

No. _____

In the Supreme Court of the United States

CHADWICK WILLACY,
Petitioner,
v.
STATE OF FLORIDA,
Respondent.

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

PETITION FOR A WRIT OF CERTIORARI

CAPITAL CASE
DEATH WARRANT SIGNED
Execution Scheduled: April 21, 2026, at 6:00 PM ET

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Appendix A

Willacy v. State, --- So. 3d. ---, 2026 WL 1021168 (Fla. Apr. 15, 2026) (denying Writ of Habeas Corpus SC2026-0526, and Appellant's Initial Brief, SC2026-0519)

Supreme Court of Florida

No. SC2026-0519

CHADWICK WILLACY,
Appellant,

vs.

STATE OF FLORIDA,
Appellee.

No. SC2026-0526

CHADWICK WILLACY,
Petitioner,

vs.

STATE OF FLORIDA,
Respondent.

April 15, 2026

PER CURIAM.

Thirty-one years after Chadwick Willacy was sentenced to death for capital murder, Governor DeSantis signed his death

warrant on March 13, 2026, with an execution date of April 21, 2026.

When the warrant was signed, Willacy already had a pending motion under Florida Rule of Criminal Procedure 3.852¹ seeking public records from the Florida Department of Corrections (FDOC) on Florida’s lethal injection protocol. He filed a second motion after the warrant was signed seeking from FDOC, the Executive Office of the Governor (Governor), the Office of the Attorney General (AG), and the State Attorney for the Eighteenth Judicial Circuit (State Attorney) records regarding communications purportedly had among them. The circuit court denied both motions in one order and denied Willacy’s subsequent motion for rehearing/in camera

1. When rule 3.852 was adopted, it was described as a “discovery rule for public records production ancillary to proceedings pursuant to [Florida Rules of Criminal Procedure] 3.850 and 3.851,” i.e., postconviction proceedings. *Sims v. State*, 753 So. 2d 66, 69 (Fla. 2000) (quoting *Amends. to Fla. Rules of Crim. Proc.*, 754 So. 2d 640, 643 (Fla. 1999)); *see also* Fla. R. Crim. P. 3.852(a)(1) (“This rule is applicable only to the production of public records for capital postconviction defendants and does not change or alter the time periods specified in Florida Rule of Criminal Procedure 3.851. Furthermore, this rule does not affect, expand, or limit the production of public records for any purposes other than use in a proceeding held pursuant to rule 3.850 or rule 3.851.”).

review. Importantly, Willacy did not file a rule **3.851** motion. And the time to file such a motion under our order setting an expedited timeline for post-warrant proceedings has already expired.

For the reasons explained below, we have jurisdiction² but treat Willacy's appeal of the order denying his public records requests as a petition filed pursuant to Florida Rule of Appellate Procedure 9.142(c) and deny the petition. We dismiss his appeal from the order denying his motion for extension of time to file a successive postconviction motion. We further deny Willacy's petition for writ of habeas corpus, as well as his request for oral argument.

I. Background

The facts of this case are especially heinous. Willacy was in the process of burglarizing the home of his neighbor, Marlys Sather, when she came home and caught him in the act. After binding, strangling, and bludgeoning her with a force so intense that it

2. See art. V, § 3(b)(1), (9), Fla. Const.; Fla. R. App. P. 9.142(c); *Sims*, 753 So. 2d at 67 (reviewing order denying public records under rule 3.852 on plenary appeal where capital defendant's warrant had been signed and successive postconviction motion was still pending).

dislodged a portion of her skull, Willacy doused her with gasoline and set her on fire, training a fan on the fire to feed the flames. Ms. Sather ultimately died from smoke inhalation. And Willacy was convicted of first-degree murder, arson, robbery, and burglary.

We affirmed Willacy's convictions on direct appeal but remanded for a new penalty phase based on the trial court's denial of Willacy's attempt to rehabilitate a juror. *Willacy v. State*, 640 So. 2d 1079 (Fla. 1994).

Following his new penalty phase, the jury recommended the death sentence by a vote of 11-1, and the trial court again sentenced him to death. The sentence was supported by the existence of five aggravating factors showing that the murder was: (1) committed in the course of a robbery, arson, and burglary; (2) committed to avoid lawful arrest; (3) committed for pecuniary gain; (4) especially heinous, atrocious, or cruel; and (5) committed in a cold, calculated, and premeditated manner. The trial court found no statutory mitigators and thirty-one nonstatutory mitigators to which it assigned little weight. We affirmed his sentence on appeal. *Willacy v. State*, 696 So. 2d 693 (Fla.), *cert. denied*, 522 U.S. 970 (1997).

Willacy then filed his initial postconviction motion, followed by an amended motion, raising thirty-one claims. Following an evidentiary hearing on multiple claims, the circuit court denied relief. We affirmed, and we also denied an accompanying petition for writ of habeas corpus. *Willacy v. State*, 967 So. 2d 131 (Fla. 2007), *cert. denied*, 552 U.S. 1265 (2008).

Willacy filed a flurry of other unsuccessful state and federal challenges over the years. *See Willacy v. McNeil*, 33 So. 3d 36 (Fla. 2010) (table) (denying successive habeas petition); *Willacy v. State*, 90 So. 3d 822 (Fla. 2012) (affirming denial of first successive postconviction motion), *cert. denied*, 568 U.S. 1147 (2013); *Willacy v. Sec'y, Dep't of Corr.*, No. 6:08-CV-619-ORL-31LRS, 2014 WL 3594213 (M.D. Fla. July 18, 2014) (denying federal habeas petition raising many of the same claims raised in *Willacy*, 967 So. 2d 131), *aff'd*, 703 F. App'x 744 (11th Cir. 2017), *cert. denied*, 584 U.S. 964 (2018);³ *Willacy v. State*, 238 So. 3d 100 (Fla.) (affirming denial of

3. Several years later, Willacy moved to reopen his federal habeas case. The motion was denied, and the Eleventh Circuit Court of Appeals denied a certificate of appealability.

successive postconviction motion raising *Hurst*⁴ claim), *cert. denied*, 586 U.S. 866 (2018); *Willacy v. State*, 314 So. 3d 246 (Fla. 2021) (affirming denial of successive postconviction motion raising claim under *Flowers v. Mississippi*, 588 U.S. 284 (2019)).

And in this case, after the circuit court denied his motion for public records on March 23, 2026, two days later, Willacy filed a motion for rehearing and in camera inspection of the records and a motion for an extension of time to file a successive postconviction motion. Both motions were denied, though the circuit court granted Willacy additional time to file his successive postconviction motion.

In the meantime, on March 25, 2026, Willacy petitioned this Court for mandamus relief (SC2026-0483), which was denied on March 31, 2026.⁵ Willacy never filed a successive postconviction

4. *Hurst v. State*, 202 So. 3d 40 (Fla. 2016), *receded from in part by State v. Poole*, 297 So. 3d 487 (Fla. 2020).

5. In death penalty cases, a mandamus petition is treated as it would be under Florida Rule of Appellate Procedure 9.100(e) and (h), *see* Fla. R. App. P. 9.142(b)(1), and there is no automatic stay of proceedings. The only automatic stay provided for extraordinary writs under rule 9.100(h) applies when an appellate court issues a show cause order on a prohibition petition.

motion.⁶

Instead, he filed the instant action, habeas petition, and challenges to the denials of his motions for extension of time to file a successive postconviction motion and for rehearing/in camera inspection of public records.

II. Rule 9.142(c) Petition

A. Jurisdiction and Scope

This petition concerns only the circuit court’s single order denying Willacy’s public records requests—the pre-warrant request filed March 6 and the post-warrant requests filed March 18—and Willacy’s related motion for rehearing/in camera review. All public records requests were raised in motions filed pursuant to Florida Rule of Criminal Procedure 3.852.

When rule 3.852 was adopted, it was described as a “discovery rule for public records production ancillary to proceedings pursuant to rules 3.850 and 3.851.” *Sims v. State*, 753 So. 2d 66, 69 (Fla. 2000) (citing *Amends. to Fla. Rules of Crim. Proc.*, 754 So. 2d 640,

6. In his mandamus petition, Willacy asserted that without the requested records, a rule 3.851 motion could not be filed.

643 (Fla. 1999)). Though we did not indicate in *Sims* whether the order was final or nonfinal, in that case, this Court reviewed an order denying public records under rule 3.852 on plenary appeal where the capital defendant's warrant had been signed and the successive postconviction motion was still pending. *Id.* at 67. A month later, in *Trepal v. State*, we determined that we have jurisdiction over nonfinal discovery orders in postconviction death cases, 754 So. 2d 702, 707 (Fla. 2000) ("We emphasize that our review of interlocutory orders is limited to postconviction proceedings following imposition of the death penalty"), and described an order denying a motion to compel public records as a postconviction discovery order, *id.* at 706 ("Following the signing of the warrant . . . [t]he trial court denied Sims' motion to compel production of public records, which this Court affirmed by order" (alteration and omissions in original) (quoting *Sims v. State*, 750 So. 2d 622, 623 n.3 (Fla. 1999))). To effectuate the procedures in *Trepal*, we then adopted rule 9.142, which provides for review of nonfinal orders in death penalty postconviction proceedings. See *Amend. to Fla. Rules of App. Proc. (Rule 9.142)*, 837 So. 2d 911 (Fla. 2002).

Though no successive postconviction motion is currently pending in this case, we think it appropriate to treat Willacy's appeal of the circuit court's order denying both his March 6 and 18 public records requests as a petition seeking review of a nonfinal discovery order pursuant to rule 9.142(c) based on our precedent.

However, we conclude that we lack jurisdiction to review Willacy's claim that the circuit court erred by denying his later-filed motion for extension of time to file his postconviction motion. This issue is untethered to any claim for relief from his judgment or sentence. As such, we find it is a nonappealable interlocutory order and decline to address it further.⁷

B. Denial of Public Records Requests

During the hearing on the pre- and post-warrant motions, Willacy argued that the denial of his motions would violate his right to access public records under article I, section 24 of the Florida Constitution and his federal rights to due process and equal protection under the United States Constitution.

7. Even if this order could be considered, Willacy would be time-barred from seeking review because the time for filing a postconviction motion has expired.

Willacy sought from FDOC records related to executions carried out after March 1, 2025, and virtually every aspect of the lethal injection process, including: execution team training; execution logs, checklists, and compliance verification; the process of obtaining, handling, storing, preparing, and administering the lethal injection drugs; monitoring data; methods for assessing consciousness and confirming death; and post-execution debriefings.

From FDOC, the AG, the Governor, and the State Attorney, Willacy sought internal and interagency communications from March 6 to March 13, 2026, discussing his March 6 records request; the scheduling of his execution; or any communications regarding his death warrant. He asserted that any such records

would demonstrate whether the interested agencies involved communicated regarding Chadwick Willacy's demand for public records filed on March 6, 2026; whether the interested agencies' silence regarding the records demand was due to advanced notice that the Governor would be signing Mr. Willacy's death warrant or in the alternative, if the signing of Mr. Willacy's death warrant was in response to Willacy's March 6th public records demand.

[And the requests are also] reasonably calculated to lead to admissible evidence regarding whether [FDOC] continues to strategize means to avoid compliance with record demands and thus preventing the discovery of

evidence that is not in compliance with carrying out executions in accordance with the lethal injection protocol signed by the Secretary on February 18, 2025, and whether noncompliance unnecessarily subjects Mr. Willacy to suffering and cruelty in violation of the Eighth and Fourteenth Amendments to the U.S. Constitution and corresponding provisions of the Florida Constitution.

(Footnote omitted.)

The circuit court denied both motions. Though we ordinarily review such claims when raised in conjunction with a final order addressing the postconviction motion for an abuse of discretion, *see Heath v. State*, 426 So. 3d 1253, 1263 (Fla. 2026) (reviewing denial of a public records request for abuse of discretion (citing *Muhammad v. State*, 132 So. 3d 176, 200 (Fla. 2013))), *cert. denied*, No. 25-6746, 2026 WL 363902 (U.S. Feb. 10, 2026), in *Trepal*, this Court announced that it would utilize the certiorari review standard applied by the district courts of appeal in reviewing discovery orders:

Drawing upon the district courts' use of the writ of certiorari to provide an instructive model of how this Court may exercise its jurisdiction in such cases, we hold that to obtain relief an appellant must establish that the order compelling discovery does not conform to the essential requirements of law and may cause irreparable injury for which appellate review will be inadequate.

754 So. 2d at 707.⁸

The irreparable harm requirement has been codified in rule 9.142(c)(4)(F). And on this point, Willacy has asserted that he cannot file a successive postconviction motion without the requested records. Given the expedited timeline of this active warrant case, we will assume for the sake of argument that Willacy has satisfied a showing of irreparable harm.

However, Willacy has not demonstrated that the circuit court departed from the essential requirements of the law by denying his records requests. As a result, we deny his petition.

As a preliminary matter, we agree with the circuit court's conclusion that all Willacy's requests were unrelated to any colorable claim for postconviction relief—the common objection

8. “Generally speaking, irreparable harm cannot be speculative, but must be real and ascertainable.” *Wal-Mart Stores E., L.P. v. Endicott*, 81 So. 3d 486, 490-91 (Fla. 1st DCA 2011) (citing *Holden Cove, Inc. v. 4 Mac Holdings, Inc.*, 948 So. 2d 1041, 1042 (Fla. 5th DCA 2007)). “However, irreparable harm in the discovery of confidential information presents an exception to this general rule. This type of harm is known as ‘cat out of the bag’ harm because once the documents are disseminated, a privacy . . . interest has been invaded which cannot be remedied on direct appeal.” *Id.*

advanced by each of the agencies. We find unpersuasive Willacy’s counter—that denial was improper because nothing in rule 3.852 or the Florida Statutes expressly imposes such a requirement, and to do so places a higher burden on capital defendants than on other persons—because we have long recognized the requirement of a nexus between the requested records and a colorable claim for postconviction relief. *See, e.g., Sims*, 753 So. 2d at 70; *Dailey v. State*, 283 So. 3d 782, 792 (Fla. 2019); *Asay v. State*, 224 So. 3d 695, 700 (Fla. 2017). The reason we require some nexus is because the rule “is not intended to be a procedure authorizing a fishing expedition for records unrelated to a colorable claim for postconviction relief.” *Sims*, 753 So. 2d at 70.

Willacy’s argument that the term “colorable claim” is a “judicially imposed requirement” is a non-starter. The term follows from the rule’s mandate—that requested records be relevant to a postconviction proceeding or reasonably calculated to lead to admissible evidence. In this context, the relevancy of the requested records, or their ability to be reasonably calculated to lead to admissible evidence, is directly measured by their connection to a colorable claim for relief. This limitation is particularly important in

post-warrant proceedings to ensure that records requests are not used as a delay tactic but reflect a focused investigation into a legitimate area of inquiry. *See id.* (“Rule 3.852 is not intended for use by defendants as . . . ‘nothing more than an eleventh hour attempt to delay the execution rather than a focused investigation into some legitimate area of inquiry.’”). Willacy’s claim that he should not be required to establish that the requested records relate to a colorable claim for postconviction relief thus fails. And the circuit court did not depart from the essential requirements of the law by requiring a showing of a colorable claim.

Turning to the specifics of Willacy’s March 6 public records request, he sought records relating to nearly every aspect of the lethal injection process to determine whether FDOC was complying with its protocol and whether a constitutional violation might exist. That was a fishing expedition. He did not allege that the records would support a postconviction claim.

Willacy was merely “ ‘seeking to discover if possible claims exist, rather than records to support a colorable claim for postconviction relief,’ an objective unsupported by law.” *Heath*, 426 So. 3d at 1265 (quoting *Damas v. State*, 423 So. 3d 811, 823 (Fla.

2025)). And so the circuit court properly denied this motion.

With respect to Willacy's March 18 public records requests, they suffer from the same defect as the first. Willacy asserted that the records sought would demonstrate whether the agencies to which they were directed communicated regarding the March 6 records request or the signing of the death warrant, or if the signing of the death warrant was in response to the March 6 request. Willacy theorized that such communications might show that FDOC avoided responding to his March 6 request to be able to "reframe" it as a post-warrant request requiring that it be related to a colorable claim.⁹

These assertions, even if true, do not establish a colorable claim for postconviction relief. There is no prohibition on communication among executive branch agencies regarding a

9. Willacy argued below that any "colorable claim" requirement for capital postconviction defendants to obtain public records only applies to post-warrant requests because the cases cited by the agencies in their objections discussing the "colorable claim" requirement were post-warrant cases. But we can discern no reason to treat a pre-warrant request for additional public records under rule 3.852(i) differently than a post-warrant request under the same provision.

capital defendant, a public records request, or the signing of a death warrant. To the extent Willacy is attempting to establish a claim that he was somehow improperly selected for a death warrant, “challenges to the Governor’s absolute discretion to issue death warrants . . . do not present colorable claims for postconviction relief.” *Id.* at 1264-65.

Like the March 6 request, the March 18 request also constituted a fishing expedition seeking records in the hope of uncovering a claim rather than supporting an existing one. Rule 3.852 does not permit such exploratory discovery.

Moreover, we have repeatedly rejected arguments that denials of requests under rule 3.852 for public records regarding Florida’s administration of its lethal injection protocol or speculative interagency communications violate the right of access to courts, due process, or equal protection. *See, e.g., King v. State*, SC2026-0336, 2026 WL 672101, at *5-6 (Fla. Mar. 10) (concluding that denial of similar public records request regarding lethal injection protocol did not violate due process on ground that records were necessary to support equal protection claim, where defendant failed to allege he was not afforded notice and opportunity to be heard on

public records demand; instead, circuit court held hearing on demand, and defense counsel presented argument on issue but never “asserted a divergence from protocol that would result in a manner of execution that would raise equal protection concerns”), *cert. denied*, 2026 WL 730666 (U.S. Mar. 16, 2026); *Kearse v. State*, 428 So. 3d 75, 81 (Fla. 2026) (rejecting claim that denying post-warrant public records requests for interagency communications based on speculation that state or county agency engaged in misconduct by contacting juror violated defendant’s rights to due process and equal protection), *cert. denied*, No. 25-6926, 2026 WL 586905 (U.S. Mar. 3, 2026); *Damas*, 423 So. 3d at 823 (rejecting capital defendant’s postconviction claim that denial of public records requests violated his rights to due process and access to courts where defendant was “seeking to discover if possible claims exist, rather than records to support a colorable claim for postconviction relief”); *Zakrzewski v. State*, 415 So. 3d 203, 211-12 (Fla.) (rejecting claim that denial of post-warrant requests under rule 3.852 for public records relating to lethal injection protocol violated defendant’s rights to due process and access to courts where requests did not relate to a colorable claim for relief), *cert.*

denied, 146 S. Ct. 57 (2025). We likewise reject Willacy’s arguments that the denial of the records requests at issue violated his rights of access to courts, due process, or equal protection.

In sum, we conclude that the circuit court did not depart from the essential requirements of the law because Willacy failed to establish that the requested records were tied to a colorable claim for postconviction relief. Having found no error, we need not address the agencies’ other objections and deny Willacy’s petition.

C. Motion for Rehearing and In Camera Inspection

In his connected claim, Willacy asserts that the circuit court erred by failing to grant his motion for rehearing and request to conduct an in camera inspection of the requested records that the agencies objected to on the grounds that the records were exempt and confidential. Though we review for a departure from the essential requirements of the law in this case, we have recognized that granting an in camera inspection is within the circuit court’s discretion, and have held that there is no abuse of that discretion when a defendant merely speculates that a colorable claim might be uncovered. *See Jones v. State*, 419 So. 3d 619, 628 (Fla.) (“Jones speculates that in camera inspection might have uncovered *Brady*

material. But Jones has not identified any reason to believe that *Brady* material has been withheld, nor has he identified any authority requiring an in camera inspection or evidentiary hearing under these circumstances. We cannot find that the circuit court abused its discretion here.” (footnote omitted)), *cert. denied*, 146 S. Ct. 79 (2025).

Though Willacy cites *Everglades Law Center, Inc. v. South Florida Water Management District*, 290 So. 3d 123, 124 (Fla. 4th DCA 2019), for the proposition that the circuit court’s failure to conduct an in camera review of the subject record amounted to “fundamental error,” *Everglades Law Center* is inapposite because it was not a capital postconviction case, but rather a case about the statutory mediation communication exemption under sections 44.102(3) and 44.405(1), Florida Statutes (2017).

Willacy’s requests come under rule 3.852 and the corresponding Florida Statutes applicable only to public records in capital postconviction cases. These provisions set forth a streamlined method for submitting records throughout capital proceedings into a records repository by certain deadlines for the purpose of providing an orderly and “carefully tailored discovery

rule for public records production ancillary to rule 3.850 and 3.851 proceedings.” *Sims*, 753 So. 2d at 69 (quoting *In re Amends. to Fla. R. Crim. P.—Cap. Postconviction Pub. Recs. Prod.*, 683 So. 2d 475, 476 (Fla. 1996)). While in camera inspection of exempt or confidential records is permitted, whether to grant in camera inspection is at the discretion of the circuit court in capital postconviction proceedings.¹⁰

Thus, we reject Willacy’s suggestion that an in camera inspection was required. And given our conclusion that the circuit court did not err in denying Willacy’s public records requests because he hoped to uncover a claim rather than to support one, Willacy has likewise failed to demonstrate how the circuit court

10. The current version of section 27.7081(11)(a)-(b) explicitly places the decision to “[c]ompel or deny disclosure of records” or “[c]onduct an inspection in camera” in a capital postconviction case within the sound discretion of the trial court. § 27.7081(11)(a)-(b), Fla. Stat. (2025) (“In proceedings under this section the trial court **may**: (a) Compel or deny disclosure of records. (b) Conduct an inspection in camera.” (emphasis added)). “Per the ‘Mandatory/Permissive Canon,’ the word ‘may’ is commonly treated as a permissive word granting discretion.” *Boca Ctr. at Mil., LLC v. City of Boca Raton*, 312 So. 3d 920, 923 (Fla. 4th DCA 2021) (citing Antonin Scalia & Bryan A. Garner, *Reading Law: The Interpretation of Legal Texts* 112 (2012)); see also *City of Miami v. Gonzalez*, 419 So. 3d 677, 685 (Fla. 3d DCA 2025) (quoting same).

erred by denying his request for an in camera inspection and rehearing. Therefore, we deny relief on this issue.

III. Petition for Writ of Habeas Corpus

In his habeas petition, Willacy repeats his claim that the denials of both his public records requests violate his rights to due process, equal protection, and access to courts. We deny his petition because orders denying public records requests are not cognizable in a petition for habeas corpus. *See Johns v. Wainwright*, 253 So. 2d 873, 874 (Fla. 1971) (habeas corpus is not a substitute for certiorari). Accordingly, Willacy is not entitled to relief.

IV. Conclusion

We deny Willacy's petition seeking review of the circuit court's orders denying his requests for public records and rehearing/in camera inspection, and we deny his petition for writ of habeas corpus. We dismiss his appeal of the circuit court's order denying his motion for an extension of time. We also deny his request for oral argument. No motion for rehearing will be entertained by this

Court.¹¹

It is so ordered.

MUÑIZ, C.J., and COURIEL, GROSSHANS, FRANCIS, and SASSO, JJ., concur.

LABARGA, J., concurs in result.

TANENBAUM, J., concurs in part and dissents in part with an opinion.

TANENBAUM, J., concurring in part and dissenting in part.

The defendant's judgment of conviction and death sentence became absolutely final when this court issued its mandate affirming them in 1997. There has not been a pending post-conviction motion attacking the judgment or sentence since 2020, when the trial court rendered its order denying the last of the defendant's successive motions under rule 3.851, an order that this court affirmed in 2021. This court, in turn, lacks jurisdiction in case number 26-0519. The court has no constitutional authority to consider, as a matter of appellate review, the defendant's last-minute request to review the trial court's run-of-the-mine refusal to compel state agencies to disclose public records under section

11. Because the time for filing a successive postconviction motion has expired, Willacy's postconviction proceedings in Florida are now final.

27.7081, Florida Statutes, in an otherwise closed criminal case with no collateral relief claim pending. I dissent to the extent the court purports to exercise jurisdiction in case number 26-0519.¹²

Our jurisdiction to directly review any trial court order is severely limited. See Art. V, § 3(b)(1)–(2), (5), Fla. Const. In death cases, we have the authority to “hear appeals from *final judgments* of trial courts *imposing the death penalty.*” *Id.* (b)(1) (emphases supplied). The constitution, then, ties our appellate review authority to the trial court’s final order adjudicating the defendant guilty of capital murder and imposing a sentence of death. If a trial court’s order does not fit this bill, we lack appellate jurisdiction under subsection (b)(1).

One might fairly ask, “What about an order denying or

12. Regarding the petition for habeas relief in case number 26-0526—over which we do have jurisdiction—I concur in the denial of relief. His claims about being unable to access additional records are not cognizable as due-process claims, his claimed right to any additional records being ancillary to a nonexistent post-conviction proceeding. *Cf. Tanzi v. State*, 407 So. 3d 385, 391–92 (Fla.) (rejecting similar rights claim), *cert. denied*, *Tanzi v. Dixon*, 145 S. Ct. 1914 (2025). In any event, his access to additional records has nothing to do with the legality of the process that led to his conviction and death sentence. The claims cannot support habeas here.

granting a post-conviction motion filed under rule 3.851?” This court previously claimed for itself the authority to review such orders. *See State v. Fourth Dist. Ct. of Appeal*, 697 So. 2d 70, 71 (Fla. 1997). And that claimed authority was consistent with longstanding jurisprudence.

