NO. _____

IN THE SUPREME COURT OF THE UNITED STATES

In Re SANTOS HERNANDEZ JR., —PETITIONER

APPENDICES

APPENDIX A: Application Dismissed (USCA11 Case: 25-11461)

APPENDIX B: Application Denied (USCA11: 25-10443)

APPENDIX A

In the
United States Court of Appeals
For the Eleventh Circuit

No. 25-11461

In re: SANTOS HERNANDEZ, JR.,

Petitioner.

Application for Leave to File a Second or Successive
Habeas Corpus Petition, 28 U.S.C. § 2244(b)

Before GRANT, BRASHER, and KIDD, Circuit Judges.

BY THE PANEL:

Pursuant to 28 U.S.C. § 2244(b)(3)(A), Santos Hernandez, Jr., has filed an application seeking an order authorizing the district court to consider a second or successive petition for a writ of habeas corpus. Such authorization may be granted only if:

> (A) the applicant shows that the claim relies on a new rule of constitutional law, made retroactive to cases

> on collateral review by the Supreme Court, that was previously unavailable; or
>
> (B)(i) the factual predicate for the claim could not have been discovered previously through the exercise of due diligence; and
>
> (ii) the facts underlying the claim, if proven and viewed in light of the evidence as a whole, would be sufficient to establish by clear and convincing evidence that, but for constitutional error, no reasonable factfinder would have found the applicant guilty of the underlying offense.

28 U.S.C. § 2244(b)(2). "The court of appeals may authorize the filing of a second or successive application only if it determines that the application makes a prima facie showing that the application satisfies the requirements of this subsection." *Id.* § 2244(b)(3)(C); *see also Jordan v. Sec'y, Dep't of Corr.*, 485 F.3d 1351, 1357–58 (11th Cir. 2007) (explaining that this Court's determination that an applicant has made a *prima facie* showing that the statutory criteria have been met is simply a threshold determination).

A claim presented in an application for leave to file a successive 28 U.S.C. § 2254 petition that was presented in a "prior application" must be dismissed. 28 U.S.C. § 2244(b)(1) (providing that a claim presented in a successive application under 28 U.S.C. § 2254 must be dismissed if it was filed in a prior "application"); *see also In re Mills*, 101 F.3d 1369, 1371 (11th Cir. 1996) (dismissing Mills's claims that he raised in his initial § 2254 petition). A claim is the

same if "the basic thrust or gravamen of the applicant's legal argument is the same." *In re Everett*, 797 F.3d 1282, 1288 (11th Cir. 2015) (quotation marks omitted and alterations accepted). The bar in § 2244(b)(1) is jurisdictional. *In re Bradford*, 830 F.3d 1273, 1277-78 (11th Cir. 2016).

Hernandez is a Florida prisoner serving a life sentence for first-degree murder. He filed his original § 2254 petition in March 2022 and subsequently filed an amended § 2254 petition in April 2022. The district court dismissed his § 2254 petition as time-barred. In February 2025, Hernandez filed an application with this Court seeking permission to file a second or successive § 2254 petition, alleging that newly discovered evidence revealed that incriminating statements that he made to detectives had been coerced.

In his present application, Hernandez seeks to raise a single claim in a second or successive § 2254 petition. He argues that resources available to him through the Florida Department of Corrections enabled him to discover that he was coerced into making a self-incriminating statement. As evidence of coercion, he points to the number of times that he was interrogated; the length of each interrogation; the fact that the interrogation was partially recorded; and the date, time, and location of his written *Miranda*[1] waiver. He characterizes this evidence as newly discovered, contending that because he has a middle-school education and history of severe

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[1] *Miranda v. Arizona*, 384 U.S. 436 (1966).

mental health issues, he was previously unaware that his statement to detectives was coerced. He argues that the evidence was not previously available to him through the exercise of due diligence because of his educational and mental capacity. He contends that no reasonable factfinder would have found him guilty of the offense if the state had not used his self-incriminating statement against him at trial. He concedes that his claim does not rely on a new rule of constitutional law.

Here, the claim Hernandez seeks to raise is the same claim presented in his February 2025 application. Because Hernandez presented in a prior application the sole claim that he seeks to raise in the instant application, we are jurisdictionally barred from considering it here. 28 U.S.C. § 2244(b)(1).

