *happened to coincide* with . . . the warrant period, such as the occurrence of Holy Week, Passover, and Ramadan; co-counsel being ill; and the presence of another inmate on Death Watch." *Id.* at 789 (emphasis added). These circumstances merely coincided with Barwick's warrant litigation and were relevant only insofar as they impacted collateral counsel's effectiveness. In contrast, the circumstances giving rise to Jones's claim are the direct result of the truncated warrant period and its division into constituent parts.

The lower court further determined that Jones's challenge to the warrant period concerning the court's denial of his demands for records regarding investigations and reports of abuse involving the Okeechobee School was meritless because Jones failed to meet Rule 3.852(i) requirements establishing he is entitled to the records. (WR. 1481-82). The court determined Jones "failed to show good cause as to why the public records requests were not made until after the death warrant was signed." (WR. 1482). Jones will address with specificity the court's error in denying his public records demands

in Argument II; however the court's findings also fail to consider that Jones right to due process is indeed a constitutional right, and the violation of his due process right to a full and fair capital proceeding is a cognizable claim. "When a procedural error reaches the level of a due process violation, it becomes a matter of substance." *Huff v. State*, 622 So. 2d 982, 984 (Fla. 1993).

Jones faces imminent execution. Fundamental notions of dignity and fairness demand that he be able to challenge his death sentence through meaningful collateral proceedings, and the current warrant selection process precludes Jones from doing so in a manner that meets a constitutional violation. While Jones may not receive relief from any court in this State, the historical record will show that Florida extinguished any meaningful way to challenge imminent executions. History will view this time in Florida's Justice System with ignominy. *See* Austin Sarat, *In the World of Capital Punishment, Florida is Becoming the New Texas*, The Hill (Aug. 26, 2025), https://thehill.com/opinion/criminal-justice/5469150-desantis-death-penalty-spike-executions/.

This Court should grant all appropriate relief.

CONCLUSION AND RELIEF SOUGHT

Based upon the foregoing and the record, Jones respectfully urges this Court to reverse the lower court, stay his execution, and remand to the circuit court for a full and fair opportunity to be heard at an evidentiary hearing, and grant such other relief as the Court deems just and proper

Respectfully submitted,

/s/ Marie-Louise Samuels Parmer
MARIE-LOUISE SAMUELS PARMER
Special Assistant CCRC-South
Fla. Bar No.: 0005584
Marie@samuelsparmerlaw.com

BRITTNEY N. LACY
Assistant CCRC-South
Fla. Bar No. 116001
lacyb@ccsr.state.fl.us

JEANINE L. COHEN
Staff Attorney
Fla. Bar No. 128309
CohenJ@ccsr.state.fl.us

Capital Collateral Regional Counsel-South
110 SE 6th Street, Suite 701
Fort Lauderdale, Florida 33301
(954) 713-1284 (Tel.)
(954) 713-1299 (Fax)
COUNSEL FOR JONES

CERTIFICATE OF COMPLIANCE AND FONT

Pursuant to Fla. R. App. P. 9.045, I hereby certify that the Initial Brief of the Appellant has been produced in Bookman Old Style 14-point font. Pursuant to Fla. R. App. P. 9.210(a)(2)(D), this brief complied with the word count (19,579 of 20,000).

/s/ Marie-Louise Samuels Parmer
MARIE-LOUISE SAMUELS PARMER
Fla. Bar No.: 0005584
Assistant CCRC-South

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing pleading has been electronically filed through the Florida State Courts e-filing portal and served to the parties listed below on September 16, 2025.

/s/ Brittney N. Lacy
BRITTNEY N. LACY
Fla. Bar No.: 116001
Assistant CCRC-South

Copies provided to:

Jennifer A. Davis, Senior Counsel
Office of the Attorney General
Jennifer.Davis@myfloridalegal.com
capapp@myfloridalegal.com
Lourdes.Parodi@myfloridalegal.com
Paula.Montlary@myfloridalegal.com

Leslie Campbell, Special Counsel
Office of the Attorney General
Leslie.Campbell@myfloridalegal.com
Julie.Meyer@myfloridalegal.com

Lisa-Marie Lerner, Special Counsel
Office of the Attorney General
LisaMarie.Lerner@myfloridalegal.com

Scott A. Browne, Chief Assistant
Office of the Attorney General
scott.browne@myfloridalegal.com

Stephen Ake, Assistant Attorney General
Office of the Attorney General
Stephen.Ake@myfloridalegal.com

Florida Supreme Court Clerk
warrant@flcourts.org

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

VICTOR T. JONES,

Petitioner,

v.

SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS,

Respondent.

ON PETITION FOR WRIT OF CERTIORARI
TO THE SUPREME COURT OF FLORIDA

APPENDIX I

CAPITAL CASE

DEATH WARRANT SIGNED
EXECUTION SET SEPTEMBER 30, 2025, AT 6:00 P.M.

Answer Brief, *Victor T. Jones v. State of Florida*, Florida Supreme Court,

SC2025-1422 (Sept. 17, 2025)

IN THE SUPREME COURT OF FLORIDA

ACTIVE WARRANT CAPITAL CASE EXECUTION SET FOR TUESDAY, SEPTEMBER 30, 2025

VICTOR TONY JONES,
Appellant,

v. **SC2025-1422**

STATE OF FLORIDA,
Appellee.
_____/

ON APPEAL FROM THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT, MIAMI-DADE COUNTY, FLORIDA

LOWER TRIBUNAL CASE NO.: 90-50143

ANSWER BRIEF

JAMES UTHMEIER
ATTORNEY GENERAL
Tallahassee, Florida 32399

LESLIE T. CAMPBELL
Sr. Asst. Atty. General
Florida Bar No. 0066631

LISA-MARIE LERNER
Sr. Asst. Atty. General
Florida Bar No. 698271
Office of the Atty. General
1515 N. Flagler Dr., #900
West Palm Beach, FL 33401
Phone: 561-837-5016

JENNIFER DAVIS
Sr. Asst. Atty. General
Florida Bar No. 109425
Office of the Atty. General
1 SE Third Ave., #900
Miami, FL 33131
Phone: 305-377-5441

Capapp@myfloridalegal.com
Leslie.Campbell@myfloridalegal.com
LisaMarie.Lerner@myfloridalegal.com
Jennifer.Davis@myfloridalegal.com
Counsel for the State

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STATEMENT OF THE CASE AND PROCEDURAL HISTORY[1]

Jones is under an active death warrant based on his conviction for two counts of first-degree murder of Matilda Nestor and Jacob Nestor. *Jones v. State*, 652 So. 2d 346, 348 (Fla. 1995) (*Jones I*). Following his conviction for two counts of first-degree murder and two counts of armed robbery, the jury recommended death for each victim, the trial court imposed two death sentences and life on each robbery count, all to run consecutively, and this Court affirmed. *Id.*

[1] The State will use the following to identify the appellate records: (1) **Direct Appeal – ROA with R for records and T for transcripts** in case number SC1960-81482, *Jones v. State*, 652 So. 2d 346 (Fla. 1995) (*Jones I*), *cert. denied*, 516 U.S. 875 (Oct. 2, 1995); (2) **Original Postconviction Appeal – PCR1** for case number SC01-734, *Jones v. State*, 855 So. 2d 611 (Fla. 2003) (*Jones II*) with related petition for writ of habeas corpus in case number SC02-605; (3) **First Successive Postconviction Appeal/Intellectual Disability – PCR2** for case number SC04-726, *Jones v. State*, 966 So. 2d 319 (Fla. 2007) (*Jones III*); (4) **Second Successive Postconviction Appeal – PCR3** case number SC13-2392, *Jones v. State*, 135 So. 3d 287 (Fla. 2014) (*Jones IV*) raising a claim under *Porter v. McCollum*, 558 U.S. 30 (2009) which was voluntarily dismissed; **Third Successive Postconviction Appeal/Intellectual Disability – PCR4** case number SC15-1549, *Jones v. State*, 231 So. 3d 374 (Fla. 2017) (*Jones V*); **Fourth Successive Postconviction Appeal – PCR5** case number SC18-285, *Jones v. State*, 241 So. 3d 65 (Fla. 2018) (*Jones VI*), *cert. denied*, 586 U.S. 1052 (2018); and **Fifth Successive Postconviction Appeal – PCR6** case number SC2025-1422 (the present appeal under active death warrant). An "S" preceding the record type indicates a supplemental record. Jones' Petition will be notated as "P."

at 348-49. Over the approximate thirty-five years since the murders, Jones has litigated his direct appeal, six postconviction motions with two evidentiary hearings, and a federal habeas petition, none of which were successful. *See* footnote 1, *supra*.

On August 29, 2025, the Governor signed a death warrant with the execution set for September 30, 2025. On September 8, 2025, Jones filed a successive postconviction motion, which was summarily denied. He appealed and his initial brief was filed on September 16, 2025.

On direct appeal, this Court set forth the facts of the crime. On December 19, 1990, the bodies of sixty-six-year-old Matilda Nestor and sixty-seven-year-old Jacob Nestor were found in their place of business. *Jones I*, 652 So. 2d at 348. Jones, on his second day working for the Nestors, stabbed Mrs. Nestor in the back severing her aorta and Mr. Nestor in the heart, killing them. *Id*. Before he died, Mr. Nestor was able to remove the knife from his chest, attempt to call for help, and fire five shots from his .22 caliber automatic pistol striking Jones once in the forehead *Id*. After the stabbings, Jones robbed both victims. *Id*.

Following the murders and robberies, Jones locked himself in

the building where he remained until the police knocked down the door. *Id.* The police found Jones slumped over on the couch near Mr. Nestor's body with the butt of a .22 caliber automatic pistol sticking out from under his arm. *Id.* No money or valuables were found on either victim. Mrs. Nestor's purse was discovered on the couch with Jones. *Id.* The evidence also indicated that after Mr. Nestor collapsed, his body was rolled over so items could be removed from his pockets. *Id.* Mrs. Nestor's change purse, keys, lighter, and both victims' wallets were found in Jones' pant pockets. *Id.*

It was not readily apparent that Jones had been shot until he complained of a headache after being handcuffed. *Id.* After noticing blood coming from his forehead, police asked what happened and Jones replied, "the old man shot me." *Jones I,* 652 So. 2d at 348. Jones was transported to the hospital and while in the intensive care unit, he told a nurse that he had to leave because "he had killed those people." *Id.* When the nurse asked him why, Jones responded: "they owed me money, and I had to kill them." *Id.* Upon this evidence, Jones was found guilty of two counts of first-degree murder and two counts of armed robbery. *Id.*

On February 11, 1993, between the guilt and penalty phases, a

competency hearing was held. Jones was found competent to proceed. (ROA-T 2436).

During the penalty phase, the State presented testimony supporting prior violent felony convictions where Jones committed armed robberies and a burglary with an assault. (ROA-T 2514-51, 2564-66, 2576). On November 27, 1990, less than a month before the instant murders, Jones had been conditionally released from imprisonment. (ROA-T 2580).

Jones presented Dr. Jethro Toomer to present mitigation. The doctor evaluated Jones and testified he was just five years old when his mother went to New York, and Jones was left in the care of his mother's sister, Laura Long, who lived in Miami. Jones was raised by the Longs who cared for him and required a high standard of behavior from him. They were demanding in terms of the behavior required and tried to teach Jones right from wrong. (ROA-T 2600-06, 2615). Jones was raised in a middle-class household by a family who took him to church when he was young. (ROA-T 2615). Ms. Long provided Jones with clothing, food, and shelter. His teacher indicated Jones was appropriately dressed and had the proper school supplies when he came to class. (ROA-T 2607). Dr. Toomer also testified that Jones'

aunt was married to a minister who raised Jones along with his two cousins. Mrs. Long indicated her husband loved Jones as he did his two sons. (ROA-T 2663-65).

Around the age of twelve, Jones began to skip school and started using marijuana and committing burglaries. He also ran away several times. (ROA-T 2611). At fourteen-years-old,[2] Jones made his own way to New York to his mother. (ROA-T 1612). Dr. Toomer testified that Jones stayed with his mother for about two years after 1973 and that he was registered in the New York school system. (ROA-T 2649). After leaving New York, Jones went to Texas, then California where he informed Dr. Toomer he supported himself through employment from 1976 to 1981; Jones told Dr. Toomer he was not committing crimes during that period.[3] (ROA-T 2650).

In 1981, Jones moved to Atlanta, Georgia. There, he lived with a "common-law wife" who supported him when Jones stopped

[2] The testimony varies on the age Jones first ran away to New York; it ranges between eleven and fourteen years of age.

[3] Dr. Toomer based that testimony on what Jones disclosed, however, the record shows that Jones had in fact engaged in criminal activity in Atlanta. Likewise, Jones was untruthful with Dr. Toomer when he denied having been referred to drug treatment programs in Atlanta and Florida. (ROA-T 2651-55).

working. Eventually, she demanded Jones leave her house. (ROA-T 2652). Between 1980 and 1990, Jones lived with his grandmother in Miami except for the periods of time he was in Atlanta or in prison. (ROA-T 2667). Dr. Toomer admitted that Jones had a number of disciplinary problems while in state prison and county jail. (ROA-T 2627).