To obtain collateral relief from a criminal judgment or sentence, a defendant historically would do so via a writ of error *coram nobis*. “The office of the writ of error coram nobis is to bring to the attention of the court, for correction, an error of fact—one not appearing on the face of the record, unknown to the court or the party affected, and which, if known in season, would have prevented the rendition of the judgment challenged.” *Lamb v. State*, 107 So. 535, 538 (Fla. 1926); *see also Russ v. State*, 95 So. 2d 594, 597 (Fla. 1957) (explaining that to obtain a writ, the “showing must be such that if the matters shown had been before the trial court when judgment was entered, the court would have been precluded from entering the judgment”).

Once the judgment had been affirmed on appeal, however, “the trial court [was] without authority to consider an application for a writ of error coram nobis, unless permission [was] duly given by the

appellate court that affirmed the judgment.” *Lamb*, 107 So. at 540. That permission was necessary because “the affirmed judgment [was] also the judgment of the appellate court, and the lower court [was] without power to review the affirmed judgment or to impair its validity or effect.” *Id.* at 539–40; *see also Russ*, 95 So. 2d at 597 (explaining that the supreme court’s granting leave on petition “is equivalent to an order or mandate that the trial court allow the writ, that it determine the truth of the facts alleged in the petition and that if they be established as being true then the judgment should be set aside and new proceedings be had”).

Florida Rules of Criminal Procedure 3.850 and 3.851 now serve as streamlined procedural substitutes for the writ. *Cf. Richardson v. State*, 546 So. 2d 1037, 1039 (Fla. 1989) (noting how rule 3.850 has effectively absorbed most claims that could be brought under either *habeas corpus* or *error coram nobis*); *Wood v. State*, 750 So. 2d 592, 595 (Fla. 1999) (noting similarity between the relief to be obtained under the writ and under rule 3.850). *See generally In re Rule of Crim. Proc. 3.851 (Collateral Relief After Death Sentence has been Imposed)*, 626 So. 2d 198, 199 (Fla. 1993) (adopting new rule 3.851 but noting that the “proceedings and

grounds for postconviction relief remain as provided under Florida Rule of Criminal Procedure 3.850”); *In re Rules Governing Cap. Postconviction Actions*, 763 So. 2d 273, 274 (Fla. 2000) (readopting rule 3.851 as it existed prior to its legislative repeal). Because a motion filed under rule 3.851 attacks the underlying absolutely final judgment the same way a *coram nobis* proceeding did, this court naturally would have jurisdiction to consider an appeal from an order denying relief from the judgment (with which our affirmance in the initial appeal would have merged), just as this court earlier had jurisdiction to grant the trial court leave to entertain the writ.

The problem here is that the defendant did not file a motion for postconviction relief under rule 3.851 in the trial court, and he is not before this court collaterally attacking the judgment and imposition of a death sentence that we previously affirmed. Instead, the defendant purports to appeal only a trial court order denying his demand for additional public records under section 27.7081(8) and Florida Rule of Criminal Procedure 3.852.

To be sure, the statute creates a limited substantive right for a criminal defendant sentenced to death, and rule 3.852 can only

implement this right as legislatively established, not build upon it to create an even broader right. The Legislature, in turn, was clear that the statute “does not affect, expand, or limit the production of public records for any purpose other than use in a proceeding held pursuant to Rule 3.850 or Rule 3.851, Florida Rules of Criminal Procedure.” § 27.7081(2), Fla. Stat. In other words, the substantive right the Legislature created is not a stand-alone right that could support an independent cause of action in the trial court; it, like its implementing procedural rule, establishes a means of public records discovery “*ancillary to proceedings pursuant to rules 3.850 and 3.851.*” *Amends. to Fla. Rules of Crim. Proc. 3.852 (Cap. Postconviction Pub. Recs. Prod.) & Rule 3.993 (Related Forms)*, 754 So. 2d 640, 643 (Fla. 1999) (emphasis supplied) (citing *In re Amend. to Fla. Rules of Crim. Proc.-Cap. Postconviction Pub. Recs. Prod.*, 683 So. 2d 475, 476 (Fla. 1996)).¹³

13. Not that it makes much difference here, but because the statutory right is only a discovery right and does not establish a separate right of action, an order on a motion pursuing that right could not be a “final order.” *Cf. State v. White*, 24 So. 160, 165 (Fla. 1898) (describing a final judgment as “dispos[ing] of every question involved in the case,” leaving “nothing open for future decision,” contemplating no “further action [] to be had in the cause, other

As noted at the top, a careful reading of Article V, section 3(b)(1) demonstrates that our jurisdiction is dependent on there being a challenge to the judgment imposing a death sentence—either directly (on original appeal) or indirectly (on review of a denial or grant of collateral relief). The defendant here has lodged no such attack on the judgment, meaning there is no proceeding currently pending in the trial court (*i.e.*, no active, cognizable claim against the validity of the judgment and death sentence) that will lead to a final order appealable to this court under our limited constitutional authority.

An active death warrant does not give us extraordinary appellate review powers under the Florida Constitution, and it does not give rise to some extralegal proceeding in the trial court over

than to enforce the decree rendered”); *State Rd. Dep’t v. Crill*, 128 So. 412, 414–15 (Fla. 1930) (characterizing final, appealable judgment as one that “determines the merits of the controversy or the rights of the parties and leaves nothing for future determination,” as one that “adjudicates the *merits of the cause and disposes of the action*” and “puts an end to the *suit*” (citations omitted)); *Hillsboro Plantation v. Plunkett*, 55 So. 2d 534, 536 (Fla. 1951) (“A judgment is ‘final’ for the purposes of an appeal when it terminates a litigation between the parties on the merits of the case and leaves nothing to be done but to enforce by execution what has been determined.”).

which we then have plenary authority. And rule 3.851(h) does not by its terms even contemplate more expansive jurisdiction once the death warrant is signed; it simply establishes an expedited yet orderly schedule *if* the defendant chooses to file one more motion for post-conviction relief, even one that is otherwise procedurally barred.¹⁴

14. As this court previously has stated, discovery under the statute and rule require there to be “a colorable claim for postconviction relief”; it is not a “procedure authorizing a fishing expedition for records” that the defendant hopes might give him a basis to assert a colorable claim that he currently is not aware of. *Sims v. State*, 753 So. 2d 66, 70 (Fla. 2000). The statutory discovery regime also is not to be used merely as “an eleventh hour attempt to delay the execution rather than a focused investigation into some legitimate area of inquiry.” *Id.* at 70. A defendant already possessing a good-faith basis for post-conviction relief would file a motion saying so and *then* seek discovery to further prove his claim. By contrast, a demand to compel—without a pending rule 3.851 motion—submitted only after a death warrant is signed, fairly can be characterized as a pre-motion fact-finding expedition seeking to delay execution. Yet this court risks giving imprimatur to the approach by wholly resting its purported exercise of jurisdiction on it. The truth is, the trial court utterly lacks jurisdiction to consider such a demand in a closed criminal case. When a defendant asks the trial court to compel production under the statute, in the absence of a pending rule 3.851 motion, the better approach would be for the State to seek a writ of prohibition directed to the trial court from the supervisory district court of appeal.

Put another way, an active death warrant, by itself, does not reopen the closed criminal case that produced the conviction and death sentence. The warrant, in fact, has the opposite legal effect, signaling that the condemned defendant has completed his direct appeal, his initial post-conviction challenge, and his pursuit of federal habeas relief (if any). See § 922.052(2), Fla. Stat. (requiring the Governor to issue a death warrant upon the supreme court clerk’s certification to this effect and completion of the clemency process). Even though a death sentence has been imposed, we operate like any other appellate court, with only the jurisdiction specified in the constitutional text—no more, no less.¹⁵ Absent an

15. Cases like *Sims v. State*, 753 So. 2d 66 (Fla. 2000), and *Trepal v. State*, 754 So. 2d 702 (Fla. 2000)—and the cases on which the latter relies—seem to presume this court’s “plenary” authority to review nearly all orders pertaining to a defendant sentenced to death, regardless of the procedural posture of the underlying criminal case. None of those cases provide any meaningful textual analysis to support the proposition, making the proposition highly suspect. See, e.g., *Trepal*, 754 So. 2d at 705–06 (acknowledging that “[t]he current practice for this Court is to occasionally grant review of interlocutory orders in cases involving death-sentenced defendants” though it has “been less than precise in defining our authority to grant such review” but then, as authority, just relying on that history of “accepting jurisdiction in the instant scenario [] absent an express statement of how the Court determines whether to exercise its jurisdiction”). It is worth noting, though, that *Trepal* is what prompted our adoption of Florida Rule of Appellate

attack on the judgment and death sentence previously affirmed, this court's appellate jurisdiction under section 3(b)(1) is not implicated in any way.¹⁶

Florida Rule of Appellate Procedure 9.142 cannot supply a basis for jurisdiction that we do not otherwise have. Jurisdiction being a matter of substantive law, this court cannot use its rulemaking authority to create or expand its jurisdiction. Rule 9.142(c), properly understood, simply implements this court's extant constitutional authority to issue "all writs necessary to the complete exercise of its jurisdiction." Art. V, § 3(b)(7), Fla. Const. Indeed, it has all the markings of a certiorari proceeding. See Fla.

Procedure 9.142(c). See *Amend. to the Fla. Rules of App. Proc. (Rule 9.142)*, 837 So. 2d 911 (Fla. 2002). And *Trepal* at least involved review of a discovery order rendered in the context of a pending post-conviction motion filed in the trial court. See 754 So. 2d at 703. At all events, the scope of our claimed jurisdiction in death cases should be revisited to ensure that we are strictly adhering to the constitution's jurisdictional prescriptions.

16. There is a clear distinction between our plenary appellate jurisdiction under section 3(b)(1) and our habeas authority under section 3(b)(9). These are different proceedings, conducted under very different standards for entitlement to relief. The habeas petition that the defendant filed in separate case number 26-0526 does not provide a basis for jurisdiction in case number 26-0519.

R. App. P. 9.142(c)(2), (3)(A), (5), (6). Even if this court does not want to label it a proceeding seeking review on a writ of certiorari, that is precisely what the proceeding is.¹⁷

There is no inherent constitutional problem with rule 9.142's subdivision (c); but, as this court has observed, the constitution's Article V, section 3(b)(7), by its own terms, requires there to be an independent jurisdictional hook supporting the court's authority to issue an extraordinary writ under that constitutional provision. See *St. Paul Title Ins. Corp. v. Davis*, 392 So. 2d 1304, 1305 (Fla. 1980) ("The all writs provision of section 3(b)(7) does not confer added appellate jurisdiction on this Court, and this Court's all writs power cannot be used as an independent basis of jurisdiction as petitioner

17. Oddly, this court disclaimed, without explanation, having "jurisdiction to entertain petitions for common law certiorari." *Trepal*, 754 So. 2d at 706. That presumably references the April 1980 revision to Article V that removed a provision giving this court the authority to "review by certiorari . . . any interlocutory order passing upon a matter, which upon final judgment would be directly appealable to the supreme court." The import of this aspect of the revision is ambiguous, given that the same revision left intact the text that remains as section 3(b)(7)—the "all writs" provision. At all events, the court cannot disclaim its certiorari authority yet establish a process by which it can grant interlocutory relief that is in every way (including the standard for granting relief) identical to the writ of certiorari, save for the labelling.

is hereby seeking to use it.”). The court, in addressing the defendant’s claim on the merits, now purports (without expressly saying so) to exercise authority under section 3(b)(7)—which rule 9.142(c) *necessarily* implements—*without* the “independent basis of jurisdiction” that we typically demand before we will even entertain a petition for such relief. *See Williams v. State*, 913 So. 2d 541, 543 (Fla. 2005) (dismissing for lack of jurisdiction because “the all writs provision does not constitute a separate source of original or appellate jurisdiction but rather operates in furtherance of the Court’s ‘ultimate jurisdiction,’ conferred elsewhere in the constitution”).

The absence in this case, then, of a motion under rule 3.851 pending in the trial court—one that attacks either the conviction or the death sentence that we previously affirmed—wholly obviates this court’s jurisdiction to address any of the merits in case number 26-0519. I would dismiss that case in its entirety.

An Appeal from the Circuit Court in and for Brevard County,
Kathryn Speicher, Judge
Case No. 051990CF016062AXXXXX
And an Original Proceeding – Habeas Corpus

Eric C. Pinkard, Capital Collateral Regional Counsel, Melody
Jacquay-Acosta, Assistant Capital Collateral Regional Counsel, Ann

Marie Mirialakis, Assistant Capital Collateral Regional Counsel,
Joshua P. Chaykin, Assistant Capital Collateral Regional Counsel,
and Mahham Syed, Assistant Capital Collateral Regional Counsel,
Middle Region, Temple Terrace, Florida,

for Appellant/Petitioner

James Uthmeier, Attorney General, Tallahassee, Florida, Michael W.
Mervine, Special Counsel, Assistant Attorney General, and
Jonathan S. Tannen, Senior Assistant Attorney General, Tampa,
Florida,

for Appellee/Respondent

No. _____

In the Supreme Court of the United States

CHADWICK WILLACY,
Petitioner,
v.
STATE OF FLORIDA,
Respondent.

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

APPENDIX TO PETITION FOR A WRIT OF CERTIORARI

CAPITAL CASE
DEATH WARRANT SIGNED
Execution Scheduled: April 21, 2026, at 6:00 PM ET

Appendix B

Order, Chadwick Willacy v. State of Fla., SC2026-0483 (Fla. Mar. 31, 2026)
(order denying petition for writ of mandamus and notice of delay).

Supreme Court of Florida

TUESDAY, MARCH 31, 2026

Chadwick Willacy,
Petitioner(s)

v.

State of Florida,
Respondent(s)


SC2026-0483

Lower Tribunal No(s).:
051990CF016062AXXXX

The petition for writ of mandamus is hereby denied.

MUÑIZ, C.J., and LABARGA, COURIEL, GROSSHANS, FRANCIS,
SASSO, and TANENBAUM, JJ., concur.

A True Copy
Test:


SC2026-0483 3/31/2026

John A. Tomasino
Clerk, Supreme Court
SC2026-0483 3/31/2026



KC

Served:

ANN MARIE MIRIALAKIS
JOSHUA PAUL CHAYKIN
JONATHAN SCOTT TANNEN
DANIELLE JOYNER KELLEY
MELODY JACQUAY-ACOSTA
MICHAEL WILLIAM MERVINE
HON. KATHRYN MICHELE SPEICHER
CAPAPPEALS TLH ATTORNEY GENERAL

DAVID AXELMAN
BREVARD CLERK
KRISTEN LONERGAN
WILLIAM J. SCHEINER

Supreme Court of Florida

TUESDAY, MARCH 31, 2026

Chadwick Willacy,
Petitioner(s)

v.

State of Florida,
Respondent(s)

SC2026-0483

Lower Tribunal No(s).:
051990CF016062AXXXX

Article I, section 16(b)(10)b. of the Florida Constitution provides that all state-level appeals and collateral attacks on any judgment must be complete within two years of the date of appeal in non-capital cases and five years from the date of appeal in capital cases unless a court enters an order with specific findings as to why the court was unable to comply and the circumstances causing the delay. Pursuant to the administrative procedures and definitions set forth in Supreme Court of Florida Administrative Order No. AOSC19-76, this case was not completed within the time frame required by Article I, section 16(b)(10)b. because the time frame had already expired by the time this case was filed.

A True Copy

Test:

SC2026-0483 3/31/2026

John A. Tomasino

Clerk, Supreme Court

SC2026-0483 3/31/2026



KC

CASE NO.: SC2026-0483

Page Two

Served:

CAPAPPEALS TLH ATTORNEY GENERAL

DAVID AXELMAN

JOSHUA PAUL CHAYKIN

BREVARD CLERK

MELODY JACQUAY-ACOSTA

DANIELLE JOYNER KELLEY

KRISTEN LONERGAN

MICHAEL WILLIAM MERVINE

ANN MARIE MIRIALAKIS

WILLIAM J. SCHEINER

HON. KATHRYN MICHELE SPEICHER

JONATHAN SCOTT TANNEN

No. _____

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Appendix C

Def.'s Demand for Additional Public Records Fla. Dep't of Corr. ("FDOC"),
State of Fla. v. Chadwick Willacy, 1990-CF-016062-A (Cir. Ct. 18th Jud.
Cir., Brevard County, Fla., Mar. 6, 2026).

**IN THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT,
IN AND FOR BREVARD COUNTY, FLORIDA**

STATE OF FLORIDA,
Plaintiff,

CASE NO.: 05-1990-CF-016062-A

v.
CHADWICK WILLACY,
Defendant.

_____ /

DEFENDANT'S DEMAND FOR ADDITIONAL PUBLIC RECORDS
FLORIDA DEPARTMENT OF CORRECTIONS ("FDOC")

To: **Ricky D. Dixon, Secretary**
Florida Department of Corrections
501 South Calhoun Street,
Tallahassee, FL 32399-2500
Amy.Matlock@fdc.myflorida.com
Danielle.Kelley@fdc.myflorida.com
CO-GCCapLit@fdc.myflorida.com

COMES NOW, Chadwick Willacy, by and through undersigned counsel, requests from **RICKY D. DIXON, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS ("FDOC")**, under Florida Rule of Criminal Procedure 3.852(i) and (h), additional public records pertinent to this case.

1. Mr. Willacy is under a sentence of death and subject to execution by lethal injection under Florida Statute § 922.105.
2. Undersigned counsel attests that the requested records detailed below are reasonably calculated to lead to the discovery of admissible evidence in that such records demonstrate whether the Florida Department of Corrections is or is not in compliance with carrying out executions in accordance with the lethal injection protocol signed by the Secretary on February 18, 2025 and whether noncompliance unnecessarily subjects Mr. Willacy to

suffering and cruelty in violation of the Eighth and Fourteenth Amendments to the U.S. Constitution and corresponding provisions of the Florida Constitution.

3. Undersigned counsel attests that:
 - a. counsel has made a timely and diligent search of the records repository;
 - b. counsel has identified with specificity the public records that are not at the records repository;
 - c. the records described are either relevant to the subject matter of a postconviction proceeding or are reasonably calculated to lead to the discovery of admissible evidence.
4. The requested records are reasonably calculated to lead to the discovery of admissible evidence regarding FDOC's administration of lethal injection protocol.
5. Mr. Willacy is entitled to information about the reliability and effectiveness of the drugs and procedures being used to execute him. Denying him the opportunity to access records that directly relate to how this Department intends to carry out his execution, violates his right to 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.
6. An affidavit pursuant to Fla. R. Crim. P. 3.852(i) is attached to this demand and hereby incorporated into this demand. Mr. Willacy demands that the records requested be copied, indexed, and delivered to the records repository by your agency with a courtesy copy delivered via e-mail to undersigned counsel within the time limitations as set out in Florida Rules of Criminal Procedure 3.852(i).
7. **The public records from March 1, 2025 to present, are requested are as follows:**

- a. Written records/checklists, logs, and/or memorandums of training activities including simulations, execution process, preparation of carrying out execution process, and effects of each lethal chemical as required in subsection (4) of FDOC's procedure, "Training of the Execution Team and Executioners;"
- b. Written records/checklists, logs, and/or memorandums documenting "completion of each step in the process," as required in subsection (5) of FDOC's procedure, "Use of Checklists;"
- c. "Signed forms attesting" the team warden's verification that all steps in the process have been performed properly prior to the administration "pharmaceutical agents (lethal injection chemicals)," and the that the remaining steps in the process were performed properly," as required in subsection (5) of FDOC's procedure, "Use of Checklists;"
- d. Written records/checklists, logs, and/or memorandums documenting and tracking whether the "pharmaceutical agents (lethal injection chemicals)" are within their "date range" for use, have reached, or surpassed their expiration dates" and documenting the maintenance and proper storage of the "pharmaceutical agents (lethal injection chemicals)" as required in subsection (6) of FDOC's procedure, "Purchase and Maintenance of Lethal Chemicals;"
- e. Written records/checklists, logs, and/or memorandums documenting the need for refrigeration, proper temperature range for storage, and/or monitoring for compliance of temperature and handling of the lethal chemicals;
- f. Internal policies and procedures for handling and maintenance of the "pharmaceutical agents (lethal injection chemicals)" should there be power loss or

other circumstances (such as water, temperature, humidity, etc.) which may compromise the pharmaceutical agents (lethal injection chemicals;

- g. Policies/procedures, written logs, and/or memorandums documenting the disposal of expired and otherwise compromised “pharmaceutical agents (lethal injection chemicals);”
- h. Copies of the “logs provided to the team warden and available at the post execution debriefings” documenting the first FDLE agent charged with monitoring and responsible for observing the preparation of the “pharmaceutical agents (lethal injection chemicals)” and documenting and keeping a detailed log as to what occurs in the executioner’s room at a minimum of two (2) minute intervals” as required in subsection (7)(b) of FDOC’s procedure, “FDLE Monitors;”
- i. Copies of the “logs provided to the team warden and available at the post execution debriefings” documenting the second FDLE agent charged with keeping a detailed log of what is occurring in the execution chamber at a minimum of two (2) minute intervals” as required in subsection (7)(c) of FDOC’s procedure, “FDLE Monitors;”
- j. Memorandums, records, checklists, and/or logs from execution team member and independent observer from FDLE documenting their observations and compliance with the preparation of each “pharmaceutical agent (lethal injection chemical)” used in the lethal injection process as found in subsection (9)(f) of FDOC’s procedure, “On the Day of Execution;”
- k. Procedures, directives, documentation, and memorandum of the execution team members preparation and placement of the “aseptic technique” and “extension set

that will be used to infuse the lethal chemicals into the primary injection line.” (See subsection (9)(h) of FDOC’s procedure, “On the Day of Execution”);

- l. Procedures, directives, documentation, and memorandum of the execution team members utilization of “aseptic technique” and the placement of the “IV extension set that will be used to infuse the pharmaceutical agents (lethal injection chemicals) into the primary injection line.” (See subsection (10)(h) and (i) of FDOC’s procedure, “Approximately Thirty (30) Minutes Prior to Execution”); and
- m. Forms and documentation of the methodologies and medical instrumentation utilized by Execution Team Members to assess and monitor the inmate’s depth and sustained level of consciousness (“consciousness checks”) including the training, level of competency, and proficiency.
- n. Forms and documentation of the methodologies and medical instrumentation utilized by Execution Team Members to assess and affirm the inmate’s death including the training, level of competency, and proficiency.
- o. Documentation, checklists, and memorandum of the team warden’s “debriefing interview with every execution team member and the executioners, documenting any exceptional circumstances that arose during the execution, as required by as required in subsection (13)(f) of FDOC’s procedure, “Immediate Post-Execution Procedures;”
- p. Protocols, procedures, directives, and checklists regarding:
 1. Mixing of the “pharmaceutical agents (lethal injection chemicals)” and their respective sterile IV solutions (“diluent fluids”);
 2. flushing the syringe if same syringe is used;

3. when and how syringes are organized, staged, and labeled; and
 4. insertion of venous access and how the site is secured.
8. If this Department objects to any or part of this Demand, Willacy, through undersigned Counsel, **respectfully requests this Department identify with specificity through an itemized inventory providing the asserted exemption and factual justification for its objection or objections.**

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that on this 6th day of March, 2026, the foregoing document has been electronically filed with the Clerk of the Circuit Court by using the Florida Courts e-portal filing system to the Brevard County Clerk of Court which will send a notice of electronic filing to the following: the Honorable Chief Judge Melanie Chase, the Eighteenth Judicial Circuit, Robin Lemonidis, 101 Eslinger Way, Sanford, Fl 3273, Jennifer.biron@flcourts18.org; The State Attorney's Office, Eighteenth Judicial Circuit, 2725 Judge Fran Jamieson Way, Building D, Viera, Florida, 32940; the Office of the Attorney General, 10130 Northlake Blvd Apt 214-295, West Palm Beach, Fl, 33412-1101, Assistant Attorney General, Lisa-Marie Krause Lerner, lisamarie.lerner@myfloridalegal.com, and Capapp@myfloridalegal.com; Florida Department of Corrections, 501 South Calhoun Street, Tallahassee, Florida 32399-2500, Attorney Danielle Kelley, Danielle.Kelley@fdc.myflorida.com, and CO-GCCapLit@fdc.myflorida.com.

/s/ Melody J. Jacquay
MELODY JACQUAY-ACOSTA
Florida Bar No. 1010248
Assistant CCRC
Jacquay@ccmr.state.fl.us

/s/ Joshua Chaykin
JOSHUA P. CHAYKIN
Florida Bar. No. 1019578

Assistant CCRC
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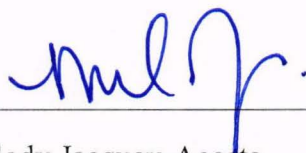
/s/ Ann Marie Mirialakis
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/s/ Mahham Syed
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Law Office of the Capital Collateral
Regional Counsel – Middle Region
12973 N. Telecom Parkway
Temple Terrace, FL 33637
Phone: 813-558-1600

AFFIDAVIT OF COLLATERAL COUNSEL

I, Melody Jacquay-Acosta, having been duly sworn or affirm, do hereby depose and say that the above statements are true and correct.