Accordingly, because we lack jurisdiction over Hernandez's claim pursuant to § 2244(b)(1), his application for leave to file a second or successive petition is hereby **DISMISSED**.

APPENDIX B

In the
United States Court of Appeals
For the Eleventh Circuit

No. 25-10443

In re: SANTOS HERNANDEZ, JR.,

Petitioner.

Application for Leave to File a Second or Successive
Habeas Corpus Petition, 28 U.S.C. § 2244(b)

Before GRANT, BRASHER, and KIDD, Circuit Judges.

BY THE PANEL:

Pursuant to 28 U.S.C. § 2244(b)(3)(A), Santos Hernandez, Jr., has filed an application seeking an order authorizing the district court to consider a second or successive petition for a writ of habeas corpus. Such authorization may be granted only if:

> (A) the applicant shows that the claim relies on a new rule of constitutional law, made retroactive to cases

> on collateral review by the Supreme Court, that was previously unavailable; or
>
> (B)(i) the factual predicate for the claim could not have been discovered previously through the exercise of due diligence; and
>
> (ii) the facts underlying the claim, if proven and viewed in light of the evidence as a whole, would be sufficient to establish by clear and convincing evidence that, but for constitutional error, no reasonable factfinder would have found the applicant guilty of the underlying offense.

28 U.S.C. § 2244(b)(2). "The court of appeals may authorize the filing of a second or successive application only if it determines that the application makes a prima facie showing that the application satisfies the requirements of this subsection." *Id.* § 2244(b)(3)(C); *see also Jordan v. Sec'y, Dep't of Corr.*, 485 F.3d 1351, 1357–58 (11th Cir. 2007) (explaining that this Court's determination that an applicant has made a *prima facie* showing that the statutory criteria have been met is simply a threshold determination).

Hernandez is a Florida prisoner serving a life sentence for first degree murder.

As a brief factual background, Hernandez filed his original § 2254 petition in March 2022 and subsequently filed an amended § 2254 petition on the court's required form in April 2022. The district court ultimately dismissed his § 2254 petition as time-barred.

In his present application, Hernandez indicates that he seeks to raise a single claim in a second or successive § 2254 motion. Hernandez claims that he "newly discovered" that his Fifth Amendment rights "[were] violated by detectives when they . . . coer[c]ed him into making a self-incriminating statement," and cites to *Miranda v. Arizona*, 384 U.S. 436 (1966). Hernandez does not indicate how he was coerced or what statement was obtained.

A petitioner relying on newly discovered evidence "must show some good reason why he or she was unable to discover the facts supporting the motion before filing the first habeas motion." *In re Boshears*, 110 F.3d 1538, 1540 (11th Cir. 1997). "An application that merely alleges that the applicant did not actually know the facts underlying his or her claim does not pass this test." *Id.* "Thus, in evaluating an application under § 2244(b)(2)(B)(i), we inquire whether a reasonable investigation undertaken before the initial habeas motion was litigated would have uncovered the facts the applicant alleges are newly discovered." *Id.* (quotation marks omitted).

Here, Hernandez's sole claim fails to make a *prima facie* showing that satisfies the statutory criteria set forth in § 2244(b). Hernandez indicates that his claim relies on "newly discovered evidence"—namely, his discovery that detectives coerced him into making incriminating statements in violation of his Fifth Amendment rights under *Miranda*. However, his *Miranda* rights are not "newly discovered evidence" under 28 U.S.C.§ 2244(b)(2)(B), as: (1) they existed at the time of his conviction; (2) he could have

discovered them through a reasonable investigation of his case; and (3) in any event, they do not establish his innocence by clear and convincing evidence. Moreover, to the extent that Hernandez is asserting that his claim relies on a new rule of constitutional law, he fails to cite to a United States Supreme Court case "that was previously unavailable." Instead, Hernandez only cites to *Miranda*, which the Supreme Court decided before his initial § 2254 petition.

Accordingly, because Hernandez has failed to make a *prima facie* showing of the existence of either of the grounds set forth in § 2244(b)(2), his application for leave to file a second or successive petition is hereby DENIED.