Dr. Toomer informed the jury that Jones was of average intelligence and that he had never been treated for mental disease or defect. Likewise, Jones never had any psychological counselling. There was no evidence of Jones ever exhibiting bizarre or psychotic behavior in prison. (ROA-T 2673). Dr. Toomer opined that Jones suffered from a borderline personality disorder and was a victim of abandonment, whose family was dysfunctional, resulting in his maladaptive behavior. (ROA-T 2608, 2621). Although he did not talk to Jones about the events surrounding the murder or his prior crimes, Dr. Toomer believed the statutory mitigator of "under the influence of extreme mental or emotional disturbance" applied. The doctor did not believe the particular crime facts mattered. (ROA-T 2642-44). Even so, Dr. Toomer conceded that Jones did not suffer from any major mental disorder or psychosis and without a desire to

seek counseling on Jones' part, the probability of Jones altering his behavior was "practically nil." (ROA-T 2628, 2648).

In rebuttal, the State presented Dr. Charles Mutter, a forensic psychiatrist who evaluated Jones. (ROA-T 2682-83). Dr. Mutter was also of the opinion that Jones had average intelligence. The doctor reviewed the Jackson Memorial Hospital records relating to Jones' December 1990 gunshot wound, Dr. Toomer's notes and depositions, the police reports, the July 24, 1992, Minnesota Multiphasic Personality Inventory ("MMPI") report on Jones, the 1987-1990 arrest records, the February 1987 through July 1990 Florida Department of Corrections records including his disciplinary problems and medical status, and Jones' current Dade County jail records. (ROA-T 2687). From his review and evaluation, Dr. Mutter concluded that the statutory mitigator of extreme mental or emotional disturbance was not applicable. (ROA-T 2688). The doctor found no evidence that Jones had ever been psychotic, out of touch with reality, or had a flash back to some traumatic experience. (ROA-T 2689).

Dr. Mutter opined that the Longs taught Jones right from wrong and how to live as an adult. Jones, in fact, knew right from wrong and, without question, made a conscious choice to kill. Since the age

of twenty, Jones' criminal troubles stemmed from his desire to get money for drugs. Dr. Mutter did not believe Jones had an extreme mental or emotional disturbance. The doctor rejected the suggestion that Jones used drugs because of an emotional abandonment as a child. (ROA-T 2690-91). Further, Dr. Mutter saw no evidence Jones was under the influence of alcohol or drugs when he murdered and robbed the Nestors. In discussions with Dr. Mutter, Jones denied being under the influence of those substances at the time of the crimes. (ROA-T 2692). It was the doctor's opinion that Jones had an antisocial personality, which is not considered a major mental disorder, and Jones' antisocial personality became evident around twelve-years of age. Prior to that, Jones did fairly well in school. After that age, Jones made the same errors repeatedly because he seemed more concerned with what he thought was good for himself rather than learning from his mistakes. (ROA-T 2698-99, 2702).

Based on the above evidence, the jury recommended death for the murder of Mrs. Nestor by a vote of ten to two. *Jones I,* 652 So. 2d at 348. For Mr. Nestor's murder, the jurors unanimously recommended death. *Id.*

Additional mitigation evidence was presented to the trial court

alone. Dr. Hyman Eisenstein, a neuropsychologist, primarily testified on Jones' competency. (ROA-T 2793-2815). However, he had no opinion regarding the existence of mitigating circumstances and was unable to opine whether any neurological deficits he diagnosed predated the December 1990 gunshot injury inflicted during the murders. (ROA-T. 2820).

Laura Long, Jones' aunt who raised him, testified that Jones came to live with her when he was two years old[4] and remained with her until he was fourteen or fifteen years old. (ROA-T 2835). As a child, Jones was very nice and did very well in school. Long explained that she was a teacher and helped Jones and her other children with their schooling. Jones did not have any problems with his lessons or behavior in elementary school. (ROA.T 2836) In fact, Jones' teacher noted he was very well behaved and was an ideal student. When Jones was young, she took him to church. He liked to go with the children, and the children liked Jones. (ROA-T 2837).

It was not until Jones was between twelve and fourteen years of age that he started running away and he and his best friend began

[4] This is a different date from Dr. Toomer's testimony.

getting into trouble. (ROA-T 2839). After Jones ran away to New York when he was fifteen years-old,[5] he never lived with Long again, even though she had asked him to return and she loved him very much. (ROA-T 2840).

With respect to Jones' drug use, Long testified that she was very upset the first time Jones came home on drugs. When they spoke about his drug use, Jones said he was doing drugs because most of his peers used drugs. He felt peer-pressure. (ROA-T 2842).

In its sentencing order, the trial court found in aggravation for each murder: (1) under a sentence of imprisonment; (2) prior violent felony convictions; (3) murder committed during the course of a robbery, and merged with, (4) pecuniary gain. *Jones I,* 652 So. 2d at 348–49. The sentencing court found nothing in mitigation and followed the jury's recommendation in sentencing Jones to death for the double homicide. *Id*. at 349. Jones received life sentences for each robbery, with all sentences to run consecutively. *Id*.

On direct appeal, Jones raised five issues: (1) error in denying a judgment of acquittal on the armed robbery counts as the thefts

[5] The testimony regarding Jones' ages during different events in his life varies between witnesses and various proceedings.

were done posthumously; (2) error in not instructing the jury on merging of the "during the course of a robbery" and pecuniary gain aggravators; (3) error to not remove the "extreme" qualifier from the standard instruction for the statutory mitigator of "under extreme mental or emotional disturbance" at the time of the offense; (4) a new sentencing was required as the mental health experts failed to address the possibility that Jones suffered from fetal alcohol syndrome/effect and the sentencing court refused to consider Jones' abandonment by his mother as mitigation; and (5) error to deny a mistrial based upon various alleged improper prosecutorial comments during the penalty phase closing argument. *Jones I,* 652 So. 2d at 349. This Court denied each claim and affirmed the convictions and sentences. *Id*. at 353. On October 2, 1995, Jones' case became final with the United States Supreme Court's denial of certiorari. *Jones v. Florida*, 516 U.S. 875 (1995).

Represented by Capital Collateral Regional Counsel-South, Jones pursued postconviction relief. His initial motion was filed on March 24, 1997, amended in March 1999, and on October 8, 1999, where he raised over twenty claims. The March 1999 motion was accompanied by a motion to determine competency. (PCR1 93-202;

SR-PCR1 131-34). Pursuant to *Carter v. State*, 706 So. 2d 873 (Fla. 1997), the postconviction court ordered Jones evaluated by two experts, who both found him competent. (SR-PCR1 131-34, 147-56) After an evidentiary hearing at which both doctors testified, the court found him competent. Following that, the postconviction court granted an evidentiary hearing on Jones' claims of ineffective assistance related to failing to raise: (1) voluntary intoxication; (2) mental health and family mitigation history; and (3) competency prior to trial. (PCR1 365). The court held a multi-day evidentiary hearing, then denied relief. Jones appealed. *Jones II*, 855 So. 2d at 614-15. Where relevant, the facts established in the initial postconviction litigation will be included in the argument portion of this response. On appeal, this Court considered and rejected the five claims raised by Jones and discussed whether counsel was ineffective for: (1) failing to investigate and present a voluntary intoxication defense and (2) failing to properly investigate and present available mitigation. *Jones II*, 855 So. 2d at 615-16.

Attendant with his postconviction appeal in *Jones II*, Jones raised claims of ineffective assistance of appellate counsel under case number SC02-605. There he raised:

> … (1) trial counsel's conflict of interest and the trial court's denial of trial counsel's motion to withdraw; (2) the denial of appellant's motions to suppress; (3) trial counsel's objection to the substitution of the medical examiner; (4) the voluntariness of Jones's pleas in prior cases; (5) the trial court's denial of Jones's motion to compel psychiatric examination of a witness; (6) the trial court's denial of defense counsel's motion for mistrial based on the prosecutor's "inferential" comment on petitioner's right to remain silent; and (7) the invalidity of the jury instructions under *Caldwell v. Mississippi*, 472 U.S. 320, 105 S. Ct. 2633, 86 L.Ed.2d 231 (1985).

Jones II, 855 So. 2d at 619 n. 5. This Court denied the petition. *Id.*

Next, Jones filed a federal petition for writ of habeas corpus, raising twenty-six claims. Relief was denied. *Jones v. McNeil*, 776 F. Supp. 2d 1323, 1338 (S.D. Fla. 2011). Jones attempted to appeal the denial but a certificate of appealability was denied. The United States Supreme Court denied certiorari. *Jones v. Fla. Dep't. of Corr.*, 568 U.S. 873 (2012).

While litigating his federal claims, on January 25, 2006, Jones filed his first successive motion for postconviction relief alleging intellectual disability under *Atkins v. Virgina*, 536 U.S. 304 (2002), as a bar to his execution. Initially, the postconviction court summarily denied relief, however, this Court remanded for an evidentiary hearing. *Jones v. State*, 966 So. 2d 319, 322 (Fla. 2007)

(*Jones III*). At the hearing, Dr. Hyman Eisenstein testified on Jones' behalf and the State presented Dr. Enrique Suarez and Lisa Wiley, a psychological specialist with the Department of Corrections. *Id.* at 322. This Court noted, "[t]he parties stipulated that evidence from the evidentiary hearing would be considered cumulatively with the evidence from prior proceedings." *Id.*

Additional facts are included in the argument portion of this response; however, a synopsis of the evidence presented at the intellectual disability evidentiary hearing included that Jones' was born in 1961 and his school records showed he was in "regular classes" where he earned "mostly Cs" in first and second grade "with some As and Bs in English and writing." *Jones III*, 966 So. 2d at 322. Jones' "third-grade teacher reported that he was of 'a little above average intelligence' and did well in school." *Id.* In the seventh grade, Jones "again earned Cs with Bs in English;" however, in the eighth grade, "he began using drugs, skipping school, and having disciplinary problems, [and] his grades dropped precipitously" before he dropped out of school at sixteen-years-old. *Id.*

Jones ran away from home multiple times including at fourteen-years-old successfully stowing away on an airline and making his

way alone to New York to be with his mother. *Jones III*, 966 So. 2d at 322. In 1978, when Jones was under eighteen-years-old, he worked as a waiter before "hitchhik[ing] alone to Texas, supporting himself by working various jobs and selling drugs," then flying "to San Francisco, where he supported himself mostly through robberies" before returning to Miami in 1979 and before moving to Atlanta, Georgia "where he lived for several years, working various jobs over time, including bouncer and waiter." *Id.* at 322. Upon his return to Miami in 1986, Jones again supported himself by mowing lawns for a living and selling drugs. *Id.* at 322-23.

When Jones was fourteen years old, he was admitted to the hospital "for psychiatric evaluation" and the records showed he "had a 'completely normal mental status' during his stay" and "was discharged with a diagnosis of 'unsocialized aggressive reaction of adolescence,' with no psychiatric treatment needed." While "[a] hospital document indicated that Jones previously had been labeled at a juvenile facility as having borderline mental retardation," "no documentation supported the statement." *Jones III*, 966 So. 2d at 322-23. This Court found that between 1991 and 2005, various doctors "administered either the WAIS–R (Wechsler Adult Intelligence

Scales) or WAIS–III intelligence tests" with Jones obtaining full scale scores between 67 and 75. *Jones III*, 966 So. 2d at 323.

During the evidentiary hearing, the trial court heard testimony from Lisa Wiley and Drs. Eisenstein and Suarez, regarding Jones' adaptive functioning abilities. The trial court determined that Jones offered "no credible evidence" to support his claim of intellectual disability and concluded that "Jones did not meet even one of the three statutory requirements" for intellectual disability. *Jones III*, 966 So. 2d at 325. This Court found that substantial competent evidence supported the trial court's conclusion that Jones did not meet the statutory definition of intellectual disability, as necessary to bar the imposition of the death penalty. *Id.* at 325-29.

On November 29, 2010, Jones filed his second successive postconviction relief motion raising a claim under *Porter v. McCollum*, 558 U.S. 30 (2009), seeking reconsideration of the denial of his prior claims of ineffective assistance of counsel. After the trial court summarily denied the motion, Jones appealed. However, he later voluntarily dismissed the action. *Jones IV*, 135 So. 3d at 287 (table).

In his third successive postconviction relief motion, Jones re-raised his claim of intellectual disability following the Supreme

Court's decision in *Hall v. Florida*, 572 U.S. 701 (2014) and requested a new evidentiary hearing. *Jones V*, 231 So. 3d at 374. On appeal following the summary denial of relief, Jones also raised a claim under *Hurst v. Florida*, 577 U.S. 92 (2016). This Court affirmed the denial of Jones' *Hall* claim, concluding "Jones is not entitled to a new hearing in order to present additional evidence of intellectual disability because he was already provided the opportunity to present evidence regarding each of the three prongs of the intellectual disability standard." *Jones V*, 231 So. 3d at 376. Further "*Hall* does not change the fact that Jones failed to establish that he meets the second or third prong" of an intellectual disability claim. *Id.* This Court also denied the *Hurst v. Florida* claim having found it was not retroactive to cases final before *Ring v. Arizona*, 536 U.S. 584 (2002) was decided. *Jones V*, 231 So. 3d at 376.

Jones filed his fourth successive postconviction motion for relief on October 13, 2017, again raising a *Hurst v. Florida* claim but also pointing to this Court's decision in *Hurst v. State*, 202 So. 3d 40 (Fla. 2016), *cert. denied*, 581 U.S. 1000 (2017). Again, the trial court denied relief summarily and this Court affirmed noting that *Hurst v. Florida* was not retroactive to cases final before *Ring* and that

included Jones' case. *Jones v. State*, 241 So. 3d 65 (Fla. 2018), *cert. denied*, 586 U.S. 1052 (2018).