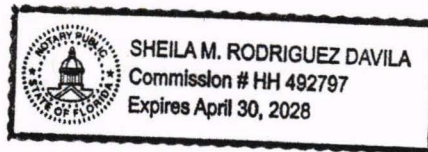


Melody Jacquay-Acosta
Assistant Capital Collateral Regional Counsel
Attorney for Mr. Trotter

STATE OF FLORIDA
COUNTY OF HILLSBOROUGH

Sworn to or affirmed and subscribed before me by means of physical presence or online notarization, this 6th day of March, 2026, by Melody Jacquay-Acosta who is personally known to me or has shown the following identification:


NOTARY PUBLIC, STATE OF FLORIDA



No. _____

In the Supreme Court of the United States

CHADWICK WILLACY,
Petitioner,
v.
STATE OF FLORIDA,
Respondent.

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

APPENDIX TO PETITION FOR A WRIT OF CERTIORARI

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DEATH WARRANT SIGNED
Execution Scheduled: April 21, 2026, at 6:00 PM ET

Appendix D

Dep't of Corr. Objections to Def.'s Demands for Additional Public Records,
State of Fla. v. Chadwick Willacy, 1990-CF-016062-A (Cir. Ct. 18th Jud.
Cir., Brevard County, Fla., Mar. 19, 2026).

**IN THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT,
IN AND FOR BREVARD COUNTY, FLORIDA**

STATE OF FLORIDA,
Plaintiff,

**CASE NO.: 05-1990-CF-016062-A
ACTIVE DEATH WARRANT**

v.

CHADWICK WILLACY,
Defendant.

_____ /

**DEPARTMENT OF CORRECTIONS' OBJECTIONS TO
DEFENDANT'S DEMANDS FOR ADDITIONAL PUBLIC RECORDS**

COMES NOW, the Department of Corrections ("Department" or "FDC"), through undersigned, and hereby files its objections to Defendant's Demand for Public Records filed on March 6, 2026 pursuant to Florida Rules of Criminal Procedure 3.852(i) and (h). In support thereof, the Department states as follows:

PRELIMINARY STATEMENT

In paragraphs 7(a) through (p) of this demand, Defendant has requested records related to the Department's lethal injection protocol, procedures, and process. This request is identical to requests made upon the Department in recent warrant cases. Nothing in Defendant's demand overcomes the fact that the Florida Supreme Court has consistently held that records related to prior executions, execution protocols, personnel or other matters are not relevant to a colorable claim for relief Heath v. State, No. SC2026-0112, 2026 WL 320522 (Fla. Feb. 3, 2026), cert. denied sub nom. Heath v. Fla., No. 25-6746, 2026 WL 363902 (U.S. Feb. 10, 2026), Heath v. Dep't of Corr., No. SC2026-0113, cert. denied sub nom. Heath v. Fla., No. 25-6746, 2026 WL 363902 (U.S. Feb. 10, 2026)(as to similar demand for records to support an Eighth Amendment claim generally); Melvin Trotter v. State of Florida, No. SC2026-0214, 2026 WL 444544 (Fla. Feb. 17, 2026), cert. denied sub nom. Trotter v. Fla., 146 S. Ct. 755 (2026); Melvin Trotter v. Dep't

of Corr., No. SC2026-0217, 2026 WL 444544 (Fla. Feb. 17, 2026), cert. denied sub nom. Trotter v. Fla., 146 S. Ct. 755, 755 (2026) (as to similar demand for records to support an Eighth Amendment as applied claim); King v. State, No. SC2026-0336, 2026 WL 672101, at *5 (Fla. Mar. 10, 2026), cert. denied sub nom. King v. Fla., No. 25-7018, 2026 WL 730666 (U.S. Mar. 16, 2026)(as to similar demand for records to support Fourteenth amendment due process and equal protection claims); Chavez v. State, 132 So. 3d 826, 829-30 (Fla. 2014) (affirming the denial of demand for execution logs and notes created by FDLE agents who observed eleven prior executions); Muhammad v. State, 132 So. 3d 176, 202 (Fla. 2013) (“[R]equests related to actions of lethal injection personnel in past executions do not relate to a colorable claim concerning future executions because there is a presumption that members of the executive branch will perform their duties properly.”); Valle v. State, 70 So. 3d 530, 549 (Fla. 2011) (holding that records of past five executions were “not related to a colorable Eighth Amendment claim.”).

FDC is entitled to a presumption that they are performing their duties correctly, and nothing the Defendant raises in this case under the 8th or 14th amendments meets the burden to overcome that presumption, as explained in Heath, Trotter, and King.

Denial of this demand for records by sustaining FDC’s objections is not, as asserted by Defense in the demand, a violation of due process. See King v. State, No. SC2026-0336, 2026 WL 672101, at *6 (Fla. Mar. 10, 2026), cert. denied sub nom. King v. Fla., No. 25-7018, 2026 WL 730666 (U.S. Mar. 16, 2026) (Court found that King’s due process claim failed and that the Florida Supreme Court “has previously rejected efforts to morph a challenge to the denial of a public records demand into a constitutional challenge. [Randolph v. State, 422 So. 3d 166 (Fla.), cert. denied sub nom. Randolph v. Fla., 146 S. Ct. 819, 223 L. Ed. 2d 239 (2025)]” Id.

Accordingly, FDC objects to the entirety of the demand and requests that the Court deny the request for records based upon well-established statutory and case law.

MEMORANDUM OF LAW

I. General Grounds for Denial of Defendant's Demand Against FDC

a. Standing and Presumption

Counsel for the defense requests these records asserting that the colorable claims he seeks the records to support are alleging violation of his rights under the 8th and 14th amendments. Defendant's entire argument is predicated on speculation and assumption regarding what records will show presented under the guise of certainty which is not enough to establish their burden "of demonstrating that the records sought relate to a colorable claim for postconviction relief." See Branch v. State, 236 So. 3d 981, 984 (Fla. 2018) (citing Chavez, 132 So. 3d at 829 and Mann v. State, 112 So. 3d 11 58, 11 63 (Fla. 2013)). Nor does their speculation overcome the strong presumption that FDC is following their execution protocol. See also Long v. State, 271 So. 3d 938, 946 (Fla. 2019). "The DOC is entitled to a presumption that it will properly perform its duties while carrying out an execution.... [and] our 'role is not to micromanage the executive branch in fulfilling its own duties relating to executions.'" Id. (citing Hannon v. State, 228 So. 3d 505, 509 (Fla. 2017) (quoting Troy v. State, 57 So.3d 828, 840 (Fla. 2011)); see also Baze v. Rees, 553 U.S. 35, 53-54 (2008); Cole v. State, 392 So. 3d 1054, 1065 (Fla. 2024); Branch, 236 So. 3d at 985 ("Specifically, with respect to Branch's assertion that the DOC's supply of execution drugs may be expired, this Court has stated that it will presume 'the DOC will act in accordance with its protocol and carry out its duties properly.'").

The Defendant has failed not only regarding their burden to establish that these records could relate to a colorable claim, but in overcoming FDC's presumption that it is following its

protocol correctly. The Defendant must allege legally sufficient facts to overcome that presumption that the Department is complying with the protocol as written or to demonstrate that the records sought would relate to a colorable claim. See Hannon v. State, 228 So. 3d 505, 509 (Fla. 2017) (affirming summary denial of a claim that FDOC is “inconsistent with its protocol” because the allegations were insufficient to overcome the presumption that FDOC complies with the protocol).¹

Moreover, as the Florida Supreme Court wrote in their decision in Heath v. State:

[S]peculative and conclusory allegations that lethal injection protocols present a substantial risk of serious harm are insufficient ... [t]he question is not whether protocol deviations occurred but whether the defendant’s allegations would demonstrate a substantial and imminent risk that is sure or very likely to cause serious illness and needless suffering.

No. SC2026-0112, 2026 WL 320522 (Fla. Feb. 3, 2026), cert. denied sub nom. Heath v. Fla., No. 25-6746, 2026 WL 363902 (U.S. Feb. 10, 2026)(citing Cole v. State, 392 So. 3d 1054, 1065 n.18 (Fla. 2024 and Jimenez v. State, 265 So. 3d 462, 475 (Fla. 2018)), cert. denied, 145 S. Ct. 109 (2024).

Accordingly, since the Florida Supreme Court has already determined that Defendant’s allegations are insufficient to show a colorable claim even taking those allegations regarding what the records sought would show as true *arguendo*, Defendant cannot show entitlement to those records at this stage.

¹ Inasmuch as the records sought to be produced relate to past executions, the speculation of what happened in past executions has no bearing on an upcoming execution. See Lightbourne v. McCollum, 969 So. 2d 326, 341 (Fla. 2007) (noting, despite allegations that FDC repeatedly failed to follow protocol in prior executions, the court refused to stay an execution when nothing established the prior executions “caused unnecessary and wanton pain” or involved “torture or a lingering death”); Schwab v. State, 995 So. 2d 922, 928 (Fla. 2008) (finding even if the defense were correct in listing all these past executions and errors it would not rise to a colorable claim as to this defendant).

Further, the Florida and United States Supreme Courts have held that prison staff are entitled to a strong presumption that they follow their method-of-execution protocol. See e.g., Baze, 553 U.S. at 53-54; Cole v. State, 392 So. 3d 1054, 1065 (Fla. 2024). (citing Glossip, 576 U.S. at 868-69). See also Valle v. State, 70 So. 3d 530, 545-49 (Fla. 2011); Davis v. State, 742 So. 2d 233, 236 (Fla. 1999); Provenzano v. State, 739 So. 2d 1150, 1153 (Fla. 1999). Where an Eighth Amendment cruel and unusual punishment claim alleges the risk of future harm at an execution, “the conditions presenting the risk must be ‘sure or very likely to cause serious illness and needless suffering,’ and give rise to ‘sufficiently imminent dangers.’” Baze, 553 U.S. at 50 (quoting Helling v. McKinney, 509 U.S. 25, 33, 34–35 (1993)); Wellons v. Comm’r, Ga. Dep’t of Corr., 754 F.3d 1260, 1265 (11th Cir. 2014) (noting that mere speculation “cannot substitute for evidence that the use of the drug is sure or very likely to cause serious illness and needless suffering”).

b. Statutory Exemptions

In addition to the record-specific objections asserted below, the Defendant’s demand for most of the lethal injection records relates to information that is confidential and exempt from public records disclosures pursuant to Florida law. Section 945.10 of the Florida Statutes establishes a broad restriction on the disclosure of records and information relating to executions and FDC’s operations for carrying them out. Section 945.10(1)(g) exempts from public disclosure “[i]nformation which identifies an executioner, or any person prescribing, preparing, compounding, dispensing, or administering a lethal injection.” In 2022, the Florida Legislature broadened this protection and added an additional subsection. Section 945.10(1)(j), F.S., exempts from disclosure:

(j)1. Information or records that identify or could reasonably lead to the identification of any person or entity that participates in, has participated in, or will participate in an execution, including persons or entities administering, compounding, dispensing, distributing, maintaining, manufacturing, ordering,

preparing, prescribing, providing, purchasing, or supplying drugs, chemicals, supplies, or equipment necessary to conduct an execution in compliance with chapter 922.

2. The exemption in subparagraph 1. Applies to information and records held by the department before, on, or after the effective date of the exemption. [...]

Section 945.10(1)(j), Fla. Stat. (2022-current).

Not only have courts consistently overruled the disclosure of lethal injection records as cited below, but the Florida Legislature has also taken further steps to maintain the confidentiality of these records, and those persons and entities “administering, compounding, dispensing, distributing, maintaining, manufacturing, ordering, preparing, prescribing, providing, purchasing, or supplying drugs, chemicals, supplies, or equipment necessary to conduct an execution in compliance with Chapter 922.” The language used in §945.10(1)(j)(2) expresses the desire of the Legislature for these protections to be retroactively applied. In passing the amended language, the Legislature found:

that it is a public necessity that information or records that identify or could reasonably lead to the identification of those persons or entities that participate in an execution be made confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution. The disclosure of information or records that identify or that could reasonably lead to the identification of those persons or entities that participate in an execution could jeopardize the safety of such persons or entities by exposing them to potential harassment, intimidation, or harm and could also thwart the ability of the Department of Corrections to obtain the necessary personnel, drugs, chemicals, supplies, or equipment needed to carry out executions. Therefore, the Legislature finds that it is a public necessity that this information be kept confidential and exempt from public disclosure.

See Laws of Fla., Ch. 2022-115, Section 2. These findings demonstrate that “persons or entities that participate in an execution” should remain anonymous. The Defendant’s demand states he is seeking “public” records relating to the lethal injection protocol; however, much of the information he seeks has been deemed confidential and exempt from public disclosure by the Florida

Legislature. Records requested in the demand would, if they exist, necessarily contain this statutorily confidential and exempt information.

c. Failure to relate to a colorable claim

Pursuant to Rule 3.852, Fla. R. Crim. P., a court must find: (a) counsel has made a timely and diligent search of the records repository; (b) counsel’s written demand identifies with specificity those additional public records that are not in the repository; (c) the additional public records sought are either relevant to the subject matter of a Rule 3.851 proceeding, or appear reasonably calculated to lead to the discovery of admissible evidence; and (d) the additional records request is not overly broad or unduly burdensome. “The Defendant bears the burden of demonstrating that the records sought relate to a colorable claim for postconviction relief.” See Mann v. State, 112 So.3d 1158, 1163 (Fla. 2013).

To the extent that Defendant maintains a due process 14th amendment claim, this was recently addressed in State of Florida v. Michael L. King by the Circuit Court of Sarasota County. The Court examined King’s claim, the same exact claim raised by the Defense in this case, under both the 8th amendment and the 14th amendment in an “abundance of caution” due to the fact that the Defense continually changes their argument relating to these same records in an attempt to reasonably allege that the Defendant’s rights are being violated. See State v. Michael L. King, Sarasota County Case No. 2008-CF-001087 (February 26, 2026, Order (1) Denying Defendant’s “Successive Motion to Vacate Judgment and Sentence” After a Signed Death Warrant and (2) Denying “Defendant’s Motion for a Stay of Execution”). First, the Court examined these claims under an 8th amendment analysis and found that the claims relating to these very records were “conclusive and speculative”. Id. at 15. Second, the Court analyzed the Defendant’s claims under the Due Process and Equal Protection Clauses of the 14th Amendment. To require FDC to produce these records when every Circuit Court, the Florida Supreme Court, and the United States Supreme

Court in warrant cases this year have stated that counsel's conclusory and speculative interpretations of what these records would show are insufficient to meet their burden to rebut the presumption, would be contrary to established law. The Courts have routinely upheld FDC objections to these requests, including recently in warrant litigation raising the same factual allegations under identical theories.

Finally, the defendant in this case has had the opportunity to seek these records but has not done so until just this month. The defendant has not demonstrated why he has not done so prior to this. See Jones v. State, 419 So. 3d 619, 627–28 (Fla.), cert. denied sub nom. Jones v. Fla., 146 S. Ct. 79, 222 L. Ed. 2d 1240 (2025). Such weighs against Defendant's argument as found by the Court:

Putting aside the circuit court's possible (and justified) confusion over the rule provisions under which Jones demanded public records, the court ultimately made rulings denying the demands under both subdivisions (h) and (i). We find no abuse of discretion in the circuit court's conclusions that Jones failed to show why he did not request the records from OCSO until after the death warrant was signed, that the records requests did not relate to a colorable claim for postconviction relief, and that the requests were overly broad and unduly burdensome.

Id. The defense has not raised this claim until now, thus this claim is barred. See Dailey v. State, 283 So. 3d 782, 792 (Fla. 2019) (quoting Bowles v. State, 276 So. 3d 791, 795 (Fla. 2019)). Although filed before the warrant was issued unlike in Jones and Bowles, this demand was submitted years after the conviction became final. A claim necessarily cannot be colorable if it is not timely.

Accordingly, FDC objects to the disclosure of any records regarding the drugs used in the lethal injection procedure because the Florida Supreme Court has held that this information is of insufficient relevance to a colorable Eighth or Fourteenth Amendment claim.

d. Potential “As-Applied” Arguments

The Florida Supreme Court has routinely and unwaveringly affirmed trial court orders sustaining FDC’s objections to the disclosure of records related to the lethal injection protocol since the current protocol was established in 2017.² These opinions have established that such records requests do not relate to a colorable claim and such records necessarily contain information that is confidential and exempt pursuant to the Florida Statutes, specifically §945.10(1)(g) and §945.10(1)(j).

A defendant seeking to mount a successful Eighth Amendment challenge to a state’s lethal injection protocol must demonstrate that “the conditions presenting the risk [of cruel and unusual punishment] must be ‘sure or very likely to cause serious illness and needless suffering,’ and give rise to ‘sufficiently imminent dangers.’” Baze v. Rees, 553 U.S. 35, 49-50 (2008) (quoting Helling v. McKinney, 509 U.S. 25, 33, 34-35 (1993)) (plurality opinion). Additionally, “speculation cannot substitute for evidence that the use of the drug is ‘sure or very likely to cause serious illness and needless suffering.’” Brewer v. Landrigan, 131 S. Ct. 445 (2010) (quoting Baze, 553 U.S. at 50).

² Asay v. State, 224 So.3d 695 (Fla. 2017); Hannon v. State, 228 So.3d 505 (Fla. 2017); Branch v. State, 236 So.3d 981 (Fla. 2018); Jimenez v. State, 265 So.3d 462 (Fla. 2018); Long v. State, 271 So.3d 938 (Fla. 2019), Bowles v. State, 276 So.3d 791 (Fla. 2019); Dailey v. State, 283 So.3d 782 (Fla. 2019). As recognized by Defendant’s counsel in the Demand, the current protocol as recertified earlier this year is not materially different. See Randolph v. State, 422 So. 3d 166, 171–72 (Fla. 2025), cert. denied sub nom. Randolph v. Fla., No. 25-6133, 2025 WL 3236523 (U.S. Nov. 20, 2025)(“ The circuit court gave several reasons for rejecting Randolph's records requests, including that some of his requests were overly broad and constituted impermissible fishing expeditions; some were not reasonably related to a viable claim; and still others sought confidential, non-discoverable records. We conclude that these justifications align with our case law on public records in the post-warrant context.”); Jones v. State, 419 So. 3d 619, 627 (Fla.), cert. denied sub nom. Jones v. Fla., 146 S. Ct. 79, 222 L. Ed. 2d 1240 (2025); Bates v. State, 416 So. 3d 312, 321 (Fla.), cert. denied sub nom. Bates v. Fla., 146 S. Ct. 66, 222 L. Ed. 2d 1190 (2025); Zakrzewski v. State, 415 So. 3d 203, 212–13 (Fla.), cert. denied sub nom. Zakrzewski v. Fla., 146 S. Ct. 57, 222 L. Ed. 2d 1184 (2025); Hutchinson v. State, 416 So. 3d 273, 278–79 (Fla.), cert. denied sub nom. Hutchinson v. Fla., 145 S. Ct. 1980, 221 L. Ed. 2d 750 (2025).

These types of claims need to be supported by specific facts and evidence, not conjecture from redacted exhibits filed in a case that was never decided on the merits.

To prevail on an “as-applied” claim under Glossip v. Gross, 576 U.S. 863 (2015), “a condemned prisoner must: (1) establish that the method of execution presents a substantial and imminent risk that is sure or very likely to cause serious illness and needless suffering, and (2) identify a known and available alternative method of execution that entails a significantly less severe risk of pain.” Long, 271 So.3d at 944. In Long, the trial court concluded after an evidentiary hearing that there had been no showing that any alternatives to the current protocol involving a significantly less severe risk of pain were available to FDC. Id. at 945. Additionally, the trial court found that Long failed to show that the current execution method presents a substantial and imminent risk of needless suffering, even after alleging that he suffered from specific medical conditions. In this case the Defendant fails to sufficiently meet both prongs of the Glossip-Baze test.

A recent postconviction case that addressed an as-applied challenge to lethal injection was State v. Loran Cole, Marion County Case No. 94-CF-498. In this case, Mr. Cole’s as-applied challenge centered around his Parkinson’s disease and placement of the intravenous needle. The Court found that, “the Defendant’s claim is speculative. . . he merely speculates that he will suffer because of his involuntary body movements. This is insufficient to establish a ‘substantial and imminent risk that is sure or very likely to cause serious illness and needless suffering’ or to require an evidentiary hearing.” The Court in Cole relied on Jiminez v. State, 265 So.3d 462 (Fla. 2018), where the Florida Supreme Court held that speculative and conclusory allegations that lethal injection protocols present a substantial risk of serious harm were insufficient and a defendant’s mere speculation that his medical condition may make it more difficult to follow the current

protocols is “insufficient to require revisiting [the Florida Supreme Court’s] holding in Asay IV...”. Jiminez at 475. The Court in Cole also quoted Baze for the proposition that “[s]imply because an execution method may result in pain, either by accident or as an inescapable consequence of death, does not establish the sort of ‘objectively intolerable risk of harm’ that qualifies as cruel and unusual.” Baze, at 50.

In this case, the Defendant did not articulate any specific facts or offer any evidence in his demand to support his claim as applied to him personally. Accordingly, Defendant has not demonstrated that he seeks records related to a claim not previously considered, and rejected, by the Florida Supreme Court. The Department maintains that requests of this nature are fishing expeditions³ to obtain confidential and exempt information regarding Florida’s lethal injection protocol.

This demand is similar in substance to all of the other (g), (h), or (i) demands that are typically filed in postconviction litigation. It is also similar to the demands filed in 2023, 2024, 2025, and 2026 post-warrant cases.⁴ In all such cases, the trial courts consistently ruled that the

³ The Florida Supreme Court has repeatedly stressed and long held that collateral post-conviction public records requests are not to be used for fishing expeditions and that the defendant bears the burden of proving that the records he requests are, in fact, related to a colorable claim for post-conviction relief. See Moore v. State, 820 So. 2d 199, 204 (Fla. 2002).

⁴ See e.g. State v. Dillbeck, Leon County Case No.1990-CF- 2795; State v. Gaskin, Flagler County Case No. 1990-CF-01; State v. Barnes, Brevard County Case No.2006-CF-014592; State v. Barwick, Bay County Case No. 86-0940-CFMA; State v. Owen, Palm Beach County Case No. 50-1984-CF-004000; State v. Zack, Escambia County Case No. 1996-CF-2517; State v. Loran Cole, Marion County Case No. 94-CF-498; and State v. Ford, Charlotte County Case No. 97-CF-000351; State v. Melvin Trotter, Manatee County Case No. 1986CF1225 (Jan. 29, 2026) affirmed Trotter v. State, No. SC2026-0214, 2026 WL 444544 (Fla. Feb. 17, 2026), cert. denied sub nom. Trotter v. Fla., 146 S. Ct. 755 (2026); State v. Ronald Heath, Alachua County Case No. 1989-CF-003026, affirmed Heath v. State, No. SC2026-0112, 2026 WL 320522 (Fla. Feb. 3, 2026), cert. denied sub nom. Heath v. Fla., No. 25-6746, 2026 WL 363902 (U.S. Feb. 10, 2026), Heath v. Dep’t of Corr., No. SC2026-0113, cert. denied sub nom, Heath v. Fla., No. 25-6746, 2026 WL 363902 (U.S. Feb.

defendants failed to state a claim to which the requested records might be related, much less establish that they would be entitled to relief, where similar demands have been held by the Florida Supreme Court to have been properly denied. Precedent is well-settled in Florida with respect to the etomidate protocol; the current lethal injection records discussion has been fully litigated, and the Florida Supreme Court has found that these types of demands do not lead to a colorable claim. The Defendant’s arguments, the same arguments that have been presented before other Florida courts regardless of the cause of action they are asserted under, do not justify a departure from this well-established precedent.