On August 29, 2025, Governor Ron DeSantis signed Jones' death warrant scheduling the execution for September 30, 2025. (PCR6 97-98). This prompted Jones to file with the trial court his fifth successive postconviction relief motion, his sixth overall, and to file demands and additional/renewed demands for public records on agencies which had produced records previously and on agencies which were not the subject to a prior demand. (PCR6 192-334, 360-71, 887-98, 905-33, 1196-1224). The agencies responded and following hearings on the demands, (PCR6 335-59, 372-95, 400-02, 433-69, 814-32, 1231-42; S-PCR6 1564-625, 1626-38), multiple orders and amended orders were entered. (PCR6 403-32, 470-73, 1250-73, 1280-84, 1315-19).

On September 8, 2025, Jones filed his corrected successive postconviction motion and a motion to stay his execution. (PCR6 474-886). Therein, he raised three claims: (1) newly discovered evidence related to the Okeechobee School for Boys; (2) newly discovered evidence of discriminatory capital selection prosecution in Miami-Dade County; and (3) the truncated warrant schedule is a denial of

due process. (PCR6 833-59). The following day, the State filed its objection to Jones' motion to stay and its response to the successive postconviction relief motion. (PCR61285-1314). The Case Management/*Huff*[6] hearing was held on September 10, 2025, following which the trial court determined that an evidentiary hearing was not required. (S-PCR6 1626-95). The trial court issued its order after the hearing and determined an evidentiary hearing was not required. (PCR6 1448-52). The trial court's September 12, 2025, final order on the corrected successive motion denied relief finding the claims untimely, procedurally barred, and without merit. (PCR61471-82). In the same order, the court denied the motion for stay. (PCR6 1483).

The instant appeal followed. Along with his initial brief, Jones filed a motion to stay. He also filed a state habeas petition and motion to stay in case number SC2025-1423. The State filed its response to the habeas petition and objected to the stay request on September 16, 2025.

[6] *Huff v. State*, 622 So. 2d 982 (Fla. 1993).

SUMMARY OF THE ARGUMENT

Jones committed two horrific homicides in December of 1990, and his convictions and sentence became final in 1995. *Jones*, 516 U.S. 875 (1995), *cert. denied*. 516 U.S. 875 (1995). Since his conviction, Jones has filed numerous postconviction motions, numerous petitions for writ of certiorari (all denied), and now, only after his death warrant is signed, does he file an eleventh hour postconviction motion claiming newly discovered evidence. Jones alleged in his amended successive postconviction motion filed on September 9, 2025, that after thirty years since his convictions and sentence were final, he has newly discovered evidence.

Issue I - Jones' first claim that a letter from the Office of the Attorney General noting his eligibility for inclusion in the victim compensation fund for the Okeechobee School for Boys is newly discovered evidence is clearly refuted by the record. Jones asserts the letter validates his claims of abuse while a resident at the Okeechobee School. In fact, he never once claimed in the thirty-five years since the murders that he was a victim of abuse at the Okeechobee School. Jones' knowledge of whether he was abused while at the Okeechobee School is not newly discovered evidence. If what Jones says is true,

he has always known whether he was a victim of abuse. Yet he never mentioned any such abuse as mitigation at trial, in his direct appeal, or in any of his many postconviction motions. *See* Jones *v. State*, 652 So. 2d 346 (Fla. 1995) *cert. denied* 516 U.S. 875 (1995) (*Jones I*). *See also Jones v. State,* 855 So. 2d 611 (Fla. 2003) *(Jones II); Jones v. State,* 966 So. 2d 319 (Fla. 2007) *(Jones III); Jones v. State,* 135 So. 3d 287 (Fla. 2014) *(Jones IV); Jones v. State,* 231 So. 3d 374 (Fla. 2017) *(Jones V); Jones v. State,* 241 So. 3d 65 (Fla. 2018) *(Jones VI),* cert. denied, 586 U.S. 1052 (2018).

Issue II – The trial court properly assessed and denied the public records demands submitted after a warrant was signed as untimely, overly broad, vague, and not reasonably calculated to lead to a colorable claim.

Issue III - Finally, Jones claims that Florida's 30-day warrant schedule is a surprise and does not give him a meaningful opportunity to be heard in violation of his due process rights. Jones has had ample meaningful opportunities to be heard since his sentence and convictions became final in 1995. In fact, this present appeal is nothing more than Jones' attempt to obtain a lesser sentence for claims that were not raised previously and are untimely,

procedurally barred, and legally insufficient.

ARGUMENT

ISSUE I

The Letter Including Jones as a Class Member in the Okeechobee Victim Compensation Fund Is Not Newly Discovered Evidence and the Claim Is Untimely, Procedurally Barred, and Meritless.

Jones argues that the State of Florida's inclusion of him in a class of persons eligible for compensation based on his residency in the Okeechobee Florida School for Boys on four occasions between 1975 and 1978 constitutes newly discovered evidence of abuse at that institution, entitling him to an evidentiary hearing and postconviction relief. This claim is untimely, procedurally barred, and meritless. The purported evidence does not overcome the untimeliness of the motion, nor has Jones met the newly discovered evidence standard. He has not explained why this matter could not have been raised earlier or how his sentence would be mitigated. This Court should affirm the denial of relief.

A. Standard of Review.

Quoting Fla. R. Crim. P. 3.851(f)(5)(B), this Court has reaffirmed that a successive motion may be denied summarily, "[]f the motion,

files and records in the case conclusively show that the movant is entitled to no relief, the motion may be denied without an evidentiary hearing." *Harvey v. State*, 260 So. 3d 906, 906-07 (Fla. 2018). "A second or successive motion for postconviction relief can be denied on the ground that it is an abuse of process if there is no reason for failing to raise the issues in the previous motion." *Owen v. Crosby*, 854 So. 2d 182, 187 (Fla. 2003). While claims which could have been raised in an earlier Rule 3.851 motion are procedurally barred, a defendant may file a successive motion if based on "newly discovered evidence." *See White v. State*, 664 So. 2d 242, 244 (Fla. 1995).

As this Court has explained:

> In order to obtain relief based on newly discovered evidence, a defendant must establish: (1) that the newly discovered evidence was unknown by the trial court, by the party, or by counsel at the time of trial and it could not have been discovered through due diligence, and (2) that the evidence is of such a nature that it would probably produce an acquittal or yield a less severe sentence on retrial. … Newly discovered evidence satisfies the second prong of the test if it "weakens the case against [the defendant] so as to give rise to a reasonable doubt as to his culpability."

Dailey v. State, 329 So. 3d 1280, 1285 (Fla. 2021). *See also Zack v. State*, 371 So. 3d 335, 344–45 (Fla. 2023); *Rogers v. State*, 327 So. 3d 784, 787 (Fla. 2021); *Jones v. State*, 709 So. 2d 512, 521 (Fla.

1998). The burden rests on the defendant "to demonstrate that his claims could not have been raised in the initial postconviction motion through the exercise of due diligence." *Rivera v. State*, 187 So. 3d 822, 831–32 (Fla. 2015) (citing *Zeigler v. State*, 632 So. 2d 48, 51 (Fla.1993)).

B. The Claim is Untimely.

Rule 3.851 requires, with few exceptions, that any motion to vacate judgement of conviction and sentence of death shall be filed by the defendant within one year after the judgement and sentence become final. Fla. R. Crim. P. 3.851(d)(1). Jones' judgement and sentence were finalized on October 2, 1995, when the United States Supreme Court denied his petition for certiorari. *Jones v. Florida*, 516 U.S. 875; Fla. R. Crim. P. 3.851(d)(1)(B) (judgement becomes final "on the disposition of the petition for writ of certiorari by the United States Supreme Court"). Rule 3.851 does provide an exception to the one-year limitation when the facts on which the claim is predicated were unknown to the defendant and could not have been ascertained by the exercise of diligence. Fla. R. Crim. P. 3.851(d)(2). It is, however, Jones' burden to demonstrate that the alleged newly discovered evidence qualifies for this exception. *See* Fla. R. Crim. P.

3.851(d)(2)(A); *Dillbeck v. State*, 357 So. 3d 94, 100 (Fla. 2023). Yet, even if Jones shows that he could not have discovered this information within one year of his judgement and sentence, to be considered timely filed as newly discovered evidence, the motion must be filed within one year of the date upon which the claim became discoverable through due diligence. *Jimenez v. State*, 997 So. 2d 1056, 1064 (Fla. 2008).

To bring a successive postconviction claim outside of the one-year time limitation, the defendant must show either: (1) newly discovered evidence; (2) a new constitutional right held to apply retroactively; or (3) counsel's neglect to file a motion. *See* Fla. R. Crim. P. 3.851(d)(2); *Owen v. Crosby*, 854 So. 2d 182, 188 (Fla. 2003) (explaining capital defendant failed to establish that his successive motion was predicated on newly discovered evidence, thus, he could not overcome the procedural bar); *Knight v. State*, 784 So. 2d 396, 400 (Fla. 2001); *Francis v. Barton*, 581 So. 2d 583, 584 (Fla. 1991). Absent such a showing, the motion should be summarily denied. Fla. R. Crim. P. 3.851(e)(2).

Successive motions for postconviction relief based on newly discovered evidence must allege the facts upon which the claim is

based "were unknown to the movant or the movant's attorney and could not have been ascertained by the exercise of due diligence," and that there is good cause for failing to raise the claim in a prior motion. Fla. R. Crim. P. 3.851(d)(2)(A), (e)(2). If the lower court found the evidence in Jones' newly discovered evidence claim was previously discoverable, or there is no good cause for failing to assert the claim earlier, it must dismiss the claim under Florida law. *Id.* Jones also has the burden of showing his claims are timely. *Mungin*, 320 So. 3d at 626 ("It is incumbent upon the defendant to establish the timeliness of a successive postconviction claim.").

Jones argues this exception for newly discovered evidence renders the claim timely because it was not until January 6, 2025, that the State recognized him as a member of the potential compensation class. The Florida legislature passed, and the Governor signed, CS/HB 21 – Dozier School for Boys and Okeechobee School Victim Compensation Program in 2024. (Def. Ex. N). Based on that bill, the State established a victims' compensation fund administered by the Office of the Attorney General, which wrote Jones the letter referenced in the motion. The fact that he received the letter in 2025 does not render any potential allegations of abuse

"new." Jones was placed at Okeechobee fifty years ago; he would have known of any abuse at the time of the trial and the initial postconviction motion.

Thus, clearly, Jones' claim that the evidence of his mistreatment is newly discovered cannot stand. Jones attempts to argue that the January 2025 letter from the State validated his claims of abuse, which he never voiced before the warrant was signed, and thus makes it newly discovered, allowing him to make this claim for the first time despite him knowing about the purported abuse for half a century. This Court has previously determined that the bill establishing the reparations for a particular class of attendees of the Okeechobee School is not considered newly discovered evidence. *Cole v. State*, 392 So. 3d 1054, 1061-62 (Fla. 2024) ("The rationale underlying our decision in cases like *Barwick* applies with equal force to Cole's claim. Like the APA resolution in *Barwick*, CS/HB 21 expresses a public stance predicated on reports, data, and research that have been publicly available for years"); *Barwick v. State*, 361 So. 3d 785, 793 (Fla. 2023) ("This Court has routinely held that resolutions, consensus opinions, articles, research, and the like, do not constitute newly discovered evidence"). This claim is virtually

identical to the types of claims that the Florida Supreme Court recently rejected in *Zack v. State*, 371 So. 3d 335 (Fla. 2023) and *Barwick*, 361 So. 3d 785.

In *Zack*, the defendant argued for an extension of *Atkins v. Virginia*, 536 U.S. 304, (2002), to encompass cases involving Fetal Alcohol Syndrome ("FAS"). *Zack v. State*, 371 So. 3d 335 (Fla. 2023) *cert. denied.* 144 S. Ct. 274 (2023). Zack argued that "new scientific consensus" found in several articles now recognized FAS as being equivalent to an intellectual disability. *Id.* at 345.

This Court rejected Zack's argument that the "new scientific consensus" is newly discovered evidence. "This Court has repeatedly held that [n]ew opinions or research studies based on a compilation or analysis of previously existing data and scientific information are not generally considered newly discovered evidence." *Id.* at 346 (internal quotations deleted), citing *Dillbeck v. State*, 357 So. 3d at 99 (*quoting Henry v. State*, 125 So. 3d 745, 750 (Fla. 2013) (noting that "*Dillbeck* cites a 2021 article for the proposition that the medical and scientific community view ND-PAE as equivalent to intellectual disability, and that article in turn relies on older sources")).

Furthermore, this Court pointed out that the facts upon which Zack's intellectual disability claim was predicated had long been known to him and his attorneys. *Id.* "He relies on this twenty-year-old-plus information to now claim he should be deemed intellectually disabled and, thus, categorically exempt from execution under *Atkins*. *Id.* at 345. But Zack raises no newly discovered evidence on this point." *Id.* As a result, this Court affirmed the lower court's ruling that the postconviction motion was untimely. *Id.* at 349.

Similarly, this Court should note that the portion of the legislation Jones cites in his motion acknowledges that the legislation is based on a compilation of earlier reports and investigations. Therefore, the new letter, and the compensation fund and legislation that generated it, is not "newly discovered evidence," but a compilation of evidence brought out over the decades, much of which has been available since Jones' trial.