II. Specific Grounds for Denial of Defendant’s Individual Demand Requests Against FDC

a. Records Relating to the Lethal Injection Protocol and internal policies and procedures not specific to or incorporated by the Lethal Injection Protocol

Record demands for execution and lethal injection records were squarely addressed by the Florida Supreme Court in Dailey v. State, 283 So.3d 782 (Fla. 2019). The Florida Supreme Court

10, 2026); State v. Billy Kears, Saint Lucie County Case No. 1991CF136, affirmed Kears v. State, No. SC2026-0250, 2026 WL 523132, (Fla. Feb. 25, 2026), cert. denied sub nom. Kears v. Fla., No. 25-6926, 2026 WL 586905 (U.S. Mar. 3, 2026); State v. Michael King, Sarasota County Case No. 2008CF1087, affirmed King v. State, No. SC2026-0336, 2026 WL 672101 (Fla. Mar. 10, 2026), cert. denied sub nom. King v. Fla., No. 25-7018, 2026 WL 730666 (U.S. Mar. 16, 2026). See Randolph v. State, 422 So. 3d 166, 171–72 (Fla. 2025), cert. denied sub nom. Randolph v. Fla., No. 25-6133, 2025 WL 3236523 (U.S. Nov. 20, 2025) (“The circuit court gave several reasons for rejecting Randolph's records requests, including that some of his requests were overly broad and constituted impermissible fishing expeditions; some were not reasonably related to a viable claim; and still others sought confidential, non-discoverable records. We conclude that these justifications align with our case law on public records in the post-warrant context.”); Jones v. State, 419 So. 3d 619, 627 (Fla.), cert. denied sub nom. Jones v. Fla., 146 S. Ct. 79, 222 L. Ed. 2d 1240 (2025); Bates v. State, 416 So. 3d 312, 321 (Fla.), cert. denied sub nom. Bates v. Fla., 146 S. Ct. 66, 222 L. Ed. 2d 1190 (2025); Zakrzewski v. State, 415 So. 3d 203, 212–13 (Fla.), cert. denied sub nom. Zakrzewski v. Fla., 146 S. Ct. 57, 222 L. Ed. 2d 1184 (2025); Hutchinson v. State, 416 So. 3d 273, 278–79 (Fla.), cert. denied sub nom. Hutchinson v. Fla., 145 S. Ct. 1980, 221 L. Ed. 2d 750 (2025).

reiterated in Daily v. State, that they were not going to micromanage the executive branch in carrying out their duties. 283 So.3d 782 (Fla. 2019). In Dailey, the defendant requested records from several agencies, including FDC and the Medical Examiner. After hearing objections and argument, the trial court denied Dailey’s request, specifically for record requests related to the lethal injection protocol. On appeal to the Florida Supreme Court, Dailey argued that the trial court erred in denying his requests for records related to the lethal injection protocol from the Department and from the Medical Examiner. The Florida Supreme Court ruled that the argument was without merit. See Dailey at 792. (“Because we have upheld the constitutionality of the current lethal injection protocol, such records are ‘unlikely to lead to a colorable claim of relief’”) (citing Hannon, 228 So.3d at 512). The Court reiterated that as recognized in Long, “[t]he DOC is entitled to a presumption that it will properly perform its duties while carrying out an execution ... [and] our ‘role is not to micromanage the executive branch in fulfilling its own duties relating to executions.’” Long, 271 So. 3d at 946 (quoting Hannon, 228 So. 3d at 509 (Emphasis added)).⁵

FDC’s etomidate protocol has been used in a number of prior executions since 2017 and has been found constitutional whenever challenged since its adoption.⁶ As this Court would be

⁵ This was also discussed in the context of mock executions and errors in Schwab v. State. The Defendant in that case listed areas of concern regarding past executions such as technical errors (IV placements, etc.), the length of time of executions, and testimony from witnesses that observed “various involuntary movements” during executions. The Court found none of these arose to an Eighth Amendment claim. For example, on the timing of executions, the Court stated, “[e]ven assuming that some of the data is new, the Court does not view it as creating a constitutional challenge to Florida’s protocol. The assertion that one expert determined an ideal time frame does not require the Court to stand over DOC personnel with a stopwatch. If it did, the Court suspects it could be accused of rushing executions and creating a greater risk of harm.” See Schwab v. State, 995 So. 2d 922, 928 (Fla. 2008).

⁶ See e.g. Asay v. State, 224 So.3d 695 (Fla. 2017); Hannon v. State, 228 So.3d 505 (Fla. 2017); Branch v. State, 236 So.3d 981 (Fla. 2018); Jimenez v. State, 265 So.3d 462 (Fla. 2018); Long v. State, 271 So.3d 938 (Fla. 2019), Bowles v. State, 276 So.3d 791 (Fla. 2019); Dailey v. State, 283 So.3d 782 (Fla. 2019).

correct to deny demands for such records as to the actual protocol that is in place and to be used in Defendant's execution, this Court certainly should not order the production of any records related to a fishing expedition based on speculation that FDC is not following protocol.

To the extent that Defendant is seeking other procedures and/or policy records, the lethal injection protocol does not incorporate by reference any other procedure and instead requires compliance with State and federal law. The Department is entitled to a presumption that it is acting accordingly with State and federal law when implementing the protocol and these records similarly cannot lead to a colorable claim.

i. Records Relating to the Protocol Drugs

The current Lethal Injection Protocol adopted and certified by FDC requires that the chemicals have not reached or surpassed their expiration dates:

Purchase and Maintenance of Lethal Chemicals: A designated execution team member will purchase, and at all times ensure a sufficient supply of, the chemicals to be used in the lethal injection process. The designated team member will ensure that the lethal chemicals have not reached or surpassed their expiration dates. The lethal chemicals will be stored securely at all times as required by state and federal law. The FDLE agent in charge of monitoring the preparation of the chemicals shall confirm that all lethal chemicals are correct and current.

See FDC's Execution by Lethal Injection Procedures at pg. 5, available at <https://www.fdc.myflorida.com/institutions/death-row>.

Demands for records relating to how FDC selects, obtains, and stores the drugs used in the lethal injection protocol have been consistently found to be unrelated to a colorable claim for relief.⁷ Both the United States Supreme Court and the Florida Supreme Court have held that post-

⁷ See e.g. Asay v. State, 224 So.3d 695 (Fla. 2017); Hannon v. State, 228 So.3d 505 (Fla. 2017); Branch v. State, 236 So.3d 981 (Fla. 2018); Jimenez v. State, 265 So.3d 462 (Fla. 2018); Long v. State, 271 So.3d 938 (Fla. 2019), Bowles v. State, 276 So.3d 791 (Fla. 2019); Dailey v. State, 283 So.3d 782 (Fla. 2019).

conviction claims based on nothing more than the source of lethal injection drugs do not present a cognizable claim that a lethal injection procedure is unconstitutional. See Brewer v. Landrigan, 131 S. Ct. 445 (2010) (vacating a stay of execution that was based upon a finding that the condemned inmate had a substantial likelihood of success on the merits of his claim that the use of sodium thiopental obtained from a foreign source and not approved by the FDA creates a substantial and unnecessary risk of serious harm in violation of the Eighth Amendment); Valle v. State, 70 So. 3d 530, 549 (Fla. 2011) (requests for records to demonstrate that pentobarbital may have been procured illegally are speculative and conclusory and amount to no more than a “fishing expedition” for which Rule 3.852 is not intended).

Moreover, nothing in the Defendant’s demand overcomes the Florida Supreme Court rulings made in numerous postconviction cases addressing the constitutionality of the etomidate lethal injection procedures nor the presumption afforded to the Department. All the defense has presented is mere speculation, and that is not enough to overcome well-established precedent under Florida law. See Valle v. State, 70 So. 3d 530, 550 (Fla. 2011) (“However, “[p]ostconviction relief cannot be based on speculation or possibility.”).

ii. Records Relating to Training & Experience of the Execution Team Members Involved in Defendant’s Execution and/or Involved in Prior Executions

Defendant requests records related to training for team members participating in executions. Any information which identifies an executioner is confidential pursuant to Fla. Stat. §945.10(1)(g). See Correll v. State, 184 So.3d 478 (Fla. 2015) (holding that a death row inmate is not entitled to know the identities or backgrounds of his execution team members). In Correll, the Defendant argued that Florida Statutes Section 945.10 was unconstitutional by exempting information and identities of the execution team members. The Correll Court held:

[T]his Court has previously rejected constitutional challenges to section 945.10, as well as claims that an inmate facing execution has the right to know the identities

of execution team members. *See, e.g., McLean*, 147 So.3d at 513; *Darling v. State*, 45 So.3d 444, 447–48 (Fla.2010) (“Darling simply requests that we recede from prior precedent so that he may engage in an in-depth review of his executioners' qualifications and training. We refuse to do so.”); *Henyard v. State*, 992 So.2d 120, 130 (Fla.2008) (“We [have] previously found section 945.10 facially constitutional and decline to recede from our decision now.”). We have further explained, “there is a presumption that the members of the executive branch will properly perform their duties in carrying out an execution.” *Lightbourne v. McCollum*, 969 So.2d 326, 343 (Fla. 2007) (quoting *Provenzano v. State*, 761 So. 2d 1097, 1099 (Fla. 2000)). Moreover, the recent executions of Johnny Kormondy, Chadwick Banks, Eddie Davis, John Henry, and Robert Hendrix have been carried out with no subsequent allegations of difficulties.

Correll has failed to justify reconsideration of prior rulings that have upheld the constitutionality of section 945.10 and determined that death row inmates do not have a right to know the identities and qualifications of execution team members. Accordingly, we reject this claim.

See Correll, 184 So.3d at 486.

In addition to holding that inmates are not entitled to know the identities and background of execution team members, the Florida Supreme Court has repeatedly upheld the presumption that the Department will properly carry out its duties related to executions. See Lightbourne v. McCollum, 969 So.2d 326, 343 (Fla.2007). Defendant has failed to articulate any reason that this Court should, or could, break with this precedent. Accordingly, these objections should be sustained.

iii. Records Relating to Prior Executions

Defendant requests records related to multiple prior executions. Much like a demand for records relating to drugs used in the lethal injection protocol, the issue of production of records related to prior executions has previously been litigated and the Florida Supreme Court has ruled that records from past executions are not related to a colorable claim.

In the Jimenez post-warrant litigation, the defense requested records of four prior executions. In Hannon, defendant requested “...logs, notes, memoranda, letters, electronic mail,

and facsimiles” relating to the executions of eight different inmates and records relating to “execution training exercises.” When considering such a request in Hannon, the Florida Supreme Court affirmed its prior holding in Valle which held records of the last five executions were “not related to a colorable Eighth Amendment claim.” See Hannon at 512 (citing Valle at 549). Similarly, the Court found no abuse of discretion in the denial of Jimenez’s demand for execution records of previous prisoners. See Jimenez at 473.

Because the Defendant has failed to meet a threshold requirement of Fla. R. Crim. P. 3.852, Defendant’s requests must be denied under controlling precedent.

CONCLUSION

The Florida Supreme Court has fully considered and rejected all constitutional challenges to Florida’s current lethal injection protocol. The records that Defendant seeks do not support cognizable claims. The Florida Supreme Court’s opinions regarding this type of demand are clear: such demands cannot lead to a colorable claim and should be denied. The Department respectfully requests this Court to sustain the objections to Defendant’s Demand for Additional Public Records.

Respectfully submitted,

/s/ Danielle J. Kelley

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 19th day of March, 2026, I electronically filed the foregoing via the Florida Courts e-portal filing system sending a notice of electronic filing to all registered parties and/or counsel of record.

/s/ Danielle Kelley
Danielle Kelley, Esq.

No. _____

In the Supreme Court of the United States

CHADWICK WILLACY,
Petitioner,
v.
STATE OF FLORIDA,
Respondent.

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

APPENDIX TO PETITION FOR A WRIT OF CERTIORARI

CAPITAL CASE
DEATH WARRANT SIGNED
Execution Scheduled: April 21, 2026, at 6:00 PM ET

Appendix E

Hr'g on Public Records Objections Tr., State of Fla. v. Chadwick Willacy,
1990-CF-016062-A, Mar. 23, 2026.

THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT
IN AND FOR BREVARD COUNTY, FLORIDA

CASE NO. 05-1990-CF-016062-AXXX-XX
FLORIDA SUPREME COURT CASE NO. SC1960-86994

STATE OF FLORIDA,

CORRECTED COPY

Plaintiff,

vs.

CHADWICK WILLACY,

Defendant.

/

HEARING ON PUBLIC RECORDS OBJECTIONS

DATE: March 23, 2026

PLACE: Moore Justice Center
2825 Judge Fran Jamieson Way
Viera, Florida

BEFORE: KATHRYN SPEICHER
Circuit Judge

Ann Marie Testa
Stenographic Court Reporter
Notary Public, State of Florida at Large

Office: (321) 636-4450

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APPEARANCES:

PHYSICALLY PRESENT IN THE COURTROOM:

JASON ARTHUR, CHIEF DEPUTY CLERK
ELIZABETH ASHLEY HARDEE, STAFF ATTORNEY

VIRTUALLY PRESENT:

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APPEARANCES CONTINUED:

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ALSO PRESENT:

BECKY MALONEY, STAFF ATTORNEY
JAMIE CONNOR, RECORDS CLERK OF THE COURT
CHADWICK WILLACY, DEFENDANT

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1 VIERA, FLORIDA

MARCH 23, 2026

2 THE COURT: Good morning everyone.

3 This is Judge Speicher. I let everyone in the
4 Teams room at the same time.

5 We are here on the record in State of
6 Florida versus Chadwick Willacy, 1990-CF-16062.
7 Present in the Courtroom physically is a Court
8 Reporter from Ryan Reporting, Ann Marie Testa.
9 Also from the Clerk's Office, if you would
10 place your appearance on the record by a mike.

11 MR. ARTHUR: Jason Arthur, Clerk's
12 Office.

13 THE COURT: All right. And if I can
14 have appearances on the record, I'm going to
15 start with the Executive Office of Governor
16 DeSantis.

17 MR. LOYED: Good morning, Your Honor.
18 Zachary Loyed for Governor DeSantis.

19 THE COURT: If I can have appearances
20 for the record on behalf of the Florida
21 Department of Corrections.

22 MS. LONEGREN: Good morning, Your
23 Honor. Kristen Lonegren on behalf of the
24 Florida Department of Corrections. I also have
25 Danielle Kelley with me on the line.

1 THE COURT: If I can have appearances
2 for Office of the Attorney General.

3 MR. MERVINE: Good morning, Your
4 Honor. Michael Mervine on behalf of the
5 Attorney General.

6 MR. TANNEN: And also Jonathan Tannen
7 on behalf of the Attorney General's office.

8 THE COURT: Thank you. Can I have
9 appearances for the record for Office of the
10 State Attorney Eighteenth Judicial Circuit.

11 MR. SCHEINER: William Scheiner for
12 the State Attorney's Office.

13 THE COURT: All right. May I have
14 counsel for the Defense please place your
15 appearances on the record.

16 MS. JACQUAY: Good morning, Your
17 Honor. Melody Jacquay on behalf of Chadwick
18 Willacy, along with Ann Marie Mirialakis and
19 Joshua Chayken. We also have from CCRC Nicole
20 Kennedy, who is an investigator with our office
21 and our legal assistant Sheila Rodriguez.

22 I do not see Mr. Willacy present,
23 though, at this hearing. I believe that he was
24 going to appear remotely.

25 THE COURT: I do not see him, as well.

1 Is Mr. Willacy here, anyone from Florida
2 Department of Corrections have any information
3 on that?

4 MS. LONEGREN: Good morning, Your
5 Honor. Kristen Lonegren from DOC. I don't
6 think (unintelligible).

7 THE COURT: Hang on, Ms. Lonegren, we
8 couldn't understand any of that, please start
9 over.

10 MS. LONEGREN: I apologize, Your
11 Honor. Can you hear me now?

12 THE COURT: Yes.

13 MS. LONEGREN: I don't recall seeing
14 any communication about him being present for
15 this hearing. It's atypical for a defendant to
16 be present until a material hearing, unless one
17 is held, but if you need to hear I can
18 certainly get online with the institution so we
19 can make that happen.

20 THE COURT: All right. Defense
21 Counsel, what do you request, if anything?

22 MS. JACQUAY: I'm hesitating because I
23 know that he would like to be present. I
24 understand that the rules do not require his
25 presence, however, if it's possible we would

1 ask for him to be present, and that would be
2 our objection on the record, proceeding without
3 him.

4 THE COURT: DOC, is it possible to get
5 him on the line?

6 MS. LONEGREN: I can get with the
7 institution, whether they'll be able to get
8 them immediately on the line depends on kind of
9 institution factors what else they've got, as
10 far as inmate movement, because it does watch
11 them, it requires the entire institution
12 basically to shut down movement. So I can get
13 online with them to see if it's possible, but I
14 can't make any guarantees.

15 THE COURT: Okay. So let's go ahead,
16 and I apologize for the delay this morning, I
17 did receive over the weekend a Notice of
18 Authority from Defense, so I was trying to make
19 sure I had all of that information. I think
20 I've gotten most everything. I also, you know,
21 if the Defendant wishes to be present, I would
22 rather just take a short break to see if we can
23 make that happen.

24 So, Ms Lonegren, will be on a recess
25 for a few minutes. I'll check back in about 15

1 minutes or so to see if there's any progress on
2 that. So thank you everyone, we'll be in
3 recess.

4 MS. LONEGREN: Thank you, Your Honor.
5 (Whereupon, a recess was taken.)

6 THE COURT: All right. We are back on
7 the record State of Florida versus Chadwick
8 Willacy, 1990-CF-16062.

9 Are there any updates?

10 MS. LONEGREN: Yes. Good morning,
11 Your Honor, from the Department of Corrections.
12 We've been in touch with the institution, due
13 to the need for additional time for movement
14 about the prison, we can have Mr. Willacy on at
15 10 a.m., if that works for the Court.

16 THE COURT: That does work for the
17 Court. So we will be in recess until 10 a.m..
18 Thank you.

19 (Whereupon, a recess was taken.)

20 THE COURT: All right. We're back on
21 the record in State of Florida versus Chadwick
22 Willacy, 1990-CF-16062. Court Reporter is
23 present from Ryan Reporting, Ann Marie Testa.

24 Mr. Arthur, please place your
25 appearance on the record.

1 MR. ARTHUR: Jason Arthur, Clerk of
2 Court.

3 THE COURT: All right. And if I can
4 have everyone place their appearances on the
5 record again, I'm going to start over fresh.

6 The attorneys for the Executive Office
7 of Governor Ron DeSantis.

8 MR. LOYED: Yes, Your Honor. Zachary
9 Loyed here for Governor DeSantis.

10 THE COURT: Thank you. Florida
11 Department of Corrections.

12 MS. LONEGREN: Kristen Lonegren
13 Florida Department of Corrections
14 (unintelligible).

15 THE COURT: All right. Ms. Lonegren,
16 for some reason I have such a hard time hearing
17 you, if you maybe just to make it a little
18 easier say your name again.

19 MS. LONEGREN: Sure. Is this better,
20 Your Honor?

21 THE COURT: Yes, it is.

22 MS. LONEGREN: Kristen Lonegren,
23 Florida Department of corrections along with
24 Danielle Kelley also on the line.

25 THE COURT: All right. Office of the

1 Attorney General.

2 MR. MERVINE: Michael Mervine on
3 behalf of the Attorney General.

4 MR. TANNEN: Jonathan Tannen on behalf
5 of the Attorney General's office.

6 THE COURT: All right. Office of the
7 State Attorney Eighteenth Judicial Circuit.

8 MR. SCHEINER: William Scheiner, State
9 Attorney.

10 THE COURT: All right. Attorneys for
11 the Defense.

12 MS. JACQUAY: Good morning again, Your
13 Honor. Melody Jacquay, along with Ann Marie
14 Mirialakis, Joshua Chayken, and Mayham Syed,
15 she is also on. And we also see that Mr.
16 Willacy is present.

17 THE COURT: All right. Is there
18 anyone else who hasn't placed their appearance
19 on the record?

20 MS. JACQUAY: And I apologize, Your
21 Honor, Nicole Kennedy, who's also with the
22 Office of CCRC, is our investigator.

23 THE COURT: Okay. All right. So we
24 are here today for a hearing on the public
25 records request and objections. What I'd like

1 to do is start with the Defense as to anything
2 further that you would like to let the Court
3 know. I have reviewed each of the public
4 record demands, as well as the objections from
5 each of the agencies. I will allow Defense a
6 chance to go first. I have received the Notice
7 of Authority as well that was filed over the
8 weekend. Then I'm going to let the agencies
9 respond in the order in which the objections
10 were filed. So we'll start with the Governor's
11 Office, DOC, the Attorney General's Office, and
12 then the local State Attorney's Office, and
13 then I will allow a brief rebuttal for the
14 Defense.

15 Defense, you may begin.

16 MS. JACQUAY: Your Honor, before we
17 begin, are you asking that we start with or may
18 we start with the FDOC objections to the lethal
19 injection protocols that were filed prior to
20 the warrant being signed?

21 THE COURT: You may, however you wish
22 to structure it.

23 MS. JACQUAY: Thank you, Your Honor.
24 And I will be addressing part of the argument,
25 and then as to the response to the additional

1 public records demands that were filed after
2 the warrant was signed, Mr. Chayken will be
3 addressing those.

4 THE COURT: All right. And I've been
5 referring to them as the March 6th and March
6 18th demands in my head. So go ahead.

7 MS. JACQUAY: Okay. That's perfectly
8 fine. So as to the March 6th records demand,
9 in which we were requesting the legal injection
10 protocol records that are obtained and kept in
11 the official business of the Florida Department
12 of Corrections, I would like to first address
13 the argument from the Florida Department of
14 Corrections that we have not met our burden to
15 establish a colorable claim and, therefore, not
16 entitled to such records.

17 In looking at Black's Law Dictionary,
18 colorable claim is defined as a claim that is
19 legitimate and that may reasonably be asserted,
20 given the facts presented and the current law.

21 The colorable records that are sought
22 regarding the lethal injection protocol, those
23 would reasonably relate to a colorable claim.
24 For example, if the facts presented in the
25 records show that the Florida Department of

1 Corrections is not administering the protocol
2 as outlined in their written protocol that's
3 been accepted by the Florida Supreme Court, Mr.
4 Willacy would have a colorable claim, a
5 legitimate claim, that the -- not following
6 that would present needless pain and suffering
7 in violation of the Eighth Amendment.

8 Now, putting that even aside, it's
9 important for this Court to consider in making
10 its ruling, the legislative intent behind
11 Chapter 27.708 and 27.708(1). When looking at
12 why CCRC is precluded, specifically capital
13 postconviction defendants are precluded from
14 making any Chapter 119 request. The
15 legislative intent was decided, and there's a
16 report which we cited to Hill v. Butterworth,
17 in which the Shevin Report is cited to, talking
18 about the chapter 119 problem with public
19 records demands.

20 Now, the problem was is that there was
21 a backlog of cases back in 1996 and in the
22 early '90s and the public records demands that
23 were being filed on behalf of capital
24 postconviction clients and defendants were
25 backlogging and the process was not able to be

1 expedited.

2 Now, the Florida Legislature then
3 stepped in and then they established Chapter
4 27, and specifically Florida Statute 27.708 and
5 Florida Statute 27.7081, which then precluded
6 postconviction capital defendants from filing
7 Chapter 119 request for the purpose of
8 expediting the process. The Legislature and
9 the legislative intent is outlined in Chapter
10 27.7081 Subsection 2, in which it states
11 specifically that the rules, and the rule that
12 came after, Rule 3.852, was not to expand or
13 limit. And the or limit is the most
14 significant part of this Court's consideration,
15 because Chadwick Willacy is seeking records
16 that Chadwick Willacy is a citizen of Florida,
17 outside of capital postconviction would be able
18 to obtain because they qualify as public
19 records.

20 Now, the Florida Department of
21 Corrections asserts that 9.510, which is a
22 confidentiality and exemption, precludes the
23 entirety of the records. That is a
24 misstatement of the law. In fact, even the
25 Attorney General's manual, which we cited to

1 our Notice of Authority, provides, and Florida
2 Statute provides that, provides that anytime
3 that there is a section of a record that is
4 considered confidential or exempt, that is to
5 be redacted, it does not make the entirety of
6 the document or the public record exempt or
7 confidential from public disclosure. And that
8 is in line, again, with the legislative intent
9 regarding open government.

10 The open government and Florida
11 Sunshine Laws have been -- are very robust
12 because of the understanding of how significant
13 government transparency is. There is not a
14 time that is more significant for government
15 transparency than when the government is
16 yielding its most significant power that it
17 has, which is taking somebody's life.

18 So we argue, and we assert, that we
19 have absolutely met our burden, a burden to a
20 colorable claim, which is not required in the
21 Statute. The Statute does not require a
22 colorable claim, before I move on, the Statute
23 requires that it be relevant to a
24 postconviction proceeding or, or, would
25 reasonably lead to admissible evidence.

1 The Florida Department of Corrections
2 with the records that were discovered in Frank
3 Walls' case, show that there has been a
4 systematic and continued misapplication or
5 maladministration of the lethal injection
6 protocol. That is why these are relevant.

7 Now, it is also important for this
8 Court's consideration as to the colorable claim
9 argument made by the Florida Department of
10 Corrections, all of the cases that they cite,
11 two regarding colorable claim, are post-warrant
12 demands. Mr. Willacy did not file a
13 post-warrant demand. In fact, he filed it
14 prior to any knowledge of the Governor signing
15 his warrant.

16 So based on the case law and the
17 strict construction of the case law and a
18 strict reading of it, we would not even need to
19 assert a colorable claim, but we have, and we
20 do, and they are absolutely relevant.

21 Now, the State also argues -- or
22 excuse me, the Florida Department of
23 Corrections also argues regarding the exemption
24 at 9.510, that is the Legislature's intent to
25 make the entirety of the record exempt. Now,

1 in looking at the citation from the Florida
2 Department of Corrections, and looking at the
3 analysis, it was very clear that the reason
4 that the sources of the basal injection drugs,
5 the participants within the basal injection,
6 those are considered exempt, not because of
7 precluding the public from knowing, other than
8 to make sure that there was a steady source of
9 the drugs. It did not, the Legislature had an
10 opportunity to make the entirety of the record
11 exempt and they did not. And so the Legislator
12 has spoken as to that, and Mr. Willacy is
13 entitled to these records.