Jones asserts that *Cole, Barwick,* and *Zack* are distinguishable. He asserts that Cole could not provide a link between himself and the signing of the Dozier bill, arguing that the letter from the Attorney General's Office recognizing that Jones was in the class of individuals possibly eligible for compensation since he was a resident of the

Okeechobee School during the relevant time period. The State notes that the letter did not acknowledge that any abuse occurred to Jones, just that the State had processed his application. Jones did not present any information to the lower court that he had been compensated from the fund or that he had appealed any decision of the Fund. Jones' position is actually the same as Cole's – both had been at the relevant institutions, but neither could take the additional step of showing any abuse happened to them. Likewise, in *Barwick* the defendant could not show a specific link between him and the APA resolution. Finally, in *Zack* the court found the evidence was not newly discovered, the same as in Jones' case. The lower court properly found Jones' claim untimely.

C. The Claim is Procedurally Barred.

Procedurally barred claims may be denied summarily. *Muhammad v. State*, 603 So. 2d 488, 489 (Fla. 1992) (noting "[i]ssues which either were or could have been litigated at trial and upon direct appeal are not cognizable through collateral attack"); *Medina v. State*, 573 So. 2d 293, 295 (Fla. 1990) (holding "[a]llegations of ineffective assistance cannot be used to circumvent the rule that postconviction proceedings cannot serve as a second appeal"); *Harvey v. Dugger*, 656

So. 2d 1253, 1256 (Fla. 1995). All other claims may be summarily denied "when the motion and the record conclusively demonstrate that the movant is entitled to no relief." *Kennedy v. State*, 547 So. 2d 912, 913 (Fla. 1989). Because this is an appeal of a successive postconviction motion, this Court should find that the trial court correctly summarily denied Jones' postconviction motion claim which is conclusively rebutted by the existing record. Fla. R. Crim. P. 3.851(f)(5)(B).

Jones was aware of the conditions at the Okeechobee School and his treatment there, both when he originally went to trial and for his initial postconviction motion where he raised multiple claims of ineffective assistance of counsel claims, including not adequately investigating, preparing the experts, and presenting the mitigation during the penalty phase. Indeed, this is the very first instance he ever mentions his treatment at the Okeechobee School in his court filings. He attempts to disguise this fact by saying that his prior claims of childhood abuse somehow incorporated any mistreatment when he was a teen at the school. However, they did not. The only abuse Jones informed his trial counsel of was being beaten by his aunt's son when he misbehaved. (PCR1 425-27, 593-95). Counsel

had five mental health experts evaluate Jones for the penalty phase; most reevaluated him and testified at the postconviction hearing. None mentioned abuse at the Okeechobee School. (PCR1 553-54, 575-82, 738, 746-48, 843-47, 851-53, 886-87, 910-11, 1014, 1028-29, 1044-45, 1111-12, 1116-21).

Interestingly, Dr. Jethro Toomer testified in postconviction that the hospital records from 1975 indicated that Jones possibly provoked the hospital visit for drugs to get out of juvenile detention but made no mention of abuse within that detention. (PCR 1111-12). Jones cannot create a wholly new claim on evidence which supposedly existed when he brought his earlier challenges to his conviction and sentence.

Since Jones could have raised this issue earlier, he is procedurally barred from doing so now. *Rogers v. State*, 409 So. 3d 1257, 1263 (Fla. 2025) ("[I]n an active warrant case, a postconviction claim that could have been raised in a prior proceeding is procedurally barred."); *Barwick*, 361 So. 3d 795; *Hojan v. State*, 212 So. 3d 982, 994 (Fla. 2017) (noting claims which could have been raised on direct appeal are procedurally barred in postconviction); *Tanzi v. State*, 94 So. 3d 482, 494 (Fla. 2012) (finding all facts for

postconviction allegation of conflict of interest were known on direct appeal where it could have been raised rendering procedurally barred in postconviction).

D. The Claim is Meritless.

Finally, the circuit court properly denied the claim because Jones failed to show that the evidence met the newly discovered evidence standard set out in the rule. He argues that the court failed to consider this evidence in conjunction with evidence of abuse from prior hearings and then compare that information with what was presented in mitigation at trial to determine if this evidence may have produced a life sentence. That stance fails for two reasons, one being that the court determined the letter did not meet the requirements of being newly discovered. The other reason is that the postconviction court found the witnesses who testified about purported abuse at the evidentiary hearing were not credible. This claim is without merit and was properly denied. This Court should affirm that denial.

In order for a defendant to prevail on a claim of newly discovered evidence, the defendant must prove both that (1) the evidence was not known by him, his counsel, or the trial court at the time of the trial and could not have been known by the use of due diligence, and

(2) that the evidence must be of such a nature that it would probably produce an acquittal on retrial. *Dillbeck*, 357 So. 3d at 100; *Jones,* 709 So. 2d at 52. When challenging a sentence of death, the evidence must be of such a nature that it would result in a different sentence. *Davis v. State*, 26 So. 3d 519, 524 (Fla. 2009). Jones is unable to demonstrate either that: the evidence was not known by him, his counsel, or the trial court at the time of the trial; could not have been known by the use of due diligence; or that the evidence is of such a nature that it would result in a different sentence. Recently, this Court held that the above-mentioned legislation and what ensued from it are neither new nor newly discovered evidence. *Cole*, 392 So. 3d at 1061-62.

Jones has never, including in his post-warrant successive postconviction motion, presented evidence that he was actually abused by the State – a claim he first specifically makes in this initial brief. He only alluded to possible abuse in his motion, attaching a psychological report by Dr. Yenys Castillo written in 2025, which related Jones' self-reported claim to having seen other residents at the Okeechobee School abuse other boys. Jones himself knew the conditions at the Okeechobee School as well as his treatment there,

both at the trial and in the postconviction proceedings. His counsel would have known as well if Jones had shared that information. The fact that he chose not to raise his treatment, abusive or not, previously as a claim, does not now render it new under the relevant rule. This letter does not state that Jones was abused. The actual evidence is what the conditions and Jones' treatment at the school were between 1975 and 1978, information that was known to Jones or could have been discovered with reasonable diligence prior to now.

Further, this evidence would not have been likely to result in a life sentence instead of a death sentence. This Court determined in *Jones*, 709 So. 2d at 521–22, that when a prior evidentiary hearing has been conducted, "the trial court is required to 'consider all newly discovered evidence which would be admissible' at trial and then evaluate the 'weight of both the newly discovered evidence and the evidence which was introduced at the trial'" in determining whether the evidence would probably produce a different result on retrial.

Despite Jones' assertions to the contrary, this is a highly aggravated case in which the trial court sentenced Jones to death upon finding four aggravators. *Jones*, 652 at 348. These aggravators included convictions for prior violent felonies, committing the

murders during the course of robberies; committing the murder for pecuniary gain (merged with the robbery), and being under a sentence of imprisonment at the time of the murders. *Id.* The prior violent felony aggravator is one of the most weighty aggravators, especially when it is based on a contemporaneous first-degree murder, and on other prior violent felonies. *Bright v. State*, 299 So. 3d 985, 1011 (Fla. 2020) ("[T]his Court has stated that the prior violent felony aggravator is one of the most weighty aggravating circumstances in Florida's statutory sentencing scheme."); *Bolin v. State*, 117 So. 3d 728, 742 (Fla. 2013); *Armstrong v. State*, 73 So. 3d 155, 175 (Fla. 2011). Given the lack of mitigation found by the trial court, in conjunction with the postconviction court's finding that the testimonies of Jones' family members regarding the early childhood abuse were not credible, it is highly unlikely that Jones would have received a life sentence for this unprovoked double murder. Thus, the trial court correctly summarily denied this claim.

ISSUE II

The Trial Court's Resolution of the Public Records Demands Was Proper.

Jones argues that the lower court's denial of his untimely, overbroad, and vague public records demands violates his due process rights. His objections, however, misapprehend Rule 3.852 and contradict well-settled law. Before Jones can establish he has experienced any denial of due process in obtaining public records, he must first demonstrate that he was entitled to those public records. *See Wyatt v. State*, 71 So. 3d 86, 111 (Fla. 2011); *see also Abdool v. Bondi*, 141 So. 3d 529, 544 (Fla. 2014) ("To assess whether a violation of due process has occurred, we must first decide whether the complaining party has been deprived of a constitutionally protected liberty or property interest"). To prevail on his due process claim, Jones had to overcome a mountain of case law which expressly contradicts the claim he asserts. The lower court did not abuse its discretion in denying his public records demands.

Jones makes multiple arguments challenging the trial court's rulings on his public records demands. Initially, he claims that he should not be bound by Fla. R. Crim. P. 3.852(h)(3) but should have

been permitted to seek records from the Okeechobee County Sheriff's Office ("OCSO'), Florida Department of Law Enforcement ("FDLE"), Department of Children and Families ("DCF"), and the Attorney General's Office ("AGO") under Fla. R. Crim. P. 3.852(i). He also asserts that, it was error to find his demands untimely; overly broad and vague; and not calculated to lead to a colorable claim. Additionally, he takes issue with the trial court's failure to conduct an in camera inspection and to not hold an evidentiary hearing to take sworn testimony from the agencies. The State disagrees.

Jones made public record demands on multiple agencies, four of which are the subject of his appellate claim.

OCSO - Twice Jones demanded records from the OCSO. (PCR6 303-12905-15) The agency objected each time. (PCR6 433-37, 1280-82). The first objection asserted that Rule 3.852(i) request during a warrant was untimely and dilatory. *See Tompkins v. State*, 872 So. 2d 230 (Fla. 2003); *Sims v. State*, 753 So. 2d 66, 70 (Fla. 2000). The OCSO also asserted the demand was not proper under Rule 3.852(h)(3) as Jones had not made a demand of the agency during the last thirty years. Likewise, Jones had not shown diligence or specificity under Rule 3.852(i) as he had not searched the repository

or identified any specific case or investigation by the OCSO but merely asked for a generalized search under broad categories. It was OCSO's position that the demand was overly broad and unduly burdensome given that the demand covered potential records from fifty years ago that may be archived and not readily accessible. It was argued by OCSO that some of the records may be subject to confidentiality and exceptions given that juveniles were concerned. The final objection pointed to *Bowles v. State*, 276 So. 3d 791, 795 (Fla. 2019) and *Long v. State*, 271 So. 3d 938, 948 (Fla. 2019) when noting that Jones had not explained how the demand might reasonably be calculated to lead to discovery of admissible evidence for a colorable claim.

OCSO's objection to the second demand raised similar objections to the timing of the demand and that even if considered under Rule 3.852(i), the demand was untimely, lacked specificity, was overly broad and burdensome, and again failed to reference a colorable claim. The reference to a "2015" investigation was vague and failed to reference identifying information in violation of *Wyatt v. State*, 71 So. 3d 86, 111 (Fla. 2011). OCSO asserted that "[i]nvestigations conducted decades later into unrelated institutional

abuse do not satisfy" the standard for making a nexus between the records and a colorable claim. *See Cole v. State*, 392 So. 3d 1054, 1066 (Fla. 2024); *Bowles*, 276 So. 3d at 795; *Long*, 271 So. 3d at 948.

The trial court sustained these objections. (PCR6 422-26, 1255-60) The court's order on the second demand sustained the objections that the demand was not a proper request; it was burdensome, overbroad, vague and not related to a colorable claim. (PCR6 1256). The court concluded that:

> The title of the Renewed Demand as well as the initial Demand are confusing in that it leads one to believe that the Defendant has requested documents from this agency in the past. And Fla. R. Crim. P 3852(h)(3) clearly contemplates that requests of this nature are for "updated" records from a person or agency to which a previous records request was made. . . . The Respondent asserts, and the Court concludes, that no such request was ever previously made to this Respondent. Consequently, this is not an "update" or "additional" records request as allowed by the Rule, but a completely new request, not permitted by this Rule. *See Jimenez v, State*, 265 So. 3d 462, 472 (Fla. 2018). For that reason, the Demand is untimely and improper under the Rule.

(PCR6 1256-57).

Considering the demand under Rule 3.852(i), the trial court determined that subject matter of the request, the Okeechobee School starting in 1975 some fifty years ago, "can in no way be

considered newly discovered as would furnish colorable grounds for postconviction relief. *Cole v. State*, 392 So. 3d 1054 (Fla. 2024).” (PCR 1257. Continuing, the court stated: “Any defenses or claims in mitigation arising out of or relating to the Defendant’s or anyone else’s presence at the Okeechobee School in the 1970’s would have ripened years ago and should have been made the subject of mitigation or a postconviction motion long before now.” (PCR6 1257). The court also agreed that the request regarding 2015 records would be an unduly burdensome search for records and that OCSO objection that the demand was vague was correct as “no records were sufficiently identified.” (PCR6 1257).

The trial court reiterated the prior order finding “no good cause for the delay in requesting records that were decades old from the Okeechobee School, a school [Jones] previously attended.” (PCR6 1257). In finding the demand untimely, the court noted that the January 6, 2025, letter informing him of his eligibility for the Dozier School/Okeechobee School victim compensation fund had been known by Jones for months and that the compensation fund was enacted in law on June 21, 2024, however, Jones “could not specifically articulate a justification for the delay in the failure to seek

the records from any period – not from 50 years ago, 10 years ago, one year ago or a few months ago." (PCR6 1257-57)

FDLE – In response to Jones' "Demand for Additional Public Records," FDLE objected on the grounds the demand was untimely filed outside the warrant case management order without good cause for the delay shown. Further, Rule 3.852(i) demand did not relate to a colorable claim and that Rule 3.852 demands are not intended as a fishing expedition. (PCR6 1232-35). FDLE also argued that the demand was overly broad and unduly burdensome as the demand was tantamount to seeing "any and all" documents which is improper under *Walton v. State*, 3 So. 3d 1000, 1010 (Fla. 2009). (PCR6 1236-37). The agency also noted that the records requested may contain confidential/exempt records on juveniles and/or victims of crimes. Further, FDLE asserted that Jones' postconviction claim of newly discovered evidence related to the abuse was recently rejected in *Cole v. State*, 392 So. 3d 1054, 1061 (Fla. 2024) and related cases, thus, Jones was not entitled to records under the instant demand. (PCR6 1238-40).