14 The records that he requested are
15 specific, they are not unduly burdensome. And,
16 in fact, in his records demand he cites to
17 where in the protocol the records are found,
18 and the language of each record is directly
19 from the protocol and records that are kept in
20 compliance with the protocol. It does not
21 change the meaning that the signatures of
22 participants, the signatures of witnesses, the
23 names, anything that would lead to identifiable
24 information could absolutely be redacted out.
25 We understand that that's confidential per the

1 Statute.

2 So we would argue that we absolutely
3 have met our burden and that he is entitled to
4 these records.

5 THE COURT: Thank you. Is there
6 anything further from Defense?

7 MS. JACQUAY: I believe Mr. Chayken
8 will be handling the demands as to the
9 communications of the March 18th demands.

10 THE COURT: All right. You may
11 proceed.

12 MR. CHAYKIN: Good morning, Your
13 Honor. So with regard to the public records
14 demands that were filed on March 18th, they are
15 regarding communications that occurred between
16 all the agencies following the filing of the
17 March 6th public record demand.

18 And, Your Honor, it'd be helpful if I
19 could address the all agencies at the same
20 time, Your Honor, because a lot of the
21 objections that are made are actually very
22 similar, if not exactly the same.

23 THE COURT: Okay.

24 MR. CHAYKIN: And so, Your Honor, if I
25 could break down, I believe you wanted me to

1 address the Governor's Office first, Your
2 Honor?

3 THE COURT: If you could, yes.

4 MR. CHAYKIN: Yes, Your Honor, my
5 apologies, I could do that.

6 So regarding the Governor's Office
7 public record demand objection, Your Honor, at
8 this point the Court should rule in default for
9 the Defense and grant the public records
10 demand, because the Governor's Office has not
11 responded to our request. Their entire
12 objection is focused on clemency. We have not
13 requested anything related to clemency.
14 Nothing that we've requested is related to
15 anything related to a clemency investigation or
16 clemency proceedings, that is something that
17 occurs prior to the warrant posture occurring.
18 So everything that the Governor's Office has
19 argued at this point is irrelevant to the
20 consideration of the demand that we filed.
21 They've not responded and the Court should rule
22 in default for the Defense based on the
23 Governor's Office not filing a timely objection
24 to the request.

25 However, Your Honor, one of the things

1 that the Governor's Office claims is something
2 that all the agencies claim, I can address that
3 at this time, which is that the Defense has not
4 put forth a colorable claim. So this is a
5 multifaceted argument, and I'll go through
6 that, Your Honor.

7 So first, Ms. Jacquay just explained
8 the legislative history, right, of the public
9 records request 3.852 and the relevant
10 Statutes, which would be 27.7081. So first,
11 Your Honor, the requirement that we put forth a
12 colorable claim, not only does it violate the
13 Statute under 27.7081 but it violates the
14 United States Constitution under the Fourteenth
15 Amendment because it deprives Mr. Willacy of
16 his equal protection and due process rights.
17 This would also violate the corresponding
18 Florida Constitutional Amendments by requiring
19 Mr. Willacy to put forth a colorable claim.

20 As Ms. Jacquay explained, 27.7081 does
21 not report that requirement. All that it
22 requires is that we are seeking records
23 relevant to the subject matter of capital
24 postconviction proceeding or appear reasonably
25 calculated to lead to the discovery of

1 admissible evidence. Well, that is what is
2 occurring in this situation. Because the
3 communications between the agencies following
4 the filing of the March 6th warrant would
5 absolutely be relevant to the subject matter of
6 capital post-convention proceeding, which is
7 whether or not Mr. Willacy is being deprived of
8 public records that he's entitled to.

9 Additionally, Your Honor, not only
10 does this violate the Statute, but it violates
11 the United States Constitution, because it is
12 putting forth additional requirements for Mr.
13 Willacy that are not required for the rest of
14 the public. Mr. Willacy is a member of the
15 public and he should not be given these
16 additional requirements, and in doing so it
17 violates his equal protection rights and due
18 process rights.

19 However, Your Honor, with that all
20 consideration, I still want to address the
21 issue of whether there's a colorable claim.
22 And at this point, Your Honor, we are putting
23 forth a colorable claim. What we're requesting
24 are communications between the agencies related
25 to the March 6th warrant, so the March 6th

1 post-public records request. And these
2 communications would go to show colorable claim
3 that these agencies are strategizing to prevent
4 Mr. Willacy access to public records by
5 reframing his pre-warrant public record request
6 as a post-warrant public record request and
7 requiring us to put forth a colorable claim,
8 which is language that all of the agencies have
9 cited to, that all come from post-warrant
10 cases. I don't believe at this time that any
11 of the agencies have cited any cases related to
12 a colorable claim that are pre-warrant. And so
13 these communications would go to show and prove
14 that the agencies are, in fact, doing this,
15 they're strategizing in order to make this
16 colorable claim argument to Your Honor. And
17 that's what they've done in all of their
18 objections. Every single one of their
19 objections is focused around whether a
20 colorable claim has been made, and that is
21 including some lethal injection records.

22 And so, Your Honor, we are putting
23 forth a colorable claim, even though doing the
24 requirement to do so violates Mr. Willacy's
25 constitutional protection, as well as it

1 violates the Florida Statute in itself. By
2 requiring that additional aspect, there is a
3 violation of the separation of powers between
4 the agent -- between the branches of the
5 Government in Florida, because the Florida
6 Supreme Court is legislating by adding an
7 additional requirement. However, as I was
8 saying, there still is a colorable claim
9 regardless.

10 THE COURT: And what is that colorable
11 claim?

12 MR. CHAYKIN: Yes, Your Honor. So I
13 explained it, but I could answer further if
14 it's not coming clear.

15 But, the colorable claim is that the
16 agencies are strategizing to prevent Mr.
17 Willacy's access to public records by reframing
18 his pre-warrant public records request for
19 lethal injection records as a post-warrant
20 public records request in order to add
21 additional requirements. These requirements
22 supporting the case are from case law that are
23 post-warrant the public record requirement.

24 And so the agencies are strategizing
25 to put, essentially to mislead the Court in

1 terms of what requirements Mr. Willacy needs to
2 make to get access to these public records.

3 And so, Your Honor, then I have a --
4 there are Statute specific exemptions that are
5 made as objections by the agencies. I've
6 already addressed the Governor's Office, Your
7 Honor, because their main, other than arguing
8 about clemency, which is irrelevant, their main
9 argument was the colorable claim, which is the
10 main argument, ultimately, for all agencies
11 that I can address. But there are specific
12 exemptions made by the agency.

13 Your Honor, if I could address the
14 exemptions made by the Attorney General's
15 Office at this time?

16 THE COURT: You may.

17 MR. CHAYKIN: So, Your Honor,
18 ultimately the Attorney General's Office, the
19 State Attorney's Office, they essentially have
20 the same objections, with the only thing
21 different being that the Attorney General's
22 Office has some additional specifically
23 statutory objections. So I'll just address
24 them both at the same time, Your Honor, if I
25 may, and I'll specify what is different about

1 the Attorney General's, would that be all
2 right, Your Honor?

3 THE COURT: You may, go ahead.

4 MR. CHAYKIN: Okay. Thank you. So
5 the State Attorney's Office and Attorney
6 General's Office argue that the materials that
7 we are requesting for the communications are
8 overbroad, but ultimately, these communications
9 that we're requesting are about one individual,
10 Mr. Willacy, between specified agencies, we've
11 listed the agencies we're requesting the
12 communication from, and over a one-week period.
13 So nothing about the request that we have made
14 is overly broad, but rather it's actually very
15 specific.

16 And let's see. There is also a case
17 that the State cited to, the State Attorney
18 General's Office cited to to try to support
19 their objection as to our claim, our demand
20 being overly broad, and that case is being
21 relied on is misguided, and I'll explain.

22 The case that they're cited to is
23 Muhammad v. State, 132 So.3d 176, Florida
24 Supreme Court 2013. And specifically
25 referencing the Page 201 of the case, Your

1 Honor.

2 So I want to explain what was -- the
3 State cited to this case to try to support
4 their objection that what we're requesting is
5 overly broad, but what was requested in the
6 case of Muhammad is vastly different from what
7 we've requested. And so, Your Honor, I'm just
8 going to quote what was requested from Muhammad
9 that is important for the Court's
10 consideration. In Muhammad, the defendant
11 requested, quote, any files, records, letters,
12 memoranda, notes, drafts, and/or electronic
13 mail in the possession or control of your
14 agency pertaining to Mr. Muhammad that were
15 received or produced by your agency since Mr.
16 Muhammad -- since Muhammad's previous request,
17 and/or any documents that were for any reason
18 not provided previously. So that, obviously,
19 is vastly different than what we've requested.

20 What we've requested are specific
21 communications that are outlined in terms of a
22 time period, who would be involved in those
23 communications, and the subject matter. So --
24 and, I mean, honestly, Your Honor, when you
25 read the request from Muhammad, it would be

1 overly broad in comparison to what we've
2 requested. It's honestly hard to even
3 understand what's being requested in that case.
4 But in our case, everything that we've
5 requested is understandable. And all that's
6 required is that the public records' custodian,
7 is that the request that were made is specific
8 enough so that public records' custodian could
9 understand, anybody could understand the demand
10 we've filed. It's regarding communication that
11 are specifically outlined.

12 So any argument that this, what we
13 requested is not understandable, would be
14 disingenuous.

15 Your Honor, the State Attorney's
16 Office and the Attorney General's office, they
17 ultimately make this claim that what we've
18 requested is overly broad and unduly
19 burdensome, but they've not explained why their
20 objections. They're just simply saying that it
21 is, it's overly broad and unduly burdensome,
22 that's the only explanation they get. However,
23 when Your Honor considers the facts, they're
24 obviously not.

25 Now, as to, I addressed the overly

1 broad aspect, but there's still the unduly
2 burdensome aspect of the objection that was
3 raised by the agencies. Well, the fact that
4 it's unduly burdensome, that indicates that
5 there is a plethora of communication that are
6 occurring between these agencies, so much so
7 that they're saying it would be burdensome for
8 them to collect. This is over a one-week
9 period. The fact that these agencies are
10 claiming that these requests would be unduly
11 burdensome is concerning and supports and
12 corroborates our arguments and shows that these
13 communications occur.

14 So the fact that it's unduly
15 burdensome should be actually concerning, Your
16 Honor. Not to mention the fact that it would
17 not be unduly burdensome to obtain e-mails,
18 communications, messages that were sent within
19 a one-week period between the attorneys that
20 are involved in the case, that would not be
21 unduly burdensome. They have records
22 departments that can also obtain those for
23 them.

24 Now, regarding some specific statutory
25 exemptions that were made by the Attorney

1 General's Office, which would be separate from
2 what was made from the State Attorney's Office.
3 First, the Attorney General claims that the
4 records we were requesting would be privileged,
5 exempt, and non-discoverable materials, and
6 they cite to the statutory exemptions. The
7 first one being that this situation is
8 attorney/client privilege material, and it
9 shouldn't be divulged. Except, Your Honor, Ms.
10 Jacquay already cited to the Attorney General's
11 own manual with regard to public records. And
12 when looking at the manual on Page 127 of the
13 Attorney General's own manual, there's case law
14 that explains this exact situation. So, quote,
15 Your Honor, the Public Records Act applies to
16 communications between attorneys and government
17 agencies; there is no judicially created
18 privilege which exempts these documents from
19 disclosure. That is from the case of Wait v.
20 Florida Power & Light Company, 372 So.2d 420,
21 Florida Supreme Court 1979. Where that Court
22 found that not only the Legislature and not the
23 judiciary can exempt attorney/client
24 communications from Chapter 119 Florida
25 Statutes.

1 The other case that the Attorney
2 General's own manual sites do is City of North
3 Miami versus Miami Herald Publishing Company,
4 468 So.2d 218, Florida Supreme Court 1985,
5 where the court, this is from their manual, so
6 this is what came from that case, is although
7 Statute 90.502, which is what the Attorney
8 General relies on in this case, although that
9 Statute establishes an attorney/client
10 privilege for public and private entities, this
11 evidentiary Statute does not remove
12 communications between an agency and its
13 attorney from the open inspection requirements
14 of Chapter 119 of Florida Statutes. That's
15 from their own manual and the case law supports
16 our position.

17 Moreover, public disclosure of these
18 documents does not violate the public agency's
19 constitutional rights of due process, freedom
20 of speech, et cetera. That also comes from
21 case law cited by the Attorney General's own
22 manual.

23 So regarding whether there's an
24 attorney/client privilege, that's factually
25 inaccurate, that's supported in the case law

1 that 90.502 does not create an attorney/client
2 privilege for this agency.

3 Now, moving to the next objection.
4 They also state that the materials we're
5 requesting are attorney work product. Well,
6 Your Honor, going back to their own manual
7 again, on Page 132 and 133 of the Attorney
8 General's own manual, they cited the case law
9 that supports our position.

10 So first case that they cite to is --
11 I mean, that's important for this Court's
12 consideration is State v. Kokal, that's
13 K-O-K-A-l, 562 So.2d 324, Page 327, Florida
14 Supreme Court 1990. Where in Kokal the Court
15 approved the decision of the Fifth district in
16 Orange County versus Florida Land Company,
17 which describes certain documents as not within
18 the term public records because they were not
19 used to perpetuate, formalize, or communicate
20 knowledge. So materials that are used to
21 perpetuate, formalize, or communicate knowledge
22 would be considered public records, according
23 to the case within their own manual.

24 Now --

25 THE COURT: Hang on, lot of negatives

1 in there, I just want to make sure I'm getting
2 this right. Not used, let's see here, describe
3 certain documents as not within the term public
4 records, because they were not used to
5 perpetuate, formalize, or communicate
6 knowledge, does that mean if they were used to
7 perpetuate, formalize, or communicate knowledge
8 it would not be a public record?

9 MR. CHAYKIN: No. If they were used to
10 formalize or communicate knowledge, they would
11 be a public record. And I have more I can cite
12 to that explains that a little further, because
13 I do understand that that specific quote has
14 some double negatives in there.

15 But, Your Honor, I can cite to this
16 actually, this will clear that up. So by
17 contrast, documents prepared to communicate,
18 perpetuate, or formalize knowledge constitute
19 public records and are, therefore, subject to
20 disclosure in the absence of statutory
21 exemption. This comes from the case of Shevin
22 v. Byron, Harless, Schaffer, Reid & Associates,
23 Incorporated, 379 So.2d 633, Page 640, Florida
24 Supreme Court 1980. Also just for reference,
25 it is Page 133 of the Attorney General's own

1 manual.

2 Now, further that case, the Shevin
3 case, it explains, it states that "interoffice
4 memorandum and intraoffice memoranda
5 communicate information from one public
6 employee to another or merely prepared for
7 filing, even though not a part of an agency's
8 later, formal public product, would nonetheless
9 constitute public records inasmuch as they
10 supply the final evidence of knowledge obtained
11 in connection with the transaction of official
12 business". So that confirms that when we're
13 dealing with finalized information, or the
14 communication of information, it would be a
15 public record. And so what the State is --
16 what the Attorney General is claiming would be
17 a public record and that may not be a public
18 record situation would be exempt, in fact,
19 would be a public record.

20 When what we're asking for is
21 communication between the agencies. When the
22 agencies communicate with one another, they're
23 presenting formalized knowledge and
24 communication. The difference, an example
25 would be, that if the agencies drafted an

1 e-mail and they didn't send the e-mail, that
2 would be considered work product, that's not a
3 finalized product, that isn't the full
4 communication between the agencies, that would
5 represent the attorney's mental impressions, et
6 cetera. But when the attorney submits the
7 e-mail, for example, or makes that
8 communication with the other agency, they even
9 formalize the information materials and
10 communicated it, making it available public
11 record.

12 So just because something at one point
13 might be considered a work product, can still
14 become public record, and it did in this
15 situation via the communications that occur
16 between the agencies.

17 So that addresses the attorney work
18 product, Your Honor.

19 THE COURT: Okay.

20 MR. CHAYKIN: There are some, there's
21 some other cases that the agency cite to,
22 including Bradley v. State, which talks about
23 handwritten notes being considered work
24 product, et cetera. That's not -- there are
25 some situations that some actually what we've

1 requested, Your Honor, that could be considered
2 work products, but that would be only if the
3 notes that we've requested do not contain
4 formalized knowledge. So some of what we
5 requested, Your Honor, I conceive could be
6 considered part of public work products. But
7 the issue is that when that, when that material
8 is then communicate with the other agency it
9 becomes finalized. And so if these notes
10 within the agency are finalized materials, then
11 they would be considered public record. So
12 that would be something that Your Honor could
13 look at through a Motion for In Camera
14 Inspection and could just determine for
15 yourself.

16 Now, moving, Your Honor, to the next
17 objection, which is one that's made by the
18 Attorney General's Office, but it also -- let's
19 see -- yeah, the Attorney General's Office. So
20 the next one that they make is that there's an
21 active criminal investigation happening, which
22 would prevent the disclosure of the records.
23 Your Honor, that is absolutely not factual.
24 This is not an active criminal investigation.
25 And, I know that for the Attorney General's own

1 manual. So again, from the Attorney General's
2 own manual is citing whether this is an active
3 criminal investigation, which it is not.

4 So on Page 107 and 108 of the Attorney
5 General's own manual, it explains what would an
6 active criminal investigation be considered.
7 And so "criminal intelligence and investigative
8 information is also considered to be active
9 while such information is directly related to
10 pending prosecutions or direct appeals". That
11 comes from Section 119.011 Subsection 3, and
12 there's also some case law within the Attorney
13 General's manual.

14 "Once the conviction and sentence have
15 become final, criminal investigative
16 information can no longer be considered
17 active." That comes from State v. Kokal, 562
18 So.2d 324, Page 326, the Florida Supreme Court
19 1990. They also have some additional district
20 court appeals cases in here that support that
21 exact situation, which is that this is not
22 active criminal investigation. We are past the
23 sentence becoming final and so we're no longer
24 in that posture.

25 I mean, if the Attorney General is

1 claiming that this enactment investigation, it
2 insinuates that they're still looking, I guess,
3 for the suspect of the murder, which will also
4 be entitled to those records as well, if the
5 Attorney General is truly investigating who
6 committed this crime. But, obviously, that's
7 not the case, and that claim, Your Honor, is
8 disingenuous and should not be considered.

9 Next, Your Honor, they also cite, the
10 Attorney General cites to 945.10 Subsection 1,
11 which has to do with the identities of the
12 execution team members and lethal objection
13 participants. That's not what we're
14 requesting. That information can be redacted,
15 Your Honor. We're not asking for the identity
16 of anything. We are asking for lethal
17 injection laws, right, and as well as in this
18 situation specifically in the communication
19 between the agencies. So if the -- essentially
20 by raising this objection, agencies are
21 insinuating that they had in those
22 communications the identities of people
23 involved with the execution, which would
24 confirm, Your Honor, that the agencies are
25 talking about Mr. Willacy's warrant before the

1 warrant is ever filed, before Defense counsel
2 is ever privy to the information. So the fact
3 that they're even making this objection
4 indicates that all the parties are aware of the
5 warrant prior to the warrant being signed,
6 which goes towards colorable claim of the
7 parties, the agencies strategizing to put Mr.
8 Willacy in a different public records posture.

9 And so, Your Honor, then I believe
10 that addresses all the specific statutory
11 exemptions that were made by the agencies. Let
12 me see, just to make sure I didn't miss
13 anything, Your Honor.

14 THE COURT: Certainly.

15 MR. CHAYKIN: Oh, I did, just one
16 thing, and I would have to go back to the
17 Governor's Office.

18 THE COURT: Got it.

19 MR. CHAYKIN: So the only thing of any
20 merit in that, in the response by the
21 Governor's Office is the objection of whether
22 or not we have a good cause argument to the
23 public record demand, even if Mr. Willacy has
24 not previously demanded from the Governor's
25 Office. Your Honor, there is good cause, and

1 here's why. What we've requested are
2 communications between the agencies that
3 occurred after the filing of Mr. Willacy's 3/6
4 public record demand.

5 So here's the good cause, it would
6 have been impossible for the Defense to have
7 possibly requested these materials prior to us
8 doing so this month. It's impossible, because
9 what we're requesting are communications that
10 occurred in response to the filing of a demand
11 on March 6th. So it takes a lot of
12 consideration to decide whether or not we could
13 have filed that before. Essentially, we would
14 have either needed a time machine or a crystal
15 ball. Because, basically, we, at the time of
16 filing the March 6th demand, we have no
17 information as to whether a warrant is going to
18 be signed. We can only possibly raise this
19 issue after the warrant was signed a week after
20 Mr. Willacy filed the 3/6 demand. And so the
21 good cause is that it just simply would have
22 been impossible for us to make this request
23 prior to now.

24 I do believe that addresses all the
25 arguments in terms of the objections that were

1 made by the agencies, Your Honor. The only
2 thing I would, the only thing I would ask is if
3 Your Honor is convinced of the agencies'
4 objections, that I would ask if the Court would
5 consider requiring a protective order for all
6 of the demands that we've requested, which
7 would provide the materials to the Defense, the
8 ability to provide the materials to any
9 confidential expert, but would be a protective
10 order that would stay within the parties. So
11 that would be something that I would suggest to
12 Your Honor as an alternative if Your Honor is
13 convinced of the objections.

14 The Trial Court under 27.7081
15 Subsection 12 may order mediation or even refer
16 the controversy to a magistrate. And so if
17 Your Honor is convinced of these objections,
18 which our position is that they are not valid,
19 but if Your Honor is convinced, your Courts --
20 that Your Honor could still order the
21 disclosure of the records via protective order,
22 which would mediate the issue. And with that,
23 Your Honor, have nothing further at this time.

24 THE COURT: Thank you. And your
25 request regarding a protective order, was that

1 included in writing anywhere?

2 MR. CHAYKIN: No, Your Honor, I did
3 that ore tenus.

4 THE COURT: Okay. All right. And
5 that concludes the Defense's original argument,
6 I know I have heard from two attorneys?

7 MR. CHAYKIN: I believe it would at
8 this time, Your Honor.

9 THE COURT: Thank you. Can I hear
10 from the Governor's Office next.

11 MR. LOYED: Yes, Your Honor. I'll
12 begin with opposing counsel's contention that
13 our arguments are somehow meritless. I would
14 strongly disagree with that and so would more
15 than a dozen courts that I've cited in our
16 case, consistently and repeatedly denied
17 records requests similar to this one on the
18 grounds that they seek clemency process
19 records. I cited a dozen cases that have been
20 decided in the last 13 months on this issue in
21 post-warrant records request postures and
22 courts consistently found that, so I certainly
23 would not agree that these are somehow
24 meritless arguments.

25 I think part of this is based on

1 misunderstanding of the clemency process. The
2 clemency process cultivates, Your Honor, with
3 the signing of the death warrant and the
4 corresponding denial of clemency. The
5 Defendant in this case received his letter
6 denying clemency after the warrant was signed
7 on the date of the form signed. This records
8 request seeks all of the Governor's
9 communications regarding the Defendant in a
10 week leading up to the signing of his death
11 warrant.

12 The only responsive materials that
13 would be in the Governor's Office's possession
14 responsive to that sort of request are
15 materials that were part of the decisionmaking
16 process of whether to grant clemency or sign a
17 death warrant for the Defendant. That's the
18 entire universe of request, and that's the
19 information that is being requested here. That
20 information is shielded under Rule, Statute,
21 and a wide body of Florida Supreme Court
22 precedent. The Statute is 14.28, it's Rule 16
23 of the Rules of Executive Clemency. The cases
24 are cases such as Chavez versus State.

25 These records are protected, they're

1 part of the Governor's decisionmaking process
2 of whether to grant clemency or sign a death
3 warrant, and the Supreme Court, the Florida
4 Supreme Court has spoken about how a trial
5 court's decision to release such deliberative
6 records would be a violation of the Separation
7 of Powers Doctrine. The Governor has absolute
8 discretion on who he chooses to sign a warrant
9 for and a defendant or a judge or a disclosure
10 of those records to second guess that decision
11 is a violation of the Separation of Powers
12 Doctrine.

13 And as I said, Your Honor, all the
14 records that the Governor will be possession of
15 in the week leading up to this warrant being
16 signed would be clemency process, deliberate
17 records on whether to sign a warrant or grant
18 clemency.

19 As to the colorable claim, which we
20 argue as well in our objections, it seems like
21 Defense counsel might not be happy with the
22 fact that a colorable claim has to be shown,
23 but that's what the Florida Supreme Court Case
24 Law requires. So they have that issue, that
25 issue needs to be taken at the Florida Supreme

1 Court, not settled here at the Circuit Court
2 level.

3 This records request is seeking
4 records ultimately to challenge the clemency
5 process, as we discussed, and as the Florida
6 Supreme Court has said, does not relate to a
7 colorable claim postconviction relief, because
8 it is seeking information about the Governor's
9 warrant selection process, who the Governor is
10 talking to, what the Governor has in the week
11 leading up to a warrant that he's forming the
12 basis to select someone for a death warrant.
13 The Florida Supreme Court has consistently
14 repeatedly held that records requests such as
15 that do not relate to a colorable claim for
16 postconviction relief. And if that's something
17 that's going to be changed, that's something
18 the Florida Supreme Court would need to change,
19 Your Honor.

20 And the demand also does not meet its
21 burden of showing how records relate to a
22 colorable claim. There's a burden to show the
23 connection, Your Honor. It's not enough to
24 just say, well, there was a public records
25 request file and then later there was a warrant

1 signed, we'd like to see if there's some relief
2 in there and we want to dig around for those
3 records. That's a fishing expedition for
4 records that are unrelated to a colorable claim
5 for postconviction relief that the Florida
6 Supreme Court has also said should be rejected
7 within this posture.