The trial court sustained the objections FDLE raised finding Jones did not show good cause for the Rule 3.852(i) demand under

Dailey v. State, 283 So. 3d 782, 792 (Fla. 2019). (PCR6 1216-17). Also, the court again noted that the events at issue occurred some fifty-years ago and Jones could have raised mitigation claims regarding events at the school earlier and finding "[a]Any defenses or claims in mitigation arising out of or relating to the Jones's or anyone else's presence at the Okeechobee School in the 1970's would have ripened years ago and should have been made the subject of mitigation or a postconviction motion long before now. Thus, the Demand is untimely." (PCR6 1317). The demand was also found to be untimely. Given those rulings, the court declined to address the other objections. (PCR6 1317).

DCF – DCF conducted a search and determined it had no record responsive to the demand. (PCR6 1192-94)

AGO – With respect to the Okeechobee School and Dozier School for Boys, Jones demanded records from the AGO regarding memos, reports, and communications related to investigations of those schools as well as reports and memos of the Victims Compensation Fund related to the school. In its Amended Response and Objection, the agency set forth its objections. (PCR6 343-55) This was followed up by a "Clarification" by the AGO. (PCR6 461-66). The court

determined that the demand for records related to Dozier/Okeechobee schools was untimely, good cause was not shown, and the demand did not relate to a colorable claim for postconviction relief. (PCR6 472).

The trial court did not abuse its discretion sustaining the objections and denying the public records demands. This Court should affirm.

A. Standard of Review.

This Court reviews a denial of public records requests for abuse of discretion. *See Tanzi v. State*, 407 So. 3d 385, 391 (Fla. 2025); *Cole v. State*, 392 So. 3d 1054, 1065 (Fla. 2024). The "discovery tool" of Rule 3.852 "is not intended to be a procedure authorizing a fishing expedition for records unrelated to a colorable claim for postconviction relief." *Id.* at 1066 (quoting *Asay v. State*, 224 So. 3d 695, 700 (Fla. 2017)). Public records requests must "show how the requested records relate to a colorable claim for postconviction relief and good cause as to why the public records request was not made until after the death warrant was signed." *Id.* (quoting *Dailey v. State*, 283 So. 3d 782, 792 (Fla. 2019)).

B. Public Record Demands Made Under an Active Warrant Are Circumscribed by Fla. R. Crime. P. 3.852(h)(3).

Jones claims that his public records litigation under a death warrant is not limited by Rule 3.852(h)(3), but that he is permitted to seek records under Rule 3.852(i) irrespective of whether he had made demands of that agency previously. Jones is incorrect. Rule 3.852(h) is specific to demands made under a warrant. The rule provides: "[w]ithin 10 days of the signing of a defendant's death warrant, collateral counsel may request in writing the production of public records from a person or agency form which collateral counsel has previously requested public records." Although Rule 3.852(i) references Rule 3.852(h), it is addressed to Rule 3.852(h)(1) and (2) as pertaining to records demands prior to a warrant. Rule 3.852(h)(3) is specific to warrant litigation and therefore controls over the general provision of Rule 3.852(i). Under the rules of statutory construction, the specific controls over the general rule and a provision should not be read to make another provision a nullity. Reading Rule 3.852(i) as Jones would have it would render Rule 3.852(h)(3) irrelevant and a nullity as records could be sought from any person or agency whether records had been produced previously. Jones has not pointed to a

case where a defendant under an active death warrant was able to go on a fishing expedition for records from an agency not the subject of a prior demand.

The State relies on its answer to Issue I to show that Jones knew he was a resident of the Okeechobee School for periods of time between August 1975 and October 1978, yet he never raised any claim of abuse arising from his time there. In spite knowing he had been a resident, Jones did not make demands of OCSO. Although he made public records demands of the AGO during his initial postconviction litigation, he made no demands for records related to the school. Under Rule 3.852(h)(3), the trial court sustained the objection for records from OCSO properly. *See Jimenez v. State*, 265 So. 3d 462, 472 (Fla. 2018) (finding no abuse of discretion in sustaining Rule 3.852(h)(3) objection to public records from agency made under a warrant and where the defendant had not requested records of the agency previously).

C. The Denial of Public Records Was not a Due Process Violation.

None of Jones' conclusory remarks rise to the level of due process concerns. First, Jones has failed to demonstrate what

colorable claim relates to any of his overbroad public records demands. *See* Fla. R. Crim. P. 3.852(k) (limiting the scope of production to records that are "either relevant to the subject matter of the proceedings under rule 3.851 or are reasonably calculated to lead to the discovery of admissible evidence"); *see also Rutherford v. State*, 926 So. 2d 1100, 1117 (Fla. 2006) (affirming a denial of a public records request under rule 3.852(h) because the records sought were "not related to a colorable claim for postconviction relief"). Second, Jones still has not explained why his requests were not overbroad and unduly burdensome. *Muhammad v. State*, 132 So. 3d 176, 201 (Fla. 2013) (noting this Court will readily affirm a denial of public records requests "if they are overbroad, of questionable relevance, and unlikely to lead to discoverable evidence"); *Mills*, 786 So. 2d at 552 (same). Finally, Jones has not even bothered to justify why he waited until the ink dried upon his death warrant to begin seeking these records. *See Tompkins v. State*, 872 So. 2d 230, 244 (Fla. 2003) (requiring that, for any Rule 3.852 public records request, a defendant must show "good cause as to why the public records request was not made until after the death warrant was signed"). This Court should deny these claimed due process violations as nothing

more than an attempt to forestall his execution. *See Hannon v. State*, 228 So. 3d 505, 512 (Fla. 2017) ("In the past, we have not condoned eleventh hour attempts to delay the execution with records requests, and we will not begin now.") (internal citation and quotations omitted).

Finally, public records requests under Rule 3.852(i) must "show how the requested records relate to a colorable claim for postconviction relief and good cause as to why the public records request was not made until after the death warrant was signed." *Dailey v. State*, 283 So. 3d 782, 792 (Fla. 2019) (internal citations omitted) (quoting *Bowles v. State*, 276 So. 3d 791, 795 (Fla. 2019)). In *Cole* this Court rejected the argument that the denial of access to public records violates due process and access to the courts under the Eighth and Fourteenth Amendments to the United States Constitution and the corresponding provisions of the Florida Constitution. *Cole*, 392 So. 3d at 1065–66; *see also Heath v. State*, 3 So. 3d 1017, 1029 n.8 (Fla. 2009) ("Vague and conclusory allegations on appeal are insufficient to warrant relief." (*citing Doorbal v. State*, 983 So. 2d 464, 484 (Fla. 2008))). The postconviction court did not abuse its discretion in denying Jones' request. This Court should

affirm the denial of public records based on the valid objections that the demands were untimely, overbroad, and vague.

ISSUE III

The Thirty-Two Day Warrant Period Does Not Violate Jones' Due Process Rights; Jones' Capital Proceedings Are Reliable

Jones maintains that Florida's warrant schedule denied him a full and fair postconviction proceeding in violation of the United States and Florida Constitutions. This Court has rejected similar claims repeatedly and should do so here.

A. Standard of Review

A postconviction court's decision whether to grant an evidentiary hearing on a Rule 3.851 motion is ultimately based on written materials before the court, its ruling is tantamount to a pure question of law, subject to de novo review. *Marek v. State*, 8 So. 3d 1123, 1127 (Fla. 2009) *See State v. Coney*, 845 So.2d 120, 137 (Fla.2003).

B. The Claim Is Untimely

Jones' last-minute effort to avoid his sentence and call into question Florida's warrant procedures as a violation of due process is untimely. (IB at 75) In fact, Jones is challenging over thirty years

of factual determinations of this Court in his case. (IB at. 78). Contrary to Jones' assertion that his claim was pled with specificity in the trial court, the record contradicts this statement. (PCR6 at 953-58). Jones complains about the warrant process and in the same breath admits that he does not expect relief on these claims. (IB at 958) This claim is without merit, and this Court has repeatedly rejected it.

C. Florida's Warrant Schedule Did Not Deny Jones Access to Public Records.

Neither the Constitution of the United States nor of the State of Florida afford Jones the right to protest a procedural inconvenience for a situation he brought upon himself by committing a double homicide. Rather, "[d]ue process requires that a defendant be given notice and an opportunity to be heard on a matter before it is decided." *Asay v. State*, 210 So. 3d 1, 27 (Fla. 2016); *see also Mathews v. Eldridge*, 424 U.S. 319, 333 (1976). Jones has had thirty years to litigate his postconviction claims and the State has afforded Jones several full and fair opportunities to be heard throughout his appeal and postconviction proceedings. *Jones III*, 966 So. 2d 319, 321 (Fla. 2007). Jones' convictions and sentence became final in

1995 and his last postconviction litigation was in 2018 with a retroactive *Hurst* challenge. *Jones VI*, 241 So. 3d 65 (Fla. 2018).

By May 2, 2018, Jones knew he had become death eligible. Jones has been on notice for more than eight years now, and thirty years since his sentence and convictions were final. Jones cannot now claim surprise, that he had no meaningful opportunity to be heard, or lacked ample time to prepare for a warrant when he has been death eligible for a longer time than the Florida Constitution currently envisions for the completion of all postconviction proceedings. *See* Art. I, § 16(b)(10)b Fla. Const. ("All state-level appeals and collateral attacks on any judgment must be complete… within five years from the date of appeal in capital cases.").

The trial court's order denying postconviction relief was quite specific detailing Jones' procedural history and claims before the court. (PCR6 at 1461-82). Jones claims without any documented proof that agencies made false claims of lack of records because the truncated schedule did not allow them time to search. (IB at 84). The timing of the warrant schedule did not prevent Jones from requesting with specificity what records he sought. Instead, Jones made vague, and unduly burdensome requests to most agencies. (PCR6 192-225).

Jones' postconviction motion quibbled about the warrant being a surprise, holidays being interrupted, travel cancelled, the court staff having short notice, and being unable to represent other clients during this period but did not indicate any issue the expedited schedule foreclosed. (PCR6-854-55).

"Due process requires that a defendant be given notice and an opportunity to be heard on a matter before it is decided." *Barwick v. State*, 361 So. 3d 785, 790 (Fla. 2023), *cert. denied*. 143 S. Ct. 2452 (2023) (*quoting Asay v. State*, 210 So. 3d 1, 27 (Fla. 2016)) (*citing Huff v. State*, 622 So. 2d 982, 982 (Fla. 1993)). The defendant in *Barwick* in his pleadings filed in both the circuit court and this Court, made it abundantly clear that the post-warrant litigation in his case had been very arduous for his counsel based on circumstances that happened to coincide with the beginning of the warrant period, such as the occurrence of Holy Week, Passover, and Ramadan, or co-counsel being ill. *Id.* at 789. Similarly, Jones' pleadings in the lower court and this Court complained that two holidays fell within the warrant schedule and that the pace at which the litigation was moving was arduous. (IB at 80-1). A compressed warrant schedule does not violate due process rights. *Tanzi,* 407 So. 3d at 390–91.

Jones cannot deny that he was given notice and an opportunity to be heard. Jones' claims of due process violations are misplaced.

This Court has consistently rejected the argument that a 30-day "compressed warrant litigation schedule" denies a capital defendant "his rights to due process." *Id. See also Barwick,* 361 So. 3d at 789; *Zakrzewski v. State*, No. SC2025-1009, 2025 WL 2047404 (Fla. July 22, 2025), cert. denied. No. 25-5194, 2025 WL 2155601 (U.S. July 30, 2025). Jones cannot show how the warrant schedule denied him notice or an opportunity to be heard. When making his public records requests in the trial court, Jones failed to indicate how the requested records related to a colorable claim of postconviction relief, nor did he illustrate good cause why the records were not requested until after the warrant was signed. *Id.* at 391. A compressed warrant schedule does not violate Jones' due process rights.

D. Florida's Warrant Procedures Did Not Deny Jones a Meaningful Opportunity to Investigate and Present Claims.

As a reminder, Jones' convictions and sentences became final in 1995. *Jones*, 516 U.S. 875 (1995). Jones never made allegations of being abused at the Okeechobee School throughout the thirty

years of litigation and thirty years is more than adequate to investigate a claim of abuse. *See* Jones *v. State*, 652 So. 2d 346 (Fla. 1995) *cert. denied* 516 U.S. 875 (1995) (*Jones I*). *See also Jones v. State,* 855 So. 2d 611 (Fla. 2003) *(Jones II); Jones v. State,* 966 So. 2d 319 (Fla. 2007) *(Jones III); Jones v. State,* 135 So. 3d 287 (Fla. 2014) *(Jones IV); Jones v. State,* 231 So. 3d 374 (Fla. 2017) *(Jones V); Jones v. State,* 241 So. 3d 65 (Fla. 2018) *(Jones VI), cert. denied, 586 U.S. 1052 (2018).* Jones filed five previous postconviction motions and has been consistently represented by CCRC-South. The trial court correctly denied an evidentiary hearing. (PCR6 at 1448). Jones also falsely claims that the court limited its argument at the case management conference (IB at 87). Although the trial court inquired how much time Jones would need, the trial court allowed him access to the record. (PCR6 at 1661). Jones also incorrectly states that the eligibility letter from the Attorney General's Office for the compensation fund is an admission by the State of Florida that he was abused. (PCR6 at 1665). CS/HB 21 created a victim compensation fund and directed it to be administered through the Department of Legal Affairs. (PCR6 at 639). The receipt of a letter does not make evidence newly discovered. To be considered newly

discovered evidence, Jones must meet a two-prong test: 1) the evidence must have been unknown by the trial court, by the party, or by counsel at the time of trial; and 2) it must appear that defendant or his counsel could not have known of it through due diligence. *Jones*, 709 So. 2d at 521. (*citing Torres–Arboleda v. Dugger*, 636 So.2d 1321, 1324–25 (Fla.1994)). Jones fails both prongs of this test and this Court should deny this claim as meritless.