8 And again, Your Honor, the Governor
9 has complete and total discretion on who to
10 sign the warrant for and when to sign that
11 warrant and records request aimed to
12 challenging that complete discretion do not
13 relate to a colorable claim postconviction
14 relief. The Florida Supreme Court has said as
15 much.

16 We also argued that under Rule
17 3.852(h), a defendant must have requested
18 records previously from that agency. I'm not
19 aware of any requests from this Defendant
20 previously from our agency, so 3.852(h), in our
21 opinion, is off the table for this as well,
22 Your Honor. So these are absolutely clemency
23 process records. Other courts have held that,
24 this Court should hold that. Any record
25 seeking to uncover the Governor's

1 decisionmaking process leading up to a warrant
2 are privileged and not subject to disclosure.

3 THE COURT: Thank you. Defense, do
4 you have any knowledge that there was a prior
5 request to the Governor's Office?

6 MR. CHAYKEN: No, Your Honor, not at
7 this time. That is also where the exception is
8 if a good cause is shown, and that's what I
9 attested to at this point, is that good cause
10 exists because we could not possibly request
11 that the records we're seeking prior to when we
12 requested them.

13 Would Your Honor like hear my response
14 at this time?

15 THE COURT: No, I'll wait, I just
16 wanted an answer to that limited question.

17 MR. CHAYKEN: Understood.

18 THE COURT: All right. Thank you.
19 And next I'm going to hear from Florida
20 Department of Corrections, if you will please
21 raise your arguments talking specifically about
22 March 6th versus March 18th.

23 MS. LONEGREN: So we'll address the
24 March 6 first. Can you hear me a little bit
25 better?

1 THE COURT: Yes, but make sure you
2 stay closer to the mike.

3 MS. LONEGREN: Yes, Your Honor, I
4 apologize. I fixed my volume settings, I think
5 I fixed it.

6 THE COURT: Okay.

7 MS. LONEGREN: As to the March 6th
8 demand for lethal injection records, the
9 Department of Corrections is entitled to a
10 presumption that the Department conducts itself
11 properly, which has consistently been upheld by
12 the Florida Supreme Court. The Defense has
13 failed to even come close to overcoming that
14 presumption.

15 Further, these records don't support a
16 colorable claim. This question has been
17 presented in multiple warrants this year, all
18 of which have ruled similarly. The Walls
19 records in Federal litigation from the Frank
20 Walls case that were referenced in the Notice
21 of Authority that was filed yesterday have been
22 attacked and included and incorporated into the
23 demands in every warrant so far this year, that
24 the Defense chose not to attach them to the
25 demand this time, resulted in us not addressing

1 that in our objection here, but we would rely
2 on the Court's rulings, Florida Supreme Court's
3 rules in Heath, Trotter, and Kearse warrants
4 from earlier in 2026, which directly answers
5 this question and supports sustaining the
6 objections.

7 The records, even in the version
8 attached in Walls, don't support a colorable
9 claim. The arguments presented to attempt to
10 state a claim are based on suppositions and
11 misreadings of redacted copies of records that
12 are confidential, and they do not show what
13 they claim, what Defense claims they show.
14 This was recognized by the Florida Supreme
15 Court in Trotter, where there are a number of
16 other explanations for the portions they cite
17 to as allegedly irrefutable evidence of
18 misadministration, because they're purposefully
19 misreading those records, asserting that
20 there's only one possible interpretation where
21 the court in Trotter recognized correctly that
22 that's not the case.

23 To the extent that Defense made
24 argument regarding CCRC being precluded from
25 making requests under 119 and the process of

1 how 3.852 is created, arguments that they are
2 limited to these records because they can't
3 make public records requests for an early 119
4 or are inappropriately held to additional
5 requirements when they can expand under 3.852
6 where they claim that the Defendant, if he were
7 just a regular citizen, could obtain them, or
8 arguments that confidentiality on your, cited
9 to the OAG's manual requires protection, not
10 denial of records in total, are incorrect.
11 These records are confidential in total.
12 There's no portion of the records that are not
13 confidential under Florida Statutes. And the
14 Legislature saw fit to strengthen the statutory
15 protections for these records in recent years,
16 not reduce them.

17 Argument that the colorable claim
18 language only applies to post-warrant
19 implications in this statement, Rule 3.852(i),
20 that these records are sought under, has the
21 same requirements the case law applies to those
22 demands, to do any demands under Rule 3.852(i),
23 regardless of whether it be before or after a
24 warrant is issued. Then it happens to be that
25 most of the time this comes up in a warrant

1 context, because that's when CCRC gets around
2 to make the demand for those records, does not
3 make the case law inapplicable in this
4 situation, because it's still made under the
5 same rule and still subject to the same
6 requirements.

7 The protections under the Florida
8 Supreme Court are basically a third tier
9 presumption, right. We've got the fact that
10 there's a presumption that they have not
11 overcome, that they fail to show a colorable
12 claim, but even notwithstanding all of that,
13 these are protected by Statute, the Legislature
14 has decided that these records are not to be
15 released and that they're confidential, and the
16 courts consistently respect that and follow
17 that when denying these things.

18 Would the court prefer that I go into
19 the subsequent demand, as well?

20 THE COURT: Yes, you may. So that
21 ends the argument with regard to the March 6th
22 demand?

23 MS. LONEGREN: Yes, Your Honor.

24 THE COURT: All right. Now you can
25 talk about March 18th demand.

1 MS. LONEGREN: All right. So for the
2 subsequent demand for communications, to the
3 extent that they are seeking communications
4 with any external agency or external
5 communications regarding the March 6th demand,
6 there are none, we have nothing to produce.
7 The sole items that exist in our internal
8 communications regarding calendaring,
9 organizing to meet the deadline to file our
10 objections, those are not public records as
11 addressed by Brady versus State, because there
12 are attorney notes, confidential work product
13 created for the purposes of handling active
14 litigation, which at the time was the 3.6
15 demand, that was in the process of being
16 litigated since our time for filing objections
17 to that was running.

18 As to any other communication, we
19 incorporated the same ordinance raised in our
20 objections, as well as the objections of other
21 agencies. We would note that the only thing in
22 addition is that any other communications, the
23 demand as written overly broadness, it seeks
24 records through the date of March 13th without
25 limiting to the time at which the warrant was

1 issued, right, so it's, accordingly it
2 impermissibly seeks records regarding actions
3 taken after the warrant was issued, which are
4 confidential attorney/client communications or
5 work product in anticipation of the warrant in
6 litigation that is currently ongoing that we're
7 engaging.

8 My last note would be to the extent
9 that there was an argument that necessarily
10 arguing that these records are, this demand for
11 records is unduly burdensome means there must
12 be a plethora of responsive documents, that's a
13 misstatement, right. The burden of producing
14 absolutely any records that are improperly
15 sought and are confidential is undue.

16 With that, we rest on our objections.

17 THE COURT: All right. Thank you,
18 Department of Corrections. Next, the Attorney
19 General's Office.

20 MR. MERVINE: Good morning, Your
21 Honor. Under Rule 3.852 there has to be a
22 colorable claim for postconviction relief
23 asserted in order to be entitled to these
24 records. Here, there is none. Instead, what
25 the demand seeks is the ability to explore

1 whether such a colorable claim exists.
2 However, that's not, that's not proper. And
3 the Florida Supreme Court has repeatedly stated
4 that 3.852 is not intended to entitle the
5 defense to a fishing expedition. Here, the
6 Defense seeks to create a colorable
7 postconviction claim, not seeking specific
8 records supported by specific facts which would
9 support that claim.

10 And either taking the Defense's
11 theories at face value, none of them constitute
12 a postconviction colorable claim. There's been
13 no law or constitutional provision cited which
14 prohibits agencies to speak with one another
15 about postconviction -- or about public demand
16 records.

17 The Governor's warrant decision,
18 whether to sign a warrant or not, the timing of
19 it, the motivation behind it, that is all found
20 to be not a colorable postconviction claim by
21 the Florida Supreme Court, so this request
22 isn't tied to a colorable claim.

23 And then finally, the Eighth Amendment
24 claim is facially insufficient because, one,
25 Defense doesn't proffer an alternative means of

1 execution. And also, the Florida Supreme Court
2 repeatedly in Heath, Trotter, Kearse, and most
3 recently in King, have stated that these
4 speculative arguments, which the Defense draws
5 from highly redacted, incomplete records, do
6 not constitute a proper Eighth Amendment claim
7 and cannot justify a public records demand.

8 As to whether or not the demand is
9 unduly burdensome or overly broad, I would ask
10 the Court look at the demand itself. It's
11 seeking personal cell phone information and
12 seeking all of these records. And again, the
13 Office of the Attorney General, we're an
14 appellate agency, we don't investigate crimes.
15 What we do is we, basically, act upon the
16 records on the appeal, which Mr. Willacy would
17 have in his possession.

18 And to the extent that the Defense
19 relies on Chapter 119 to justify it's demand, I
20 would direct the Court's attention to
21 Subsection 8 of Section 119.19, which states
22 that that chapter is not meant to expand
23 discovery and collateral proceedings, and I
24 submit to the Court that that's what the
25 Defense is seeking to do. They're seeking to

1 investigate whether a claim exists, not to
2 support a fact-supported colorable
3 postconviction claims. And for those reasons,
4 Your Honor, we would ask the court to sustain
5 the Office the Attorney General's objections.

6 THE COURT: Thank you. Office of the
7 State Attorney.

8 MR. SCHEINER: Good morning, Your
9 Honor. And much like my counterparts and my
10 other agencies, our objections are based on the
11 nature of their requests, the timing of it, and
12 that it doesn't relate to a colorable claim and
13 it's merely a fishing expedition on the part of
14 Mr. Willacy's counsel.

15 I would rest my argument on the
16 written portion of my response and my
17 co-counsels, and I would agree and echo what
18 the Florida Department of Corrections has said,
19 that a request that is not sufficient or based
20 on a colorable claim is overly burdensome to an
21 agency and their responsive requirements there.

22 And I'd also let the Court know, just
23 for the Court's benefit, that having gotten
24 these requests and preparing for this
25 litigation, we did look into it, I have no such

1 interagency communications. Any communications
2 within my office are related to the records
3 request that I got, a copy of on the 10th
4 related to the 6th, the Department of
5 Corrections, and then any other calendaring or
6 noticing that a death warrant had been signed.

7 So, but again, the request is overly
8 broad, as Mr. Mervine has indicated that
9 request, that the Court looks at it includes
10 personal communications and things of that
11 nature, on personal cell phones, not just
12 e-mail communications. And for that reason, I
13 would request the Court sustain the objection
14 of being overly broad, a fishing expedition not
15 related to a colorable claim. Thank you.

16 THE COURT: Thank you. Who is going
17 to do the response for the Defense?

18 MS. JACQUAY: I will, Your Honor.

19 THE COURT: You may proceed.

20 MS. JACQUAY: Thank you, Your Honor.

21 Now, starting with the contention that personal
22 cell phones or private cell phones are exempt
23 from any disclosures of public records. In
24 looking at Page 85 of the Attorney General's
25 manual, again, the Attorney General's manual

1 that is sent out to agencies across the State
2 of Florida regarding their compliance with
3 Florida Statute and Florida's robust Sunshine
4 laws, which advocates and requires even per
5 Florida Constitution Article 1 Section 24 for
6 the Public Disclosure of Records. On Page 85
7 under Subsection E text messages it states, "a
8 public official or employee's use of a private
9 cell phone to conduct public business via text
10 messaging can create an electronic written
11 public record subject to disclosure if the text
12 message is prepared, owned, used, or retained
13 within the scope of his or her employment of an
14 agency". So the argument that anything that
15 would be in a personal cell phone is a red
16 herring before this Court and the agencies are
17 well aware of the law and the requirements
18 under the Public Records Disclosure.

19 Now, I would like to talk secondly
20 about the argument about a colorable claim. As
21 I started my argument by citing to the
22 definition of colorable claim as found in
23 Black's Law Dictionary, we have asserted a
24 public right colorable claim. The fact that we
25 have not been able to prove beyond a reasonable

1 doubt the colorable claim is by the mere fact
2 that we don't have the records. And as Justice
3 Moore wrote in her comment to the cert that was
4 ultimately denied in Melvin Trotter's case,
5 there is a catch 22 that is being created by
6 the Florida agencies. We are in catch 22. We
7 have the limited records from Walls that shows
8 that there is at least something is going to
9 astray despite what the Florida Department of
10 Corrections is proclaiming.

11 The records, it takes a person of
12 reasonable intelligence can look at the records
13 and see that simply the lot number, the source
14 of the drugs, just because those are redacted,
15 that does not stop a general understanding that
16 expired drugs were logged as being used and
17 differences in quantities. So to state that
18 the records in Walls show that everything is
19 going as planned, and that the Florida
20 Department of Corrections is absolutely
21 following the lethal injection protocol is
22 patently false, it is false.

23 THE COURT: When you're talking about
24 the records in Walls, are you talking about the
25 Application For Stay, is that what's referenced

1 in your notice of --

2 MS. JACQUAY: That is where the Walls'
3 records are included, we cite to where they're
4 from because they've been filed over and over
5 again. And the agency is correct, I did not
6 include them in our demand on March the 6th
7 because I, quite honestly, I was not
8 anticipating in response that a warrant would
9 be signed. If that is why a warrant was
10 signed, I don't know, but I did not expect this
11 to happen the way that it did. And so, no, we
12 did not file it because it was a just a normal
13 records demand that would be filed any
14 pre-warrant posture. And those records, I can
15 provide them to the Court, as the agencies are
16 aware of them, as we've been arguing about them
17 in many cases over the past, at least, three
18 months, I can provide those to the Court, but
19 those are the records that we're talking about,
20 the logs that show the date in which a quantity
21 was received or removed from or used according
22 to the records of the log, was used by the
23 Florida Department of Corrections.

24 THE COURT: And The Florida Supreme
25 Court has seen that information and had such

1 rulings, is that correct?

2 MS. JACQUAY: That is correct.

3 THE COURT: Okay. Sorry, go ahead.

4 MS. JACQUAY: Now, as to the argument
5 that 9.4510 makes the entirety of the lethal
6 injection records exempt or confidential is
7 false. That exemption and confidentiality
8 finding is very, very narrow, and it's very,
9 very specific. It is anything that leads to
10 the identity, a participant, a source of the
11 drugs. It does not make the entirety of the
12 record exempt or confidential. And the records
13 of the lethal injection, what we have requested
14 in the March 6th records request, are all
15 records that fall within the definition of a
16 public record. They are all records that are
17 kept in the official business of Florida
18 Departments, the Florida Department of
19 Corrections, their official business of
20 carrying out executions.

21 Now, in looking at the Attorney
22 General's manual, and in support of our
23 argument that by adding a colorable claim,
24 which we have satisfied, but even despite that,
25 the Florida legislator has stated that under

1 Chapter 27, the Statute cited, that it is to be
2 in compliance with the Chapter 119 request, it
3 is not to limit or expand, limit or expand.
4 It's not just expand, it's not supposed to
5 limit either. And looking at Page 164 of the
6 Attorney General's own manual under the Section
7 2, "individuals authorized to inspect and
8 receive copies of public records", I want to
9 say a very powerful quote from the second
10 paragraph of that manual. "Thus, the law
11 provides any member of the public access to
12 public records, whether he or she be the most
13 outstanding civic citizen or the most heinous
14 criminal."

15 Now, the death penalty, as stated by
16 the courts and by the legislators, to be
17 reserved for the worst of the worst. Now, if
18 we take that as factual in this case, Mr.
19 Willacy still falls under a member of the
20 public who is entitled to these records, a
21 member of the public who is entitled to
22 Government transparency.

23 Now, in addition to that on Page 164,
24 as long as the citizen of this State desire and
25 insist upon open government and liberal public

1 records disclosure, as a cost of that freedom,
2 public officials have been put up -- have to
3 put up with the demanding citizens, even if
4 they are obnoxious, as long as they violate no
5 laws. The manual goes on to state on the next
6 page, even though a public agency may believe
7 that a person or group or fanatics, harassers
8 are extremely annoying, the public records are
9 available to all, and I want to emphasize all
10 citizens of the State of Florida.

11 By adding the argument about colorable
12 claim, it also violates the Florida Statute
13 Chapter 119 because, as stated in the Statute
14 and in the Attorney General's manual, a
15 requester is not required to explain the
16 purpose or reason of the public records
17 request. We have. Even if it is not required
18 by Chapter 119, we have.

19 And most importantly, we have
20 satisfied the requirement under Chapter 27,
21 which does not state colorable claim. If the
22 legislator wanted us to have to prove beyond a
23 reasonable doubt a colorable claim, they would
24 have included that, and they would have amended
25 it, and they have not. It only has to be

1 relevant to a postconviction proceeding or, or,
2 lead to admissible evidence. And so, we have
3 satisfied those burdens. It is against the
4 Florida Statute of the Florida Constitution to
5 deny Mr. Willacy to see these records. And on
6 that, we rest on our argument.

7 THE COURT: All right. Thank you. I
8 will take a look at the authorities that have
9 been provided, and I will issue an order by
10 4:00 p.m. today.

11 Next time that we should be here for
12 hearing, there's several deadlines between now
13 and then, but I believe this Friday at 10:00
14 a.m. for the Huff Hearing.

15 And, DOC, can you ensure that the
16 Defendant can be present if he requests?

17 MS. LONEGREN: Via Zoom -- or, excuse
18 me, Teams?

19 THE COURT: Yes.

20 MS. LONEGREN: Yes, Your Honor.

21 THE COURT: Okay. And I've been
22 taking a look at the Certificate of Service,
23 which is very, very lengthy, lots of people
24 being noticed, I think the Office of the State
25 Attorney's address may be wrong. It's listed

1 as SA018.org, I think it's just SA18.org, Mr.
2 Scheiner.

3 MR. SCHEINER: That's correct, Judge,
4 but we've been receiving copies of everything
5 irrespective of that typographical error.

6 THE COURT: Okay. I just wanted to
7 make sure that that was corrected.

8 Is there anything else --

9 MS. JACQUAY: I apologize, Your Honor.
10 We have fixed the Certificate of Service on our
11 end moving forward, I apologize for the added 0
12 to their e-mail.

13 THE COURT: No worries. And is there
14 anything else we need to address while we are
15 here?

16 MS. JACQUAY: Not from the Defense.

17 THE COURT: All right. This hearing
18 is concluded at this time. Thank you all.

19 (Whereupon, the hearing concluded at
20 11:03 a.m..)

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CERTIFICATE OF REPORTER

I, ANN MARIE TESTA, a Stenographic Court Reporter, do hereby certify that I was authorized to and did report the foregoing proceedings, and that Pages 1 through 65 of the transcript are a true and correct record of my stenographic notes.

The above certification is expressly withdrawn and denied upon the disassembly or photocopying of the foregoing transcript, unless said disassembly or photocopying is done under the auspices of Ryan Reporting and the original signature is attached thereto.

DATED this 23rd day of March, 2026.



Ann Marie Testa

The foregoing certification of this transcript does not apply to reproduction of the same by any means, unless under the direct control and/or discretion of the certifying reporter.

No. _____

In the Supreme Court of the United States

CHADWICK WILLACY,
Petitioner,
v.
STATE OF FLORIDA,
Respondent.

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

APPENDIX TO PETITION FOR A WRIT OF CERTIORARI

CAPITAL CASE
DEATH WARRANT SIGNED
Execution Scheduled: April 21, 2026, at 6:00 PM ET

Appendix F

Order on Public Records Objections, State of Fla. v. Chadwick Willacy, 1990-CF-016062-A (Cir. Ct. 18th Jud. Cir., Brevard County, Fla., Mar. 23, 2026) (denying def.'s public records demands and sustaining objections).

**IN THE CIRCUIT COURT OF THE
EIGHTEENTH JUDICIAL CIRCUIT
IN AND FOR BREVARD COUNTY, FLORIDA**

CASE NO.: 05-1990-CF-016062-AXXX-XX

**FSC Case No. SC1960-86994
ACTIVE DEATH WARRANT**

STATE OF FLORIDA,

Plaintiff,

v.

CHADWICK WILLACY,

Defendant.

_____ /

ORDER ON PUBLIC RECORDS OBJECTIONS

THIS CAUSE came to be heard on March 23, 2026, at 10:00 A.M. for a hearing on public records objections filed on or about 4:00 P.M. on March 19, 2026. The hearing was moved from 9:00 A.M. until 10:00 A.M. on March 23, 2026, in order for the Defendant to be present via TEAMS. At the hearing, the Defendant was represented by Capital Collateral Counsel Melody Jacquay-Acosta, Joshua Chaykin, Ann Marie Mirialakis, and Mahham Syed, who appeared virtually via Microsoft Teams.

Assistant Attorney General Jonathan Tannen and Special Counsel Michael Mervine appeared virtually via Microsoft Teams on behalf of the Attorney General's Office.

Chief Legal Counsel Kristen J. Lonergan and Senior Attorney Danielle Kelley appeared virtually via Microsoft Teams on behalf of the Florida Department of Corrections.

Deputy General Counsel Zachary Loyed appeared virtually by Microsoft Teams on behalf of the Executive office of the Governor.

State Attorney for the Eighteenth Judicial Circuit William Scheiner appeared virtually by Microsoft Teams on behalf of the State Attorney's Office.

The Court heard the Office of the Florida Attorney General's "Response and Objections to Willacy's Demand for Additional Public Records," directed to the Defendant's March 18, 2026 public records request, the Department of Corrections' "Objections to Defendant's Demands for Additional Public Records" directed to the Defendant's March 6, 2026 public records request, the Department of Corrections' "Objections to Defendant's Demands for Additional Public Records" directed to the Defendant's March 18, 2026 public records request, the Executive Office of the Governor's "Response and Objection to

Defendant's Demand for Public Records," and the Office of the State Attorney's "Response and Objections to Willacy's Demand for Additional Public Records," each filed on March 19, 2026. (Doc. 1506, 1507, 1508, 1510, 1513).

Based on a review of the official Court file, demands and objections thereto, argument presented, and authorities submitted, it is

ORDERED AND ADJUDGED:

1. The objections filed by the Florida Attorney General's Office are **SUSTAINED** and the Defendant's demand for production of public records is **DENIED**.

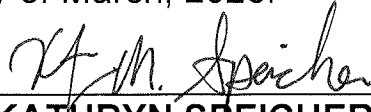
2. The objections filed by the Florida Department of Corrections are **SUSTAINED** and both of the Defendant's demands for production of public records are **DENIED**.

3. The objections filed by the Executive Office of the Governor are **SUSTAINED** and the Defendant's demand for production of public records is **DENIED**.

4. The objections filed by the Office of the State Attorney, Eighteenth Judicial Circuit, are **SUSTAINED** and the Defendant's demand for production of public records is **DENIED**.

5. The Defendant's ore tenus motions for a protective order and referral of this matter to a magistrate are **DENIED**.

DONE AND ORDERED at the Moore Justice Center, Viera, Brevard County, Florida, this 23rd day of March, 2026.



KATHRYN SPEICHER
CIRCUIT JUDGE

CERTIFICATE OF SERVICE

I do hereby certify that a copy of the foregoing was furnished by e-mail and U.S. Mail to:

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and by U.S. Mail to:

CHADWICK WILLACY, DOC #707742

Florida State Prison

P.O. Box 800

Raiford, Florida 32083

this 23rd day of March, 2026.



Lisa Baumhover

Judicial Assistant

Harry T. and Harriette V. Moore Justice Center

2825 Judge Fran Jamieson Way

Viera, Florida 32940

No. _____

In the Supreme Court of the United States

CHADWICK WILLACY,
Petitioner,
v.
STATE OF FLORIDA,
Respondent.

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

APPENDIX TO PETITION FOR A WRIT OF CERTIORARI

CAPITAL CASE
DEATH WARRANT SIGNED
Execution Scheduled: April 21, 2026, at 6:00 PM ET

Appendix G

Order Denying Def.'s "Mot. For Reh'g of Public Records Demands/Motion for In-Camera Inspection," State of Fla. v. Chadwick Willacy, 1990-CF-016062-A (Cir. Crt. 18th Jud. Cir., Brevard County, Fla., Mar. 25, 2026).

IN THE CIRCUIT COURT OF THE
EIGHTEENTH JUDICIAL CIRCUIT
IN AND FOR BREVARD COUNTY, FLORIDA

CASE NO.: 05-1990-CF-016062-AXXX-XX

FSC Case No. SC1960-86994
ACTIVE DEATH WARRANT

STATE OF FLORIDA,

Plaintiff,

v.

CHADWICK WILLACY,

Defendant.

_____ /

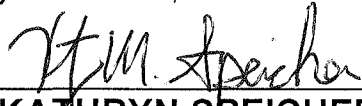
ORDER DENYING DEFENDANT'S
"MOTION FOR REHEARING OF PUBLIC RECORDS
DEMANDS/MOTION FOR IN-CAMERA INSPECTION"

THIS CAUSE came before the Court on the Defendant's "Motion for Rehearing of Public Records Demands/Motion for In-Camera Inspection," filed herein on March 25, 2026, at 8:15:59 A.M. Based on a review of the official Court file, including the Defendant's written demands for additional public records, the agencies' objections and responses, in addition to the public records hearing on March 23, 2026, which was transcribed, this Court finds that it will not conduct an in-camera inspection of the records subject to the Defendant's demands for additional public records, nor will this Court conduct a rehearing of

the Defendant's demands for additional public records filed on March 6, 2026 and March 18, 2026.