E. An Incomplete Record Does Not Bar Jones From Litigating His Postconviction Claims.

The State respectfully submits that the absence of certain record transcripts in this case did not bar Jones from pursuing his claims especially when he was present at the hearings in question. His presence at the hearings provides him direct knowledge of what occurred and said, and his claim that a compressed warrant schedule foreclosed his ability to accurately make a claim is mere pretext. Missing or incomplete records do not in themselves entitle Jones to relief. And he has not identified any colorable claim that was dependent on the incomplete portion of the record. Nor has Jones cited any case law stating that an incomplete record cannot be developed into a colorable claim. For the foregoing reason this Court

must affirm the trial court's denial of his postconviction motion.

CONCLUSION

Based upon the foregoing, the State requests respectfully this Court affirm the denial of relief.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via electronic service to: Marie-Louise Samuels Parmer, Brittney N. Lacy, and Jeanine L. Cohen, Assistants CCRC-South, Capital Collateral Regional Counsel-South, 110 SE 6th Street, Fort Lauderdale, Florida 33301, **marie@samuelsparmerlaw.com**, **ccrcpleadings@ccsr.state.fl.us**, **lacyb@ccsr.state.fl.us**, **cohenj@ccsr.state.fl.us**; and the Florida Supreme Court, 500 South Duval Street, Tallahassee, Florida 32399, **warrant@flcourts.org, canovak@flcourts.org**, on this 17th day of September, 2025.

CERTIFICATE OF FONT AND WORD COUNT COMPLIANCE

I HEREBY CERTIFY that the foregoing Answer Brief has been produced in 14-point Bookman Old Style and that according to the Word program on which this Answer Brief was written the Brief contains 11,503 words in compliance with Rules 9.100(g) and 9.210, Fla. R. App. P.

Respectfully submitted,

JAMES UTHMEIER
ATTORNEY GENERAL

/s/ *Jennifer A. Davis*
JENNIFER A. DAVIS
Senior Assistant Attorney General
Florida Bar No. 109425
Office of the Attorney General
1 SE Third Ave, Suite 900
Miami, FL 33131
Telephone: 305-377-5441
capapp@myfloridalegal.com
Jennifer.davis@myfloridalegal.com

/s/ Leslie T. Campbell
Leslie T. Campbell
Senior Assistant Attorney General
Florida Bar No. 0066631
Leslie.campbell@myfloridalegal.com

/s/ Lisa-Marie Lerner
Lisa-Marie Lerner
Senior Assistant Attorney General
Florida Bar No. 698271
Lisamarie.lerner@myfloridalegal.com

COUNSEL FOR APPELLEE

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

VICTOR T. JONES,

Petitioner,

v.

SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS,

Respondent.

ON PETITION FOR WRIT OF CERTIORARI
TO THE SUPREME COURT OF FLORIDA

APPENDIX J

CAPITAL CASE

DEATH WARRANT SIGNED
EXECUTION SET SEPTEMBER 30, 2025, AT 6:00 P.M.

Reply Brief of Appellant, *Victor T. Jones v. State of Florida*, Florida Supreme Court, SC2025-1422 (Sept. 18, 2025)

IN THE SUPREME COURT OF FLORIDA
CASE NO. SC2025-1422

EXECUTION SCHEDULED FOR SEPTEMBER 30, 2025 AT 6:00 PM

VICTOR TONY JONES,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

ON APPEAL FROM THE CIRCUIT COURTOF THE ELEVENTH JUDICIAL CIRCUIT, MIAMI-DADE COUNTY, FLORIDA

LOWER CASE NO. 1990-CF-50143

REPLY BRIEF OF APPELLANT

MARIE-LOUISE SAMUELS PARMER
Special Assistant CCRC-South
Fla. Bar No.: 0005584
Marie@samuelsparmerlaw.com

JEANINE L. COHEN
Staff Attorney CCRC-South
Fla. Bar No. 0128309
CohenJ@ccsr.state.fl.us

Counsel for Jones

BRITTNEY N. LACY
Assistant CCRC-South
Fla. Bar No. 116001
lacyb@ccsr.state.fl.us
ccrcpleadings@ccsr.state.fl.us

Capital Collateral Regional Counsel – South Office
110 S.E. 6th Street, Suite 701
Fort Lauderdale, FL 33301

September 18, 2025

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REPLY TO ARGUMENT I

Newly Discovered Evidence Of The State Of Florida's Recognition Of Jones's Abuse At Okeechobee And His Entitlement To Compensation As A Victim Of A Crime Is Material Evidence Which Renders His Death Sentence Unreliable And Would Probably Lead To A Life Sentence On Retrial.

In Response, the State argues that Mr. Jones's claim that the January 6, 2025 letter he received from the Attorney General's Office of Victim Compensation is newly discovered evidence which would probably result in a lesser sentence is untimely, procedurally barred, and meritless. In making these arguments, the Attorney General distorts the evidence presented in support of Jones's request for an evidentiary hearing and makes arguments premised on facts that are demonstrably false. The true facts are known to them, or reasonably should be known to them, because they are based on documents within the control of the Attorney General's Office that the Attorney General has refused to provide despite Jones's public records requests. Their arguments should fail for this reason alone, but other reasons, as will be set out below, also demonstrate their arguments are meritless.

A. The Claim is Timely.

The State argues that Jones's claim is untimely because receipt of the January 6, 2025 letter doesn't make his abuse "'new.'" (Answer, p. 27) The State argues that Jones would have known of any abuse when it happened 50 years ago. (Answer, p. 27) In making this argument, the State twists Jones's claim, as it has done repeatedly during the course of this litigation.

Jones's claim has always been that it is the State of Florida's January 6, 2025 recognition of him as a victim of abuse, the State's apology, and the notification that he had been approved for compensation as a member of the victim class—all of which is contained in the January 6, 2025 letter—is the new evidence. Jones's has *never* said during this litigation that the letter makes the abuse he suffered new or that the "evidence of his mistreatment is new." (Answer, p. 27)

The State misapprehends Jones's claim. The fact that the State of Florida recognized Jones's abuse at Okeechobee, at the hands of State employees, and that the abuse was so severe that the State was going to compensate him 50 years later is a remarkable new fact, which nobody could have predicted 50, 30,

40, 20, 10 or even 5 years ago. It is the State of Florida's apology and compensation that is new. It is powerful, relevant, material and they type of evidence that could persuade a reasonable juror to vote for life.

The State cites to this Court's opinions in *Cole v. State,* 392 So. 3d 1054, 1061-62 (Fla. 2024), *Barwick v. State*, 361 So. 3d 785, 793 (Fla. 2023), and *Zack v. State*, 371 So. 3d 335 (Fla. 2023) to argue that the individualized letter that Jones received from the State in January of this year, is akin to abstract data, reports, legislation, or scientific studies that were properly rejected in *Barwick, Zack* and *Cole*. These cases are not similar and address loosely connected studies, data or legislation that was not directly linked to the defendants or their cases.

Jones's case is more akin to *Duckett v. State*, 148 So. 3d 1163, 1167 (Fla. 2014). Duckett raised a claim of newly discovered evidence based on an 1997 FBI report and study, which resulted in a 2011 report directly about Duckett's case. This Court explained:

> After the 1997 Department of Justice report was issued, the FBI hired independent experts to examine the prior work and testimony of various agent analysts, including Malone. One independent analyst reviewed many cases—particularly death penalty cases—in which Malone

> offered expert testimony. Subsequently, in August 2011, the same independent analyst reviewed Malone's hair-analysis work and testimony in Duckett's trial and issued a report (2011 Report).

Id. at 1167. While this court denied Duckett's claim, it did so on the merits.

Duckett subsequently raised another claim which this Court also denied, premised on a 2014 report and subsequent DOJ letter to the State Attorney for the Fifth Judicial Circuit again identifying that the testimony by the lab analyst in Duckett's case contained "some erroneous statements. " *Duckett v. State*, 231 So. 3d 393, 399 (Fla. 2017). This Court stated that, "Even assuming that Duckett's claim is timely, we conclude that Duckett has failed to demonstrate that the alleged newly discovered evidence—the 2014 DOJ Review—is of such a nature that it would probably produce an acquittal on retrial." *Id.* While it is not entirely clear from reading *Duckett* as to why this court suggested Duckett's claim was untimely, this Court suggests it is because Duckett was not included in the 2014 report. *Id.* at 399, n. 2. Nonetheless, *Duckett* provides that studies that produce letters directly linked to a defendant's case qualify as newly discovered evidence.

While it is true that the claim in *Cole* related to the Victim Compensation Fund, the case is still clearly distinguishable. Cole claimed that he was "entitled to relief based upon newly discovered evidence *regarding his treatment*" at Dozier. *Cole,* 392 So. 3d at 1060 (emphasis added). Cole premised this claim on the passage of CS/HB 21, which is the same bill that resulted in Jones receiving the apology letter and compensation. *Id.* at 1061. But Cole was not a member of the compensation class, Cole was not entitled to any money, nor did Cole ever receive a letter from the State apologizing for the abuse he suffered. *Id.* at 1061, n. 11.

The State minimizes Jones's claim to keep it within the framework of *Cole*, by suggesting that the January 6, 2025 letter, (WR. 811), is less than it is. The State mischaracterizes the letter as merely "recognizing that Jones was in the class of individuals *possibly* eligible for compensation." (Answer, p. 29) (emphasis added) The use of the word "possibly" is misleading.

In his application for compensation, Mr. Jones was required to establish that he was both at the Okeechobee School during the relevant time periods AND that he was abused. Mr. Jones met both requirements.

In bold and all caps at the top of the letter are the words: "NOTICE OF DETERMINATION—ELIGIBLE." (WR. 811) In the body of the letter, which is addressed to "Victor Jones," the Attorney General's Office of Victim Compensation wrote: "You are receiving this letter because you filed an application for benefits" through the Dozier/Okeechobee School Victim Compensation Plan. (WR. 811) The letter continued, stating: "Please know *we are sorry* to hear about the circumstances that prompted you to apply for compensation." (WR. 811) (emphasis added).

And then, confirming the heading of the letter, the Attorney General's Office of Victim Compensation told Mr. Jones: "Your claim was *determined eligible* on January 6, 2025." The letter speaks for itself, it contains an apology which is commonly understood to be an admission or acknowledgment of a wrong and it tells Mr. Jones he is in the eligible class and has been approved for compensation.

The State makes a number of other remarkable arguments about Jones's status as an eligible member of the Victim Compensation Fund that are misleading. The Attorney General's Office managed this program, sent out notification letters, processed the applications, sent out eligibility letters like the one

Jones received, and also managed the disbursement of money, which Jones received on July 7, 2025, along with all the other eligible members of the class. Yet, the State makes a number of assertions that are disproved by records that exist in the Attorney General's Office, but which have not been disclosed.

The State argues that the "letter did not acknowledge that any abuse occurred to Mr. Jones, just that the State had processed his application." (Answer, p. 30). The State cuts a fine distinction here, especially so because the State knows, or reasonably should know, that in order to be determined eligible, Jones had to show that abuse occurred, as Jones plead in his motion and argued at the Case Management Conference.

Again, the Attorney General's Office has these documents, and they either know or should know that in order to be eligible for funds Jones had to submit an application form—created by the Attorney General's Office—that established his confinement at Okeechobee within the relevant time frame **and that he suffered physical, mental, emotional or sexual abuse.** The Attorney

General's Office is literally in custody and control of the form Jones signed establishing that he suffered the requisite abuse.[1]

The State then makes another disingenuous argument, which they did not raise below, that Jones failed to "present any information to the lower court that he had been compensated from the fund or that he had appealed any decision of the Fund." (Answer, p. 30) As noted *supra*, the State compensated Jones, along with all the other eligible claimants in July of 2025. And just like the existence of Jones's application form, **the Attorney General's Office has the records demonstrating Jones received money because they administered the Fund**. Indeed, Jones's money was placed in his Florida Department of Corrections account. Their assertion is not based on fact, and they either know, or should know, that the State of Florida compensated Jones.

The State then uses these false assertions to argue Jones's position is like Cole's: "Jones's position is actually the same as Cole's—both had been at the relevant institutions, *but neither could*

[1] The Attorney General surely cannot be arguing that it gave out $20 million dollars of Florida tax payer money to just anyone without requiring them to demonstrate that they fit the class. .

take the additional step of showing any abuse happened to them." (Answer, p. 30) (emphasis added). This statement as it relates to Jones is not true. **The Attorney General's Office has in its possession the records which demonstrate their assertions of fact to this Court are false. Jones took the additional step, showed that abuse happened to him and received compensation from the State of Florida Victims Compensation Fund.**

Mr. Jones understands that the Attorney General's Office is a large state entity and that the Assistant Attorneys General who wrote the Answer Brief in this case may not personally be familiar with Jones's records within the Attorney General's Office of Victim Compensation, but before they make a factual assertion to this Court, or any court for that matter, especially in a capital case, they should be sure that what they are saying is true. Nor can the State create facts that do not exist. Likewise, the Attorney General should not be permitted to hide behind the truncated warrant period or Fla. R. Crim. Pro. 3.852 as a means to advance an argument premised on facts that are demonstrably false.

Prosecutors are "representative not of an ordinary party to a controversy, but of a sovereignty whose obligation to govern

impartially is as compelling as its obligation to govern at all; and whose interest, therefore, in a criminal prosecution is not that it shall win a case, but that justice shall be done." *Berger v. United States*, 295 U.S. 78, 88 (1935) A prosecutor is in a "very definite sense the servant of the law[.]" *Id.* "He may prosecute with earnestness and vigor—indeed, he should do so. But, while he may strike hard blows, he is not at liberty to strike foul ones. It is as much his duty to refrain from improper methods calculated to produce a wrongful conviction as it is to use every legitimate means to bring about a just one." *Id.*

The Attorney General successfully used the unnecessarily truncated warrant process to preclude Jones's access to his records regarding the Victim Compensation Fund, and is now employing that adverse legal finding to make demonstrably false assertions to gain a benefit in their argument. This is a violation of Jones's Fifth, Eighth, and Fourteenth Amendment rights and this Court should not countenance such a tactic, especially in a death penalty case.

Additionally, the State's argument establishes that the lower court's denial of evidentiary development was in error. At a hearing Jones can demonstrate that he established the abuse necessary to

qualify and result in the letter and that he received compensation. Jones can also prove that the establishment of the Compensation Fund and his inclusion in the class of survivors eligible for compensation is an acknowledgment by the State of Florida that Jones was abused by agents of the State while he was in their custody as a child.

Jones deserves nothing less. Allowing Jones's execution to go forward on this record would serve to undermine confidence in our judicial system and damage the perceived integrity of this Court.

B. The Claim is Not Procedurally Barred

The State argues that because Jones was aware of the abuse he experienced at Okeechobee this claim is barred. (Answer, p. 31-33. The State's argument deserves little response other than, as stated throughout the course of this litigation, his claim is that the State of Florida apologized to him for the abuse he suffered while in the State's care and recognized him as a victim of severe abuse and it is therefore new.

C. The Claim Has Merit

The State argues that Jones's claim lacks merit because the letter doesn't qualify as newly discovered and that prior testimony

of abuse Jones presented was found not credible. (Answer, p. 33) Essentially, the State argues the letter isn't new and there is no probability of a less severe sentence. (Answer, p. 34)

In support of their argument, the State oddly asserts that "Jones has never, including in his post-warrant successive postconviction motion, presented evidence that he was actually abused by the State—a claim he first specifically makes in this initial brief. He only alluded to possible abuse in his motion." (Answer, p. 34). The State is mistaken.

Jones expressly stated in his post-warrant successive postconviction motion on page 1, that "Victor Jones is an intellectually disabled ("ID"), indigent Black defendant, who was brutally abused as a teenager by agents of the State of Florida at the Okeechobee School for Boys." (WR. 833) The heading of Jones's first claim in his motion includes these words: "Jones Experienced Trauma and Abuse at the Hands of the State[.]" (WR. 844).

In the body of his motion in Claim I, Jones stated: "While confined at Okeechobee, Jones was beaten multiple times with the thick leather strap, witnessed frequent gang-rapes" and was "placed in solitary confinement" (WR. 844) "The effects of this treatment . . .

was pronounced, causing him to suffer from Post-Traumatic Stress Disorder [and] suicidal ideation." (WR. 844)

Jones also adopted the contents of Dr. Castillo's report into his motion. (WR. 844). Relevant details from Dr. Castillo's report and her descriptions of the abuse he suffered at Okeechobee were set out in Jones's initial brief to this Court. The relevant portion of Dr. Castillo's report, which was attached to Jones's motion and filed in the circuit court, can be found at WR. 519-521. The State's assertion on this matter is without merit.

Because the lower court denied Jones's claim without an evidentiary hearing, this Court must accept his facts as alleged as true. Jones has alleged abuse, severe abuse. To the extent that the State might not think being exposed to or witnessing repeated gang-rapes as a teenager while your caretaker looks away is not abuse, the State lacks insight, and, nonetheless, a factual discrepancy demonstrates the need for an evidentiary hearing.

The State argues that this evidence would not have been likely to result in a life sentence because this is a highly aggravated case and Jones showed little mitigation at trial. (Answer, p. 35) However, Jones does not need to show that he will definitively prevail in order

for the court to conduct an evidentiary hearing, and, regardless, the letter is powerful evidence, particularly under the unique facts of Jones's case.

As set forth in Jones's initial brief, Jones's case is not the most aggravated and least mitigated murder case. And, because one of Jones's aggravators was under a sentence of imprisonment, the evidence of the letter and the State of Florida's apology to Jones and admission of abuse, is particularly salient.

In closing argument, the prosecutor emphasized that Jones had recently been released from prison and also mocked the defense expert's suggestion that Jones could do well with treatment. The prosecutor told the jury that, Jones "was given opportunities through the prison system, drug counseling, educational counseling." (R. 2732) He further argued that, "The man has rejected every societal attempt to make him productive. How much can we do as a society?" (R. 2732). He implied to the jury that the State of Florida had offered Jones so much help but he simply didn't want it.[2]

[2] The Compensation Bill also includes a provision that "allows the Commissioner of Education to award a standard high school

"Dr. Toomer would have you believe that if you order the defendant into some program that some good would happen. You know better than that Folks. You got to want to have help. You got to want it." (R. 2732-33)

In light of the State of Florida's current recognition that Okeechobee was not a place that "helped" the boys sentenced there, but rather a vicious and dangerous place where the guards traumatized and damaged the children in their care, the State could not make such an argument at a new penalty phase proceeding, or, the State could but it wouldn't carry weight with a reasonable juror.

Additionally, even if the trial court didn't find any mitigation, there clearly were undisputed facts presented at trial, and later on in the postconviction proceedings, which have mitigating value: that Jones's alcoholic mother abandoned him, that his I.Q. falls within the bottom 2.3% of the population, and other facts a reasonable

diploma to a person so compensated who has not completed high school graduation requirements." (WR. 632) This provision was included because education credits, if any, that the survivors received at Dozier or Okeechobee were non-transferable. Many of the survivors failed to complete high school because of the lack of a meaningful educational component at Dozier and Okeechobee. Jones would be eligible for this as well since he did not complete high school, no doubt in part because of his time at Okeechobee.

juror could conclude mitigate Jones's moral culpability and serve as a basis for a sentence of less than death.

Notably, at the postconviction hearing, where the court found Jones's sister and cousin not credible when they described the abuse from Laura Long and her son, Jones's trial lawyer stated that he never felt Laura Long was "open or candid" with him. (PCR. 592) Trial counsel said that his failure to fully investigate and resolve the conflict between Jones's claims of Long's beatings and Long's testimony describing Jones's life with her as idyllic was "fatal because it obscures the truth. It destroys the truth-seeking process." (PCR 594-95) As he explained it:

> The discrepancy sits between Laura Long's description of their lives and his [description]. That was particularly critical to me because I think studies have shown generally that we manufacture killers, frankly, by abusing young children, so that was a very critical factor.

(PCR. 596).

Jones has shown he deserves an evidentiary hearing on this claim and has made a sufficient showing of a probability of a less severe sentence.

REPLY TO ARGUMENT II

The Lower Court Abused Its Discretion in Denying Jones Access to Public Records in Violation of the Fifth, Eighth and Fourteenth Amendments to the United States Constitution and the Corresponding Provisions of the Florida Constitution.

The State argues that as to demands for records related to the Okeechobee School, which is the focus of Jones's appeal on this claim, that public records requests are circumscribed under warrant. (Answer, p. 45) As Jones set out in his initial brief, Rule 3.852 "was never intended to . . . diminish a citizen's constitutional right to public records." *In re Amends. To Fla. R. Crim. P.-Cap. Postconviction Recs. Prod.,* 683 So. 2d 475, 477 (Fla. 1996) (Anstead, J. specially concurring).

The State cites no authority for its argument on statutory construction, which is an attempt to invalidate an express portion of Rule 3.852. Rule 3.852(i) was the proper vehicle to obtain records that nether concerned the initial production of records nor the request of records from agencies Jones requested from in his initial postconviction process.

The State next argues that the denial of records did not amount to a due process violation. (Answer, p. 46). The State's

argument must fail. Jones demonstrated in his initial brief why the denial of records related to the Okeechobee School rose to the level of a due process violation as it hamstrings his ability to effectively plead his claim, and, that those documents are related to a colorable claim, or are reasonably calculated to lead to the discovery of admissible evidence.

The State asserts that "Jones has not even bothered to justify why he waited until the ink dried upon his death warrant" to seek the Okeechobee records. But the January 6, 2025 letter had only been known to Jones for approximately eight months at the time the Governor signed his death warrant. Jones still had more than four more months to file a successive 3.851 motion on his claim and to seek records.

But perhaps most significantly, Jones's due process violation is best demonstrated by the State's brief. As noted *supra*, the Attorney General's Office is in possession of the records related to Jones's claim of abuse and confirmation into the Victims Compensation Fund but has refused to disclose them. The Attorney General's Office originally claiming it had no relevant records and then later admitting they had responsive records but objecting to

disclosure.

In spite of having these records, the State has advanced a false narrative about the status of Jones's claim in order to advance an argument that Jones's claim fits neatly within this Court's holding in *Cole*. Jones is unable to produce documents in the Attorney General's control to counter their argument and is left in this Court to assert that the Attorney General's factual claims are false, which they are. Surely that is a denial of fundamental fairness and the right to be meaningfully heard.

As to any other arguments on this Claim, Jones stands on his initial brief.

REPLY TO ARGUMENT III

Florida's Warrant Process Deprived Jones Of A Full And Fair Postconviction Proceeding In Violation Of His Constitutional Right To Substantive and Procedural Due Process Under The Fifth And Fourteenth Amendments To The United States Constitution And Corresponding Provisions Of The Florida Constitution, And The Proceedings Further Ran Afoul Of The Requirement for Heightened Reliability in Capital Cases.

The State argues that Jones's claim is untimely, that the truncated warrant schedule did not deny Jones access to public records and that an incomplete record does not bar Jones form

litigating his claims.

As to the State's argument that his claim is untimely, the State's argument lacks merit. Jones could not have possibly previously raised this claim as it would not have been ripe. This argument deserves no further attention.

The State asserts that the Constitution does not give Jones the "right to protest a procedural inconvenience for a situation he brought upon himself by committing a double homicide." (Answer, p. 50) Not only does the State reduce to irrelevance the unnecessarily hurried nature of the warrant period but also fails to squarely acknowledge that the Constitution does provide a criminal defendant the right to be heard in a meaningful manner. "[A]n essential principle of due process is that a deprivation of life . . .be preceded by notice and opportunity for hearing appropriate to the nature of the case." *See Cleveland Bd. of Educ. v. Loudermill*, 470 U.S. 532, 542 (1985) (quoting *Mullane v. Cent. Hannover Bank & Trust Co.*, 339 U.S. 306, 313 (1950).

The State also criticizes Jones because Jones has failed to "indicate any issue the expedited schedule foreclosed." (Answer, p. 52) But as the State's brief makes clear, Jones has been hampered

in his ability to litigate his newly discovered evidence claim and the State has used that to advance facts that are simply not true as noted *supra*.

As Jones set out in his initial brief, the truncated time failed to provide sufficient time for agencies to conduct a search, two agencies had to clarify or correct their responses, including the Attorney General's Office, who claimed they had no records, but corrected that response to claim the records were exempt. Yet, the court refused to require the Attorney General to identify the nature of the exemptions with specificity or conduct an *in camera* review of the records. Those records have become highly relevant to Jones's newly discovered evidence claim. Jones has demonstrated that the unnecessarily truncated nature of the warrant period has denied him due process.

CONCLUSION AND RELIEF SOUGHT

Based upon the foregoing and the record, Mr. Jones respectfully urges this Court to reverse the lower court, stay his execution, and remand to the circuit court for a full and fair opportunity to be heard at an evidentiary hearing, and an opportunity to be provided and review the public records requested,

or grant such other relief as the Court deems just and proper.

Respectfully submitted,

/s/ Marie-Louise Samuels Parmer
MARIE-LOUISE SAMUELS PARMER
Special Assistant CCRC-South
Fla. Bar No.: 0005584
Marie@samuelsparmerlaw.com

BRITTNEY N. LACY
Assistant CCRC-South
Fla. Bar No. 116001
lacyb@ccsr.state.fl.us

JEANINE L. COHEN
Staff Attorney
Fla. Bar No. 128309
CohenJ@ccsr.state.fl.us

Capital Collateral Regional Counsel-South
110 SE 6th Street, Suite 701
Fort Lauderdale, Florida 33301
(954) 713-1284 (Tel.)
(954) 713-1299 (Fax)
COUNSEL FOR MR. JONES

CERTIFICATE OF COMPLIANCE AND FONT

Pursuant to Fla. R. App. P. 9.045, I hereby certify that the Initial Brief of the Appellant has been produced in Bookman Old Style 14-point font. Pursuant to Fla. R. App. P. 9.210(a)(2)(D), this brief complied with the word count (4,232words).