Accordingly, it is **ORDERED AND ADJUDGED** that the Defendant's "Motion for Rehearing of Public Records Demands/Motion for In-Camera Inspection" is **DENIED**.

DONE AND ORDERED at the Moore Justice Center, Viera, Brevard County, Florida, this 25th day of March, 2026.



KATHRYN SPEICHER
CIRCUIT JUDGE

CERTIFICATE OF SERVICE

I do hereby certify that a copy of the foregoing was furnished by e-mail and U.S. Mail to:

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CHADWICK WILLACY, DOC #707742

Florida State Prison

P.O. Box 800

Raiford, Florida 32083

this 25th day of March, 2026.



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No. _____

In the Supreme Court of the United States

CHADWICK WILLACY,
Petitioner,
v.
STATE OF FLORIDA,
Respondent.

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

APPENDIX TO PETITION FOR A WRIT OF CERTIORARI

CAPITAL CASE
DEATH WARRANT SIGNED
Execution Scheduled: April 21, 2026, at 6:00 PM ET

Appendix H

Pet'r's Pet. for Writ of Mandamus, Order, Chadwick Willacy v. State of Fla., et.
al., SC2026-0483 (Fla. Mar. 25, 2026).

IN THE SUPREME COURT OF FLORIDA
CASE NO: _____

Chadwick Willacy,
Petitioner,

v.

**State of Florida; William Scheiner, Office of the State Attorney
for the Eighteenth Judicial Circuit; Ricky Dixon, Sec'y, Fla.
Dept. of Corrections; James Uthmeier, Florida Attorney
General; Executive Office of Governor Ron DeSantis,**
Respondents.

**ON APPEAL FROM THE CIRCUIT COURT OF THE EIGHTEENTH
JUDICIAL CIRCUIT IN AND FOR BREVARD COUNTY, FLORIDA**
Lower Tribunal No. 1990-CF-16062-A

PETITION FOR WRIT OF MANDAMUS
CAPITAL CASE - DEATH WARRANT SIGNED

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INTRODUCTION

Pursuant to Fla. R. App. 9.100, Chadwick Willacy, by and through his undersigned counsel, respectfully petitions this Court for Writ of Mandamus directed to the Honorable Judge Kathryn Speicher, of the Circuit Court of the Eighteenth Judicial Circuit, in and for Brevard County. Willacy seeks an order from this Court directing the lower court to order the release of certain public records as part of his postconviction warrant litigation, which counsel believes are relevant to the subject matter of a postconviction proceeding or are reasonably calculated to lead to the discovery of admissible evidence. Appendix A, “Defendant’s Demand for Additional Public Records Florida Department of Corrections (“FDOC”)” filed March 6, 2026, Appendix B, “Defendant’s Demand for Additional Public Records Florida Department of Corrections” filed March 18, 2026, Appendix C, “Defendant’s Demand for Additional Public Records from the Office of the Attorney General”, Appendix D, “Defendant’s Demand for Additional Public Records from the Office of the State Attorney, Eighteenth Judicial Circuit” and Appendix E, “Defendant’s Demand for Additional Public Records from the Executive Office of Governor Ron DeSantis.”

JURISDICTIONAL STATEMENT

This is an original action under Rule 9.142(b) of the Florida Rules of Appellate Procedure. This Court has original jurisdiction pursuant to 9.030(a)(3) of the Florida Rules of Appellate Procedure and Article V, Sec. 3(b)(1) and (8) of the Florida Constitution. See *Trepal v. State*, 754 So. 2d 702 (Fla. 2000).

A Writ of Mandamus is a common law remedy that is used to enforce a clear legal right by compelling a person in an official capacity to perform an indisputable ministerial duty required by law. See *Tyson v. The Fla. Bar*, 826 So.2d 265, 268 (Fla. 2002), *Jackson v. Department of Corr.*, 790 So. 2d 381, 386 (Fla. 2000). In order to be entitled to a Writ of Mandamus, “the petitioner must have a clear legal right to the requested relief, the respondent must have an indisputable legal duty to perform the requested action, and the petitioner must have no other adequate remedy available.” *Mayfield v. Sec’y, Fla. Dep’t of State*, 402 So. 3d 1002,1005 (Fla. 2025) (quoting *Huffman v. State*, 813 So. 2d 10, 11 (Fla. 2000)).

As this petition establishes below, the standard for a Writ of Mandamus is met in this case: The Petitioner has a clear legal right to demand the records he is seeking from his demands for additional

public records filed in circuit court on March 6, 2026, and March 18, 2026. The Florida Department of Corrections (“FDOC”) has an obligation to provide the requested records because the Petitioner has met the statutory requirements for disclosure, and there is no valid exemption preventing the disclosure. Beyond the demand for these records as public records, none of the involved agencies made any objections to providing the requested records via a protective order at the public records hearing that occurred on March 23, 2026. Being deprived of access to necessary records, the Petitioner has no other adequate remedy.

DATE AND NATURE OF ORDERS SOUGHT TO BE REVIEWED

On March 23, 2026, the lower court issued written orders denying Defendant’s Demand for Additional Public Records from the Office of the Attorney General, Defendant’s Demand for Additional Public Records Florida Department of Corrections, Defendant’s Demand for Additional Public Records from the Office of the State Attorney, Eighteenth Judicial Circuit and Defendant’s Demand for Additional Public Records from the Executive Office of Governor Ron DeSantis (heretofore referred to as “Demands”). Appendix K, “Order on Public Records Objections.”

SUMMARY OF ARGUMENTS

The Circuit Court erred when it sustained the Attorney General's, Florida Department of Corrections', State Attorney's and Executive Office of the Governor's objections to Defendant's Demands because the court imposed a higher burden upon defendant than is required in Florida Rules of Criminal Procedure, Rule 3.852. The court also misapplied and expanded what information is protected pursuant to Florida Statute § 945.10 to apply to all records held by the Departments pertaining to FDOC's lethal injection protocol.

By preventing Willacy access to records which would reasonably be disclosed to the general public, this Court violates Mr. Willacy's Florida Constitutional rights to access to public records *and* his United States Constitutional right to due process as found in the Fifth Amendment and equal protection rights as found in the Fourteenth Amendment.

PROCEDURAL HISTORY

Mr. Willacy's trial for first degree murder, and related offenses, was held in December of 1990. He was convicted and sentenced to death in October 1991. An evidentiary hearing was held on the

defense's motion for new trial on October 12, 1992, and the motion was ultimately denied. On direct appeal, this Court reversed the death sentence and remanded for a new penalty phase. *Willacy v. State*, 640 So.2d 1079 (Fla. 1994). The second penalty phase was held in 1995. The jury again recommended a death sentence. The court sentenced Mr. Willacy to death on November 20, 1995. This Court affirmed the sentence. *Willacy v. State*, 696 So. 2d 693 (Fla. 1997), *cert. denied Willacy v. Florida*, 522 U.S. 970 (1997).

Mr. Willacy filed his initial Rule 3.851 motion in May 1998. Thereafter, an amended Rule 3.851 motion was filed in March 2002. Following an evidentiary hearing, the trial court denied all relief on November 19, 2004. Mr. Willacy appealed the denial and simultaneously filed his initial habeas corpus petition with this Court. All relief was denied. *Willacy v. State*, 967 So.2d 131 (Fla. 2007).

Mr. Willacy then filed a federal petition for writ of habeas corpus in the United States District Court for the Middle District of Florida on April 22, 2008. All relief was denied. The Eleventh Circuit Court of Appeals affirmed. *Willacy v. Secy, Fla. Dept. of Corrs.*, 703 Fed. Appx. 704 (11th Cir. 2017).

In October 2009, Mr. Willacy filed a successive petition for writ of habeas corpus with the Florida Supreme Court. In an order, dated March 19, 2010, the Court denied all relief. *Willacy v. McNeil*, Florida Supreme Court Case No. SC09-1859 (Fla. 2010).¹

In October 2010, Mr. Willacy filed a successive Rule 3.851 motion based upon the United States Supreme Court's decision in *Porter v. McCollum*. The trial court denied relief. On appeal, the Florida Supreme Court affirmed. *Willacy v. State*, 90 So. 3d 822 (Fla. 2012). A second successive 3.851 motion, based upon the United States Supreme Court's decision in *Hurst v. Florida*, 136 S.Ct. 616 (2016), and the Florida Supreme Court's decision in *Hurst v. State*, 202 So. 3d 40 (Fla. 2016), was filed January 10, 2017. The trial court denied relief. On appeal, the Florida Supreme Court affirmed. *Willacy v. State*, 238 So. 3d 100 (Fla. 2018).

On January 30, 2020, Mr. Willacy filed a successive 3.851 motion based on *Flowers v. Mississippi*, 139 S.Ct. 2228 (2019). The

¹ The issue raised by Willacy was: Whether the prosecutors' use of the peremptory challenge against Alvin Payne was discriminatory in violation of the state and federal constitutions as outlined in *Batson v. Kentucky*, 476 U.S. 79 (1986); *State v. Neil*, 457 So. 2d 452 (Fla. 1984); *State v. Slappy*, 522 So. 2d 18 (Fla. 1988) and the recently decided *Nowell v. State*, 998 So. 2d 597 (Fla. 2008).

circuit court denied relief, and the Florida Supreme Court affirmed, finding the claim was untimely and had been raised by Willacy on direct appeal and in earlier successive postconviction proceedings. *Willacy v. State*, 314 So. 3d 246 (Fla. 2021). Finally, on December 5, 2022, Willacy filed a pro se all writs petition in the Florida Supreme Court, seeking the appointment of conflict-free counsel. The court denied the petition. *Willacy v. State*, No. SC2022-1653, 2023 WL 2943017, at *1 (Fla. Apr. 13, 2023).

On March 13, 2026, Florida’s governor signed a Death Warrant for Mr. Willacy and Mr. Willacy’s execution date was set for Tuesday, April 21, 2026 at 6:00 PM. On March 6, 2026, Willacy, through undersigned counsel, filed “Defendant’s Demand for Additional Public Records Florida Department of Corrections (“FDOC”).” On March 18, 2026, Willacy filed “the Demands” listed above. On March 22, 2026, Willacy filed a Notice of Authority in anticipation of his response during for the hearing scheduled March 23, 2026. See, Appendix M. On March 23, 2026, the circuit court entered its Order following the public records hearing denying all of Willacy’s demands for additional public records. See, Appendix K.

On March 25, 2026, Willacy filed a Motion for Rehearing on the court's order sustaining the objections to the Public Records Demands filed March 6 and 18, 2026. The Court entered an Order on March 25, 2026. This petition for a writ of mandamus follows.

STATEMENT OF FACTS

The following facts are relevant to this Court's review of this petition: Mr. Willacy is under a death warrant and set to be executed on April 21, 2026, at 6:00 PM.

On March 6, 2026, Willacy filed "Defendant's Demand for Additional Public Records Florida Department of Corrections ("FDOC")," Appendix A.

On March 18, 2026, Willacy filed "Defendant's Demand for Additional Public Records Florida Department of Corrections" (hereinafter "FDOC"); "Defendant's Demand for Additional Public Records from the Office of the Attorney General;" "Defendant's Demand for Additional Public Records from the Office of the State Attorney, Eighteenth Judicial Circuit" (hereinafter "the Office of the State Attorney"); and "Defendant's Demand for Additional Public Records from the Executive Office of Governor Ron DeSantis." See, Appendices, B-E.

On March 19, 2026, general counsels from the Agencies filed their response and objections to defendant's demands. *See*, Appendices, F-J.

On March 23, 2026, the Circuit Court held a hearing on Willacy's demands and the Agencies' objections. That afternoon, on March 23, 2026, the Circuit Court entered its written orders denying all the Demands, "Order on Public Record Objections," *See*, Appendix K.

Chadwick Willacy files this timely petition for writ of mandamus seeking an order from this Court directing the lower court to order the release of the requested public records held by the Florida Department of Corrections, the Office of the Attorney General, the Executive Office of the Governor, and the Office of the State Attorney, as such records are relevant to Willacy's postconviction proceedings.

ARGUMENT

The trial court unlawfully entered an order sustaining the objections of the Florida Department of Corrections, Office of the Attorney General, Executive Office of the Governor, and Office of the State Attorney, (hereinafter “Agencies”) to the public records demands filed on March 6 and 18, 2026, and thus has precluded the Petitioner, Chadwick Willacy, from access to public records in violation of his Florida Constitutional rights under Article I, Section 24 and in violation of Florida Statutes.

Florida Rule of Criminal Procedure, Rule 3.852(i) governs postproduction requests for additional records such as those requested in this case. The rule requires Collateral Counsel to file an affidavit in the circuit court meeting the following requirements:

- (A) attest that collateral counsel has made a timely and diligent search of the records repository; and
- (B) identify with specificity those public records not at the records repository; and
- (C) establish 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.

Fla. R. Crim. P. 3.852(i)(1).

Despite satisfying his burden, Petitioner, Chadwick Willacy, a capital postconviction defendant, is being precluded from inspection and copying of specific public records in contravention with Chapter 119, "Public Record Laws;" Fla. Stat. § 27.7081; and the Fla. R. Crim. P. 3.852. The Agencies have failed to assert any legitimate or colorable claims that the records sought are excluded from public copying and inspection due to a statutorily recognized exemption and/or confidentiality provision precluding the Agencies from fulfilling their duties to provide public records. They have argued manufactured burdens upon Willacy which do not appear in Florida Statute. These illegitimate arguments and objections continue to cast a dark shadow on Florida's robust public records statutes and allow government to continue to act within the shadows and not in the sunshine.

There is not a legitimate governmental interest in treating Mr. Willacy's public records demands differently than the public. The disparate treatment between Willacy's public record demands and the access to public records that are afforded to the general public is in direct violation with Equal Protection guarantees of the Fourteenth

Amendment of the United States Constitution without a rational basis to do so. Additionally, denial of the right to public records denies Mr. Willacy due process under the Fifth and Fourteenth Amendments of the United States Constitution.

The Agencies have neglected to fulfill their statutory and constitutional public record duties and Willacy seeks the intervention of this Court to compel the production of the records sought pursuant to Fla. Const. Art. I, § 24(a); Fla. Stat. § 119.01(1); Fla. Stat. § 27.7081; and the Fla. R. Crim. P. Rule 3.852.

Willacy filed facially sufficient public records demands on March 6 and 18, 2026. The trial court unlawfully sustained the Agencies' objections. Willacy filed a Motion for Rehearing on March 25, 2026, before the trial court seeking reconsideration and in camera inspection. The trial court entered "Order Denying Defendant's 'Motion for Rehearing of Public Records Demands/Motion for In-Camera Inspection'" on March 25, 2026, denying . Willacy now files this Writ of Mandamus.

I. FLORIDA LAW “PROVIDES ANY MEMBER OF THE PUBLIC ACCESS TO PUBLIC RECORDS, WHETHER HE OR SHE BE THE MOST OUTSTANDING CIVIC CITIZEN OR THE MOST HEINOUS CRIMINAL”²

Florida and its citizens have recognized the significance of public records here in the Sunshine State. Our State constitution provides that:

Every person has the right to inspect or copy any public record made or received in connection with the official business of any public body, officer, or employee of the state, or persons acting on their behalf, except with respect to records exempted pursuant to this section or specifically made confidential by this Constitution. This section specifically includes the legislative, executive, and judicial branches of government and each agency or department created thereunder; counties, municipalities, and districts; and each constitutional officer, board, and commission, or entity created pursuant to law or this Constitution.

(emphasis added) Fla. Const. Art. I, §24(a). This fundamental right is also echoed in Florida statute as spoken by the Florida Legislature in Fla. Stat. § 119.01(a), “General state policy on public records” which provides “[i]t is the policy of this state that all state, county, and

² 47, Florida Office of the Attorney General, *GOVERNMENT-IN-THE-SUNSHINE MANUAL, A Reference For Compliance with Florida’s Public Records and Open Meetings Laws*, (2025 ed.) p. 164. (hereinafter, “Attorney General Manual.”)

municipal records are open for personal inspection and copying by any person. Providing access to public records is a duty of each agency.” (emphasis added).

Chadwick Willacy filed public records demands on March 6 and 18, 2026, all of which demanded the inspection and copying of public records held by each specified agency in connection with the transaction of the agency’s official business. Had a member of the public sought the same public records, that member of the public would have been entitled as a matter of *right* to each record sought.

Chadwick Willacy seeks records which fit squarely within the meaning of “public record” as defined by Florida Statute.

Florida Statute § 119.011(12), defines public record as *all* documents and records, regardless of form, “made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.” This includes “any material prepared in connection with official agency business which is intended to perpetuate, communicate, or formalize knowledge of some type.” *Shevin v. Byron, Harless, Schaffer, Reid, and Associates, Inc.*, 379 So. 2d 633, 640 (1980). Furthermore, records generated

from the performance of duties fall within the scope of the meaning of “public record.”³

The definition of “public records” also includes logs which are relevant to and required by written operating procedures and duties of an agency. *Miami-Dade County v. Professional Law Enforcement Ass’n*, 997 So. 2d 1289, 1290-1 (Fla. 3d DCA 2009) (*aff’ing* the order requiring County Police Department aviation unit to allow the inspection and copying of the pilots’ personal flight logs as “public record”). Similarly, logs which “show the functioning of the public agency” have been determined to be public records within the meaning of Chapter 119. *Cruz v. State*, 279 So. 3d 154, 158 (Fla. 4th DCA 2019) (*holding*, “if public policy demands” names of experts visiting a defendant to be redacted from jail visitation logs as confidential, “it is for the legislature to provide an exemption by statute.”), *review denied*, 2020 WL 1169444 (Fla. 2020).

“If there is any doubt as to whether a matter is a public record subject to disclosure, the doubt is to be resolved in favor of

³ See, *Mem’l Hosp. Volusia Inc. v. News-Journal Corp.*, 729 So. 2d 373 (Fla. 1999); *Weekly Planet, Inc. v. Hillsborough County Aviation Authority, et al*, 829 So. 2d 970 (Fla. 2d DCA 2002).

disclosure.” *Everglades Law Center v. South Florida Water Management District*, 290 So. 3d 123, 129 (Fla. 4th DCA 2019) (citing, *Morris Publ’g Grp., LLC v. Fla. Dep’t of Educ.*, 133 So. 3d 957, 960 (Fla. 1st DCA 2013)). Public records laws are “to be construed liberally in favor of the state’s policy of open government.” *Id.*

None of the parties to Chadwick Willacy’s demands have disputed that the records sought are in fact “public records” within the meaning of Chapter 119. The agencies and offices subject to Willacy’s demands objected to required compliance based on the judicially imposed requirement of “colorable claim” and Florida Statute § 945.10, neither of which preclude the agencies from fulfilling their disclosure duties under public records laws.

II. THE TRIAL COURT UNLAWFULLY SUSTAINED THE AGENCIES’ OBJECTIONS AND DENIED WILLACY’S DEMAND FOR PUBLIC RECORDS BASED ON LEGALLY INSUFFICIENT OBJECTIONS BY THE AGENCIES.

The trial court erred when it entered its order and sustained the Agencies’ objections based upon “a review of the Official Court file, demands and objections thereto, argument presented, and authorities submitted.” See, Appendix K, at APP 109; see also, Appendix M.

The Florida Department of Corrections, the Office of the Attorney General, and the Office of the State Attorney, failed to satisfy their burden of proving the right to *any* exemption to public records disclosure and failed to assert a proper basis that the Agencies' objections should be sustained. As to the Executive Office of the Governor, the Office failed to assert an exemption to records which would not fall within the purview of clemency determinations.

The trial court sustained the Agencies' objections without an in-camera review of the records thus, the validity of the assertions made by the Agencies were taken at face value despite the Agencies failing to make responsive objections to the demands filed. *See, Everglades Law Center, 290 So. 3d at 133-4 (holding, "the trial court erred in denying the petition for writ of mandamus without conducting an in-camera review of the transcript to determine if redactions of claimed mediation communications are appropriate")*. The failure of the trial court to conduct an in-camera inspection amounts to "fundamental error." *Id.* at 133. This is also in direct contradiction with the State's policy of open government.

a. All of the public records demands filed on March 6 and 18, 2026, were pled with specificity and none were unduly burdensome.

On March 6, 2026, Chadwick Willacy filed a public records demand requesting specified public records from the Florida Department of Corrections as to the agency's lethal injection protocol compliance. See, Appendix A at APP 003-7. The records demanded on March 6, 2026, were requested with specificity to the records as called for in connection with the Department of Corrections' official business of carrying out lethal injection executions. Willacy specified each record sought in direct connection with the Florida Department of Corrections Lethal Injection Protocol itself. There is no reasonable question as to what records Willacy is seeking and demanding. Additionally, Willacy's public record demands filed on March 18, 2026, were filed with specificity and were limited and narrow in time and subject matter he sought.

None of the demands filed in this case included broad and sweeping language, i.e. "any and all" language, which would reasonably leave the Agencies unclear as to what records Willacy demands. See, Appendices A-E. Additionally, Willacy's demands filed on March 18, 2026, were limited to records generated within a single

week and even went further to specify the nature of the communications and records sought. The arguments of the Florida Department of Corrections, the Office of the Attorney General, and the State Attorney's Office fail to support their objection that the demands are overly broad and unduly burdensome.

The Agencies rely on *Muhammad v. State*, 132 So. 3d 176 (Fla. 2013) for their argument that Willacy's demands are unduly burdensome and overly broad. The demands filed by Willacy are distinguishable from the demands held to be overly broad and unduly burdensome in *Muhammad v. State*.

In *Muhammad* the public records demand sought "any filed, records, letters, memoranda, notes, drafts, and/or electronic mail... pertaining to Mr. Muhammad that were received or produced..." since the last public records demand. *Id.* at 203. The request in *Muhammad* is vastly different than the demands filed in Willacy. Unlike *Muhammad*, Willacy seeks records which would fall within very narrow subject matters: "the records demand filed by Willacy on March 6, 2026; the governor scheduling Mr. Willacy's execution; or any communications regarding Mr. Willacy's death warrant." See, Appendices B-E.

While reasonably, Willacy is not seeking any records as to clemency determinations from the Office of the Governor, this does not preclude intraoffice and interoffice communications among the agencies which would include, the Florida Department of Corrections, the Office of the Attorney General, and the State Attorney's Office. Any intraoffice or interoffice communications among the Agencies which were for the purpose or intended to perpetuate, communicate, or formalize knowledge, would thus be "public record" subject to disclosure. *See, Shevin*, 379 So. 2d at 640.

The Florida Department of Corrections argued during the Public Records Hearing on March 23, 2026, "the demand as written" was overly broad because it sought "records through the date of March 13th without limiting to the time at which the warrant was issued, ... accordingly it impermissibly seeks records regarding actions taken after the warrant... which are confidential attorney/client communications or work product." *See*, Appendix L, APP 167-8, specifically, 52:23-53:7. This argument does not support a finding that the demands as written are overbroad because of failure to state a *time*. Meriam-Websters Dictionary defines overbroad as "too widely applicable or applied" and defines broad as "wide in range or

amount.” Willacy’s failure to state a specific time does not make the demand “too widely applicable.” Additionally, communications and public records that are in fact work product would be properly exempt, however, no such facts were presented to support the communications/records are in fact work product because the trial court did not conduct an in-camera inspection to determine as such. Furthermore, even taking Florida Department of Corrections argument at face value, work product records would not render the entirety of the public records exempt from public copying and inspection. FDOC could simply object to disclosing records created after the warrant was signed. FDOC conflates a request being “unduly burdensome” to mean any request of records they claim are confidential. *See*, Appendix L at APP 168.

Next, the Office of the Attorney General argued that the demand was “unduly burdensome or overly broad” because the demand sought “personal cell phone information and seeking all of these records.” *See*, Appendix L at APP 170, specifically, 55:8-12. The Office of the State Attorney also argued that Willacy’s demand as applied to them was overly burdensome because the request “is not sufficient or based on a colorable claim” and the demand included personal

communications on a “personal cell phones, not just e-mail communications.” See, Appendix L at 171-2, specifically at 56:19-21; 57:9-12. Both offices’ objections fail as a matter of law.

Emails and communications transmitted by text message, regardless of whether the message was sent by a personal or a government/agency issued cell phone, are public records when the communication falls within the definition of public records. *O’Boyle v. Town of Gulf Stream*, 257 So. 3d 1036, 1042 (Fla. Dist. Ct. App. 2018) (“The purpose of both Article I, section 24 and Chapter 119 is to ensure that citizens may review (and criticize) government actions. That purpose would be defeated if a public official could shield the disclosure of public records by conducting business on a private device.”). It is well accepted and established that emails and records kept electronically are public records within the common meaning and understanding of the term “public record.” *Seigle v. Barry*, 422 So. 2d 63, 65 (Fla. Dist. Ct. App. 1982) (“[t]here can be no doubt that information stored on a computer is as much a public record as a written page in a book or a tabulation in a file stored in a filing cabinet”), *review denied*, 431 So. 2d 988 (Fla. 1983); See also, Op. Att’y Gen. Fla. 96-34 (1996); “Attorney General Manual,” p. 84-85.

b. Each of the Agencies failed to meet their burden that each agency is entitled to specific exemptions.