/s/ Marie-Louise Samuels Parmer
MARIE-LOUISE SAMUELS PARMER
Fla. Bar No.: 0005584
Assistant CCRC-South

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing pleading has been electronically filed through the Florida State Courts e-filing portal and served to the parties listed below on September 18, 2025.

/s/ Brittney N. Lacy
BRITTNEY N. LACY
Fla. Bar No.: 116001
Assistant CCRC-South

Copies provided to:

Jennifer A. Davis, Senior Counsel
Office of the Attorney General
Jennifer.Davis@myfloridalegal.com
capapp@myfloridalegal.com

Leslie Campbell, Special Counsel
Office of the Attorney General
Leslie.Campbell@myfloridalegal.com

Lisa-Marie Lerner, Special Counsel
Office of the Attorney General
LisaMarie.Lerner@myfloridalegal.com

Scott A. Browne, Chief Assistant
Office of the Attorney General
scott.browne@myfloridalegal.com

Stephen Ake, Assistant Attorney General
Office of the Attorney General
Stephen.Ake@myfloridalegal.com

Florida Supreme Court Clerk
warrant@flcourts.org

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

VICTOR T. JONES,

Petitioner,

v.

SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS,

Respondent.

ON PETITION FOR WRIT OF CERTIORARI
TO THE SUPREME COURT OF FLORIDA

APPENDIX K

CAPITAL CASE

DEATH WARRANT SIGNED
EXECUTION SET SEPTEMBER 30, 2025, AT 6:00 P.M.

Appellant's Renewed Motion for Stay of Execution, *Victor T. Jones v. State of Florida*, Florida Supreme Court, SC2025-1422 (Sept. 18, 2025)

IN THE SUPREME COURT OF FLORIDA

Case No. SC2025-1422
Lower Court Case No. 1990-CF-50143

VICTOR TONY JONES,
Appellant,

v.

STATE OF FLORIDA,
Appellee.
_____/

EMERGENCY CAPITAL CASE, DEATH WARRANT SIGNED, EXECUTION SCHEDULED: SEPTEMBER 30, 2025 AT 6:00 PM

APPELLANT'S RENEWED MOTION FOR STAY OF EXECUTION

COMES NOW THE APPELLANT, VICTOR TONY JONES, by and through his undersigned counsel, and herein renews his Motion for Stay filed with this Court on September 16, 2025, which asked this Court to enter a stay of his scheduled execution currently set for September 30, 2025, at 6:00 p.m. In support thereof, Mr. Jones states as follows:

Mr. Jones filed a motion for stay of execution with this Court on September 16, 2025. In that motion, Jones explained that he is under a death warrant and is appealing the circuit court's denial of his post-warrant successive motion for postconviction relief.

In his Initial Brief, Mr. Jones challenges his death sentence based on violations of the rights guaranteed to him by the Fifth,

Sixth, Eighth, and Fourteenth Amendments to the United States Constitution. Specifically, Jones argues that newly discovered evidence of a January 6, 2025, letter sent to Mr. Jones by the Office of the Attorney General, Division of Victim Services, Bureau of Victim Compensation notifying Mr. Jones that they had received his application and that he had been determined eligible for compensation as a member of the Okeechobee/Dozier victim compensation fund, is evidence of such a nature that it would probably result in a sentence less than death at a new penalty phase proceeding.

The State filed its Answer Brief with this Court yesterday, September 17, 2025, at 4:35 p.m. In its brief, the State raised for the first time in this litigation that Jones had failed to prove he met the qualifications of the class and as a result he was not compensated. (Answer Brief, p. 29 -30).

Today, September 18, 2025, at 12:04 p.m., Jones filed his Reply Brief in response to the State's Answer brief. In his Reply, p. 8 -14, Jones set out how the State used demonstrably false statements in its Answer Brief to advance an argument that Jones's claim of newly discovered evidence should be denied. Jones also explained

that the Attorney General's Office, Division of Victim Services, Bureau of Victim Compensation is in actual custody and control of the documents that demonstrate the State's asserted facts are false. (Reply, p. 8-14) Jones further averred that he has been unconstitutionally denied the right to obtain these documents by the Attorney General's sustained objections to his Public Records Requests directed to the Attorney General's Office.

The use of demonstrably false allegations in the State's Answer Brief raises significant constitutional questions about the validity of these proceedings and the underlying process. The State's use of facts raised for the first time in their Answer Brief, which they either know or reasonably should know are false, violates Jones's rights under the Fifth, Eighth and Fourteenth Amendments to the United States Constitution and the corresponding provisions of the Florida Constitution.

The State's Answer Brief undermines the integrity of these proceedings, casts a shadow on this process, and threatens the legitimacy of this Court. The disputed facts need to be resolved through evidentiary development, either directly in this Court through written pleadings under oath, or remanded to the court

below, so that the true facts can be determined. If remanded, the Court should reassign this matter to a different judge who has not already prejudged the issue of records disclosure and the merits of Jones's claim.

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. 1988)). This Court may enter a limited stay of execution to meaningfully consider complex legal bases even if, on first appearance, the possibility of relief seems remote. *See King v. Moore*, 824 So 2d 127, 128 (Fla. 2002) (Harding, J., concurring) (concurring in stay of execution "given the gravity of the issue and the potential impact on our state's judicial system" based on lingering "possibility that the Supreme Court intended for this Court to consider" a legal issue where the Supreme Court "did not specifically state to the contrary").

This Court should enter a stay and grant Mr. Jones the due process required to fully and adequately hear his claims as required by Rule 3.851 and the Fifth, Eighth, and Fourteenth Amendments to the U.S. Constitution.

Stays are particularly appropriate where, as in Mr. Jones'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"). Where, as here, the State has advanced arguments to this Court premised on demonstrably false assertions, a stay is warranted.

WHEREFORE, based on the foregoing, Mr. Jones renews his Motion for Stay and asks this Court to issue an order staying his execution scheduled for September 30, 2025, at 6:00 p.m., and resolving the factual dispute through written pleadings in this Court under oath or remanding to the lower court for evidentiary development.

Respectfully submitted,

/s/ Marie-Louise Samuels Parmer
MARIE-LOUISE SAMUELS PARMER
Special Assistant CCRC-South
Fla. Bar No.: 0005584
Marie@samuelsparmerlaw.com

BRITTNEY N. LACY
Assistant CCRC-South
Fla. Bar No. 116001
lacyb@ccsr.state.fl.us

JEANINE L. COHEN
Staff Attorney
Fla. Bar No. 128309
CohenJ@ccsr.state.fl.us

Capital Collateral Regional Counsel-South
110 SE 6th Street, Suite 701
Fort Lauderdale, Florida 33301
(954) 713-1284 (Tel.)
(954) 713-1299 (Fax)
COUNSEL FOR MR. JONES

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing pleading has been electronically filed through the Florida State Courts e-filing portal and served to the parties listed below on September 18, 2025.

/s/ Marie-Louise Samuels Parmer
MARIE-LOUISE SAMUELS PARMR
Fla. Bar No.: 0005584
Assistant CCRC-South

Copies provided to:

Jennifer A. Davis, Senior Counsel
Office of the Attorney General
Jennifer.Davis@myfloridalegal.com
capapp@myfloridalegal.com

Leslie Campbell, Special Counsel
Office of the Attorney General
Leslie.Campbell@myfloridalegal.com

Lisa-Marie Lerner, Special Counsel
Office of the Attorney General
LisaMarie.Lerner@myfloridalegal.com

Scott A. Browne, Chief Assistant
Office of the Attorney General
scott.browne@myfloridalegal.com

Stephen Ake, Assistant Attorney General
Office of the Attorney General
Stephen.Ake@myfloridalegal.com

Florida Supreme Court Clerk
warrant@flcourts.org

IN THE SUPREME COURT OF FLORIDA

Case No. SC2025-1422
Lower Court Case No. 1990-CF-50143

VICTOR TONY JONES,
Appellant,

v.

STATE OF FLORIDA,
Appellee.
_____/

EMERGENCY CAPITAL CASE, DEATH WARRANT SIGNED, EXECUTION SCHEDULED: SEPTEMBER 30, 2025 AT 6:00 PM

APPELLANT'S SECOND RENEWED MOTION FOR STAY OF EXECUTION AND TO RELINQUISH JURISDICTION

COMES NOW THE APPELLANT, VICTOR TONY JONES, by and through his undersigned counsel, and herein moves the Court to enter a stay of his scheduled execution currently set for September 30, 2025, at 6:00 p.m., and permit relinquishment so that the attached documentation can be admitted in the lower court under seal to supplement the record in this case. The attached document filed under seal with this Court is Mr. Jones's Florida Department of Corrections Trust Fund Account Statement showing that on July 7, 2025, the State of Florida deposited money into his account due to the fact that Mr. Jones is a recognized member of the Victim Compensation Class.

In support thereof, Mr. Jones states as follows:

Mr. Jones is appealing the circuit court's denial of post-warrant successive postconviction motion in this Court. In his appeal, Mr. Jones challenges his death sentence based on violations of the rights guaranteed to him by the Fifth, Sixth, Eighth, and Fourteenth Amendments to the United States Constitution.

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. 1988)). This Court may enter a limited stay of execution to meaningfully consider complex legal bases even if, on first appearance, the possibility of relief seems remote. *See King v. Moore*, 824 So 2d 127, 128 (Fla. 2002) (Harding, J., concurring) (concurring in stay of execution "given the gravity of the issue and the potential impact on our state's judicial system" based on lingering "possibility that the Supreme Court intended for this Court to consider" a legal issue where the Supreme Court "did not specifically state to the contrary").

In Response to Mr. Jones's Initial Brief, the Attorney General asserted for the first time, that Mr. Jones was unable to

demonstrate abuse and compensation in support of his claim of newly discovered evidence.

In his Reply Brief, filed last Thursday, September 18, 2025, at 12 p.m., Mr. Jones's expressly stated that the facts underlying the Attorney General's argument were demonstrably false based on documents within the custody and control of the Attorney General's Office. (Reply Brief, p. 8-14)

Thus, the Office of the Attorney General was on notice that the arguments it made to this Court were premised on demonstrably false facts and that the documents which prove that that Attorney General's arguments are based on false facts in the custody and control of the Attorney General's Office.

The Attorney General's Office has now been on notice for five days, a significant amount of time in warrant litigation in Florida, but has yet to file a corrected brief with this Court or to acknowledge that the arguments the Attorney General's Office has advanced are premised on a falsehood.

Due to the urgency and finality of the matter, Jones hereby once again renews his motion for stay and attaches the document he is able to introduce into evidence at the circuit court

demonstrating the Attorney General's Office argument is false. (Attachment A, Florida Department of Corrections, Trust Fund Account Statement showing July 7, 2025 payment by the State of Florida, filed under seal).

A judicial decision about whether or not an individual will live or die, should not be infected by an argument advanced by the prosecution, which asserts facts that are now clearly known to be demonstrably false. Premising a ruling or judicial determination of the appropriateness of the execution of an individual on demonstrably false facts is inherently violative of due process.

WHEREFORE, based on the foregoing, Mr. Jones moves this Court to issue an order staying his execution scheduled for September 30, 2025, at 6:00 p.m. and relinquishing jurisdiction so he may file in the circuit court his inmate statement of account demonstrating that the State has advanced an argument based on demonstrably false facts.

Respectfully submitted,

/s/ Marie-Louise Samuels Parmer
MARIE-LOUISE SAMUELS PARMER
Special Assistant CCRC-South
Fla. Bar No.: 0005584
Marie@samuelsparmerlaw.com

BRITTNEY N. LACY
Assistant CCRC-South
Fla. Bar No. 116001
lacyb@ccsr.state.fl.us

JEANINE L. COHEN
Staff Attorney
Fla. Bar No. 128309
CohenJ@ccsr.state.fl.us

Capital Collateral Regional Counsel-South
110 SE 6th Street, Suite 701
Fort Lauderdale, Florida 33301
(954) 713-1284 (Tel.)
(954) 713-1299 (Fax)
COUNSEL FOR MR. JONES

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing pleading has been electronically filed through the Florida State Courts e-filing portal and served to the parties listed below on September 22, 2025.

/s/ Marie-Louise Samuels Parmer
MARIE-LOUISE SAMUELS PARMR
Fla. Bar No.: 0005584
Assistant CCRC-South

Copies provided to:

Jennifer A. Davis, Senior Counsel
Office of the Attorney General
Jennifer.Davis@myfloridalegal.com
capapp@myfloridalegal.com

Leslie Campbell, Special Counsel
Office of the Attorney General
Leslie.Campbell@myfloridalegal.com

Lisa-Marie Lerner, Special Counsel
Office of the Attorney General
LisaMarie.Lerner@myfloridalegal.com

Scott A. Browne, Chief Assistant
Office of the Attorney General
scott.browne@myfloridalegal.com

Stephen Ake, Assistant Attorney General
Office of the Attorney General
Stephen.Ake@myfloridalegal.com

Florida Supreme Court Clerk
warrant@flcourts.org

Attachment A

ACCT NAME: JONES, VICTOR T. ACCT#: 420481
BED: Q2102S TYPE: INMATE TRUST
PO BOX:

BEGINNING BALANCE 01/01/25 $0.00

POSTED DATE	NBR	TYPE	REFERENCE NUMBER	FAC	REMITTER/PAYEE	+/-	AMOUNT	BALANCE
[redacted]								
07/07/25	176	GOVERNMENT CHEC	5409912390	000	STATE OF FLORIDA	+	$21,253.98	$21,253.98
[redacted]								