It is well established that an agency asserting that records are exempt from disclosure based upon a specified exemption bear the burden of establishing it is entitled to such exemption. *See Barfield v. School Board of Manatee County*, 135 So. 3d 560, 562 (Fla. 2d DCA 2014); *Woolling v. Lamar*, 764 So. 2d 765, 768 (Fla. 5th DCA 2000), *review denied*, 786 So. 2d 1186 (Fla. 2001); *Barfield v. City of Fort Lauderdale Police Department*, 639 So. 2d 1012, 1015 (Fla. 4th DCA), *review denied*, 649 So. 2d 869 (Fla. 1994); and *Florida Freedom Newspapers, Inc. v. Dempsey*, 478 So. 2d 1128, 1130 (Fla. 1st DCA 1985); *See also*, Attorney General Manual, p. 179-180.

The Florida Department of Corrections continues to proclaim that Fla. Stat. § 945.10 establishes a broad restriction exempting the disclosure of public records and information regarding the lethal injection protocol. This is misplaced. Fla. Stat. § 945.10(1)(j)1 very limitedly and narrowly exempts and makes confidential:

Information or records that identify or could reasonably lead to the identification of any person or entity that participates in, has participated in, or will participate in an execution, including persons or entities administering, compounding, dispensing, distributing, maintaining,

manufacturing, ordering, preparing, prescribing, providing, purchasing, or supplying drugs, chemicals, supplies, or equipment necessary to conduct an execution in compliance with chapter 922.

(emphasis added). To say that the Florida legislature intended to prevent *all of the records* kept in accordance with carrying out executions is an embellishment and intentional misrepresentation of the plain meaning of the statute.

Not only is the Department of Corrections reliance on Fla. Stat. § 945.10 misplaced, its own assertions that “[t]hese records are confidential in total [and] [t]here’s no portion of the records that are not confidential under Florida Statute”⁴ fails to acknowledge that if the statute did make *all records* regarding lethal injection exempt and confidential in total, then the public records would never have been disclosed in Franks Walls case in the first place. See, Appendix M at APP 183-185, citing to *Walls v. Dixon* and *Melvin Trotter v. State*. Additionally, as further evidence that Fla. Stat. § 945.10 does not make lethal injection records in their entirety exempt and confidential, the Department has not sought a protective order or sought the records be held by the courts as confidential, in any of the

⁴ Appendix L at APP 165, specifically at 50:11-13.

cases which have filed, pled facts from, or cited to the records, following the execution Frank Walls.

Nothing requested by Willacy in his public record demand filed March 6, 2026, invokes any information which would lead to the unmasking of those people and entities that participate in the lethal injection execution and if it did, redacting the identifying information would keep the information exempt and confidential.

III. NEITHER FLORIDA STATUTE NOR RULE 3.852 IMPOSE A BURDEN UPON CAPITAL POSTCONVICTION DEFENDANTS TO ASSERT A COLORABLE CLAIM IN DEMANDS FOR PUBLIC RECORDS.

Each Agency responded and objected to all of Willacy's public records demands asserting that Willacy failed to establish a colorable claim. However, the burden of establishing a colorable claim is not found in any Florida Statute or in Rule 3.852 of the Florida Rules of Criminal Procedure.

a. Limiting capital postconviction defendants' access to public records is in contradiction with the rationale and intention for which Rule 3.852 was established and Florida Statute § 27.708(3) was enacted.

Capital postconviction defendants are precluded from seeking public records under the provisions of chapter 119 and instead statutorily required to seek public records pursuant to Florida Statutes § 27.708(3), which precludes capital postconviction defendants represented by capital collateral counsel from making any public records requests "except as provided in § 27.7081."

Florida's three branches of government have sought to improve efficiency of capital postconviction proceedings throughout the years, dating back to the 1990's. The pursuit to improve efficiently has

included rules adopted by this Court and statutory changes adopted in legislation.

In 1996, Robert Shevin was asked by the then Chief Justice of this Court to prepare a “Special Master’s Report” to assist this Court, after concerns were raised about capital postconviction attorneys’ ability to fulfill their ethical duty of providing effective assistance of counsel. This report has become known as the “Shevin Report.”⁵ Four proposed reforms were suggested, with the most significant reform becoming known as “the Chapter 119 problem.”

The “Shevin Report” identified that Rule 3.850, now known in our context as Rule 3.851, lacked a formal discovery mechanism and thus public records sought by capital postconviction defendants were acquired through Chapter 119 public records requests. Resolving disputes between agencies and capital postconviction defendants required separate civil lawsuits outside of the 3.851 proceedings which resulted in “significant delays and time consuming civil litigation.” The “Shevin Report” recommended this Court “promptly

⁵ The entirety of the report can be found as Attachment A, to the court’s opinion in *Hill v. Butterworth*, 941 F. Supp. 1129 (N.D. Fla. 1996).

solve this problem by enacting a Rule of Discovery in 3.850 proceedings, *with expedited time schedules* for both requesting and providing of public records...”⁶ The “Shevin Report” suggested the “goal of the new rule should be to expedite ... access to Chapter 119 information that it can be reviewed ... in a time to be incorporated in the original 3.850 motion.”⁷

In response to the recommendations, this Court promulgated Rule 3.852 of the Florida Rules of Criminal Procedure. *In re Amendment to Florida Rules of Criminal Procedure -Capital Postconviction Public Records Production*, 683 So. 2d 475 (Fla. 1996); See also, *In re Amendments to Florida Rules of Criminal Procedure - Capital Postconviction Public Records Production*, 673 So. 2d 483 (Mem) (Fla. 1996).

Then in 1997 the, “...Legislature provided that all requests for records in capital postconviction proceedings must be made in accordance with Rule 3.852, and the request must be approved by the capital collateral regional counsel.” Florida Staff Analysis, S.B. 1330, 4/22/1998. In 1998 the Florida legislature amended Florida

⁶ *Hill*, 941 F. Supp. at 1157.

⁷ *Hill*, 941 F. Supp. at 1157.

Statute § 27.708(3) again to be consistent with Florida Rules of Criminal Procedure 3.852 stating “[e]xcept as provided in s. 119.19, the capital collateral regional counsel or contracted private counsel shall not make any public records requests on behalf of his or her client.” Later, Fla. Stat. § 119.19 was renumbered as Fla. Stat. § 27.7081 in 2005. Florida Statute § 27.7081 states that it applies to the production of public records for capital postconviction defendants. It also defines “public records” as consistent with the “same meaning as provided in s. 119.011.”

This Court’s intent and the legislative intent were clear in the promulgation and amendments, **neither was to limit a capital postconviction defendant’s constitutional and statutory rights to production of public records.** *In re Amendment*, 683 So. 2d at 475-476; *See also*, SB 898 (1998), Bill Analyses; SB 1330 (1998), Bill Analyses. Nothing found in the history of rule 3.852 or chapter 27 statutes suggest that either was intended to prevent the disclosure of relevant public records to capital postconviction defendants. In fact, in 1996 when this Court promulgated Rule 3.852 it wrote:

We specifically address the comments of those who are concerned that the rule will unconstitutionally limit a capital postconviction defendant's right to production of

public records pursuant to article I, section 24, Florida Constitution, and chapter 119, Florida Statutes (1995). We conclude that the rule does not invade those constitutional and statutory rights.

In re Amendment, 683 So. 2d at 475-476, (emphasis added). This intention was stated again in Judge Anstead's concurrence:

As noted by the majority opinion, this rule in no way diminishes the right of an individual Florida citizen, including a capital defendant, to access to public records pursuant to article I, section 24, Florida Constitution, and chapter 119, Florida Statutes (1995). Trial courts must be mindful of our intention that a capital defendant's right of access to public records be recognized under this rule. If there is any category of cases where society has an interest in seeing that all available information is disclosed, it is obviously in those cases where the ultimate penalty has been imposed.

Id. at 477 (emphasis added).

The same definitions and exemptions as found in chapter 119 of Florida Statutes applies to public record demands filed pursuant to 3.852 of the Florida Rules of Criminal Procedure.

b. Capital postconviction defendants are required to show merely that the additional public records sought are either relevant to the subject matter of the postconviction proceeding or are reasonably calculated to lead to the discovery of admissible evidence.

Florida Statute § 27.7081 requests for postproduction public records mirrors Florida Rule of Criminal Procedure Rule 3.852, each requires that capital postconviction defendant's counsel:

1. Attests that collateral counsel has made a timely and diligent search of the records repository.
2. Identifies with specificity those public records not at the records repository.
3. 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.
4. Must be served in accordance with subsection (4).

Fla. Stat. § 27.7081(9)(a)1-4. Notably, *neither* the Rule *nor* the statute requires that a capital postconviction defendant establish a “*colorable claim*.” Additionally, Florida does not require the general public to advance a colorable claim, or even state a reason for the records sought, to gain public records compliance.

The Agencies argue that Willacy's demands must be denied because he fails to prove a colorable claim. *See*, Appendices F-L. Each

of the Agencies in Willacy's case argued that "[u]nder Rule 3.852 there has to be a colorable claim for postconviction relief asserted in order to be entitled to these records." See, Appendix L at 168, specifically at 53:21-24 (argument for the Office of the Attorney General). However, the plain meaning and reading of the Rule does not support such a burden. Capital postconviction defendants must only show that the additional public records are relevant to the *proceeding* or would reasonably lead to the discovery of admissible evidence.

One cannot imagine what would be more relevant to the postconviction capital *proceeding*, than public records regarding the Florida Department of Corrections' compliance with the lethal injection execution protocol. Interestingly the Agencies often argue that post-warrant public records requests should be weighed against capital postconviction defendants. However, in this case, Willacy filed his demand for public records prior to Florida's governor signing his death warrant. The timing of the warrant in light of the pre-warrant public records demand supports the relevancy of the March 18, 2026, public records demands. Again, it is unimaginable that the communications in the week between March 6, 2026, public records

demand and the signing of the warrant would be anything other than relevant to the present proceedings.

c. The Agencies' objections based on their assertions that Willacy has failed to present a colorable claim are meritless.

Black's Law Dictionary defines "colorable claim" as: "a claim that is legitimate and that may reasonably be asserted, given the facts presented and the current law."

The public records sought by Willacy on March 6, 2026, prior to Florida's governor signing Willacy's execution warrant, reasonably relate to a colorable claim. For example, if the facts presented in the records show that FDOC is not carrying out the lethal protocol accepted by this Court and facts presented show that failure to properly administer the lethal injection protocol would cause unnecessary suffering, then under the current law, Willacy would have a legitimate claim that the maladministration of the lethal injection protocol violates Willacy's Eighth Amendment protection against cruel and unusual punishment. To require Willacy to assert anything more than what has been argued in support of a colorable claim in essence requires Mr. Willacy to prove his colorable claim

beyond a reasonable doubt *prior* to allowing Mr. Willacy any *evidence* to further support his claim. Willacy *at the very least* has shown probable cause and *prima facia* case to support a colorable claim based upon the information contained in the lethal injection protocol records cited to by *Walls v. Dixon*. See Appendix M. Having done so, Willacy has overcome the “presumption that the Department conducts itself properly,” as claimed by FDOC. Appendix L at APP 163, specifically p. 48.

As recognized by Justice Sotomayor, this Court:

appears to be placing prisoners in a Catch-22: It has affirmed the denial of requests for records on these issues, at least in part, because the prisoners do not yet have enough information to raise a “colorable” Eighth Amendment claim. *Ibid*. The very reason the prisoners are seeking the records, however, is to gather enough information to raise a colorable Eighth Amendment claim.

Trotter v. State of Florida, et. al, 607 U.S. ___ (2026) (statement respecting the denial of the application for stay and petition for certiorari). While Florida Department of Corrections continues to mock postconviction defendants’ readings of the logs and argues that they “purposefully misread[]” the lethal injection logs filed in Frank Walls, FDOC has yet to provide any explanation or *facts* to support

their argument that the records are being universally misunderstood. See, Appendix L at APP 164, specifically at 49:17-18.

The comment by Justice Sotomayor, overcomes any argument that Willacy has failed to identify a colorable claim. Justice Sotomayor wrote:

Individuals seeking to challenge the method of their execution should not have to guess at whether the State is, or is not, following its execution protocol. Nor does the State appear to have any legitimate confidentiality interest in shielding from inspection basic facts about the implementation of its execution protocol, such as whether the State is using expired drugs. If the protocol is in fact being followed, then transparency instills confidence in the protocol for everyone—prisoners, the courts, and the public alike. If it is not, then secrecy is intolerable, and disclosure of the relevant records is indispensable for determining whether the lapses at issue are likely to lead to an Eighth Amendment violation.

Trotter v. State of Florida, et. al, 607 U.S. ___ (2026).

Preventing Willacy access to records which would reasonably be disclosed to the general public, this Court violates Mr. Willacy's Florida Constitutional rights to access to public records *and* his United States Constitutional right to due process as found in Fifth

Amendment and equal protection rights as found in the Fourteenth Amendment.

CONCLUSION AND RELIEF SOUGHT

Willacy has established that his Demands are relevant to the postconviction proceeding and reasonably calculated to lead to the discovery of admissible evidence, rebutting the presumption that FDOC does and will comply with its own protocols, and that his demands are neither overly broad nor unduly burdensome upon the State that seeks to end his life. The requested records are necessary for Willacy to support a claim that the FDOC's failure to follow Florida's lethal injection protocols is unconstitutional.

WHEREFORE, Willacy petitions this Court for an Order directing the lower court to grant Defendant's Demands [See, Appendices A – E].

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

Counsel certifies that this Petition for Writ of Mandamus is produced in Bookman Old Style 14-point font in compliance with the requirements of Florida Rules of Appellate Procedure 9.045. The word count is 6,709 in compliance with Florida Rules of Appellate Procedure 9.100(g).

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that on this 25th day of March, 2026, the foregoing petition has been electronically filed with the Clerk of the Circuit Court by using the Florida Courts e-portal filing system which will send a notice of electronic filing to the following: the **Florida Supreme Court**, warrant@flcourts.org, and canovak@flcourts.org; the **Honorable Judge Kathryn Speicher**, Circuit Judge, 2825 Judge Fran Jamieson Way Viera, Florida 32940, Lisa.Baumhover@flcourts18.org; the **State Attorney's Office Eighteenth, Judicial Circuit**, 2725 Judge Fran Jamieson Way, Building D Viera, Florida 32940, wscheiner@sa18.org; ledmiston@sa18.org; eservice@sa18.org; the **Office of the Attorney General**, 3507 East Frontage Road, Suite 200, Tampa, Florida

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WE HEREBY FURTHER CERTIFY that a copy has also been furnished via U.S. mail, this 25th day of March, 2026, to Chadwick Willacy, DOC #707742, at Florida State Prison, P.O. Box 800, Raiford, Florida 32083.

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No. _____

In the Supreme Court of the United States

CHADWICK WILLACY,
Petitioner,
v.
STATE OF FLORIDA,
Respondent.

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

APPENDIX TO PETITION FOR A WRIT OF CERTIORARI

CAPITAL CASE
DEATH WARRANT SIGNED
Execution Scheduled: April 21, 2026, at 6:00 PM ET

Appendix I

Resp't's Resp. to Pet. for Writ of Mandamus, Order, Chadwick Willacy v. State of
Fla., et. al., SC2026-0483 (Fla. Mar. 26, 2026).

Case No. SC2026-0483
Lower Court No. 1990-CF-16062

IN THE SUPREME COURT OF FLORIDA

CHADWICK WILLACY,
Petitioner,

v.

STATE OF FLORIDA,
Respondent.

ON PETITION FOR WRIT OF MANDAMUS
TO THE EIGHTEENTH JUDICIAL CIRCUIT COURT
IN AND FOR BREVARD COUNTY, FLORIDA

DEATH WARRANT SIGNED
Execution Scheduled for April 21, 2026, at 6:00 p.m.

RESPONSE TO PETITION FOR WRIT OF MANDAMUS

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FACTS AND PROCEDURAL HISTORY

In 1991, Petitioner, Chadwick Willacy, was found guilty by a jury and sentenced to death in Brevard County for the first-degree murder of his next-door neighbor Marlys Sather, whom Willacy bludgeoned, strangled, doused in gasoline, and set on fire while she was still alive. *See Willacy v. State*, 640 So. 2d 1079, 1081 (Fla. 1994). In Willacy's first appeal, this Court affirmed his first-degree murder conviction but vacated his death sentence and remanded for a new penalty phase. *Id.* at 1084. On remand, Willacy was again sentenced to death. This Court subsequently affirmed Willacy's second death sentence on appeal. *See Willacy v. State*, 696 So. 2d 695 (Fla. 1997). Willacy's death sentence became final on November 10, 1997, when the United States Supreme Court denied his petition for a writ of certiorari. *See Willacy v. Florida*, 522 U.S. 970 (1997).

In the decades that followed, Willacy filed multiple state-court collateral motions and petitions, all of which were unsuccessful. *See Willacy v. State*, 967 So. 2d 131 (Fla. 2007) (affirming denial of initial motion for postconviction relief), *cert. denied*, 552 U.S. 1265 (2008); *Willacy v. McNeil*, 33 So. 3d 36 (Fla. 2010) (denying petition for writ of habeas corpus); *Willacy v. State*, 90 So. 3d 822 (Fla. 2012)

(affirming denial of successive motion for postconviction relief), *cert. denied*, 568 U.S. 1147 (2013); *Willacy v. Jones*, No. SC2016-0497, 2017 WL 1033679 (Fla. Mar. 17, 2017) (denying petition for writ of habeas corpus); *Willacy v. State*, 238 So. 3d 100 (Fla. 2018) (affirming denial of second successive motion for postconviction relief), *cert. denied*, 586 U.S. 866 (2018); *Willacy v. State*, SC2020-0361, 2020 WL 1673207 (Fla. Apr. 3, 2020) (dismissing petition for review); *Willacy v. State*, 314 So. 3d 246 (Fla. 2021) (affirming denial of third successive motion for postconviction relief); *Willacy v. State*, SC2022-1653, 2023 WL 2943017 (Fla. Apr. 13, 2023) (denying pro se all writs petition). Willacy also filed a habeas corpus petition in federal court, which was denied. *See Willacy v. Sec’y, Dep’t of Corr.*, No. 6:08-cv-619, 2014 WL 3594213 (M.D. Fla. July 18, 2014), *aff’d*, 703 F. App’x 744 (11th Cir. 2017), *cert. denied*, 584 U.S. 964 (2018).

On March 13, 2026, Governor Ron DeSantis signed Willacy’s death warrant and set his execution for April 21, 2026, at 6:00 p.m. This Court entered a scheduling order requiring all proceedings in the trial court to conclude no later than April 2, 2026, at 11:00 a.m. The trial court, in turn, entered a scheduling order setting deadlines for Willacy to file any demands for additional public records; for the

responding agencies to file any objections; for compliance by the agencies if the objections were overruled; and for Willacy to file any successive motion for postconviction relief.

Relevant here, Willacy, on March 18, 2026, filed demands for additional public records to the Department of Corrections (DOC), the Office of the Attorney General (OAG), the Executive Office of the Governor (EOG), and the State Attorney's Office for the Eighteenth Judicial Circuit (SAO). Previously, on March 6, 2026, Willacy had also filed a demand for additional public records to DOC seeking records related to DOC's lethal injection protocols. On March 19, 2026, the four agencies filed objections to each of Willacy's demands. The lower court held a hearing on the demands and objections on March 23, 2026. Later that day, the lower court entered an order sustaining the objections. Willacy subsequently filed a motion for reconsideration, which the lower court denied. Just minutes before Willacy's successive postconviction motion was due under the circuit court's scheduling order, he filed a motion for extension of time in the circuit court and a mandamus petition in this Court.

In his petition, Willacy asks the Court to order the lower court to grant his demands for additional public records. As set forth below,

however, Willacy has failed to meet the requirements for mandamus relief. Therefore, his petition must be denied.

JURISDICTION

Under article V, section 3(b)(8) of the Florida Constitution, this Court has jurisdiction to “issue writs of mandamus . . . to state officers and state agencies.” *See also* Fla. R. App. P. 9.030(a)(3). “Mandamus is a discretionary writ that offers relief only in narrow circumstances,” and the “standard governing its issuance” is “demanding.” *Mayfield v. Sec’y, Fla. Dep’t of State*, 402 So. 3d 1002, 1005 (Fla. 2025). In order to obtain a writ of mandamus, “the petitioner must have a clear legal right to the requested relief, the respondent must have an indisputable legal duty to perform the requested action, and the petitioner must have no other adequate remedy available.” *Id.* (quoting *Pleus v. Crist*, 14 So. 3d 941, 945 (Fla. 2009)); *see also State ex rel. Knott v. Haskell*, 72 Fla. 176, 72 Fla. 244, 72 So. 651, 659 (1916) (“The writ of mandamus is granted by the courts to enforce the performance of a ministerial duty imposed by law where such duty has not been performed as the law requires. Such writ issues only when the law affords no other adequate

remedy; and where the writ is applicable it should be framed so as to meet the exigencies of the case.”).

ARGUMENT

I. Willacy Does Not Lack an Adequate Remedy on Appeal.

The requirements for mandamus relief are not present in this case. To begin with, Willacy does not lack an alternative “adequate remedy” to challenge the lower court’s order denying his demand for additional public records. *Mayfield*, 402 So. 3d at 1005. Such orders are reviewable on appeal from a final order denying postconviction relief. Indeed, this Court routinely reviews orders denying public records demands in appeals from the denial of postconviction relief in warrant litigation. *See, e.g., King v. State*, No. SC2026-0336, 2026 WL 672101, at *3-6 (Fla. Mar. 10, 2026), *cert. denied*, No. 25-7018, 2026 WL 730666 (U.S. Mar. 16, 2026); *Kearse v. State*, No. SC2026-0251, 2026 WL 523132, at *3-4 (Fla. Feb. 25, 2026), *cert. denied*, No. 25-6926, 2026 WL 586905 (U.S. Mar. 3, 2026); *Heath v. State*, 426 So. 3d 1253, 1263-64 (Fla. 2026), *cert. denied*, No. 25-6746, 2026 WL 363902 (U.S. Feb. 10, 2026); *Randolph v. State*, 422 So. 3d 166, 171-72 (Fla. 2025), *cert. denied*, 146 S. Ct. 819 (2025).

“Mandamus can only be resorted to where there is no other adequate remedy to accomplish the purpose sought thereby; and where a remedy by appeal . . . is competent to afford full and ample relief, mandamus will not lie.” *Welch v. State*, 85 Fla. 264, 95 So. 751, 752 (1923). Because the lower court order at issue is reviewable on appeal from a final order, and this Court can grant relief at that time if it concludes that the lower court abused its discretion, Willacy is not entitled to a writ of mandamus. For that reason alone, Willacy’s petition must be denied. *See Point Conversions, LLC v. Pfeffer & Marin Holdings, LLC*, 305 So. 3d 609, 611 (Fla. 3d DCA 2020) (denying petition for writ of mandamus because the lower court order at issue was reviewable on appeal from a final order).

II. A Circuit Court’s Decision on a Demand for Public Records is Discretionary, Not Ministerial.

Further, this is not a case where Willacy has “a clear legal right to the requested relief,” and the lower court has “an indisputable legal duty to perform the requested action.” *Mayfield*, 402 So. 3d at 1005. Mandamus relief may not be granted where the action being challenged is discretionary rather than ministerial. *See State v. Atkinson*, 97 Fla. 1032, 122 So. 794, 795 (1929) (“[T]he discretionary

writ of mandamus is not the proper remedy where, as here, the act commanded to be done concerns, not a ministerial act of issuing process involving no discretion, but the act involves to a certain extent judicial discretion of a circuit judge . . . and the relator has a remedy by appeal from the interlocutory order”); *see also Estate of White v. Fla. Med. Examiners Comm’n*, 416 So. 3d 400, 404 (Fla. 1st DCA 2026) (“A clear legal duty must be ministerial in nature, not discretionary.”); *Ruffenach v. Ocwen Loan Servs., LLC*, 257 So. 3d 541, 542 (Fla. 5th DCA 2018) (“Mandamus was designed to compel the performance of a specific, imperative ministerial duty, not to review allegedly erroneous judicial decisions.”).

As this Court has repeatedly made clear, a circuit court’s denial of a demand for public records is reviewed on appeal under the “deferential abuse-of-discretion standard of review.” *Randolph*, 422 So. 3d at 171; *see also Kearse*, 2026 WL 523132, at *4 (stating that the denials of public records requests are reviewed “for abuse of discretion”); *Heath*, 426 So. 3d at 1263 (same); *Damas v. State*, 423 So. 3d 811, 823 (Fla. 2025) (same); *Zakrzewski v. State*, 415 So. 3d 203, 212 (Fla. 2025) (same), *cert. denied*, 146 S. Ct. 57 (2025); *Tanzi v. State*, 407 So. 3d 385, 391 (Fla. 2025) (same), *cert. denied*, 145 S.

Ct. 1914 (2025). This Court has “repeatedly held that [Florida Rule of Criminal Procedure] 3.852 does not authorize a fishing expedition for records unrelated to a colorable claim for postconviction relief.” *Damas*, 423 So. 3d at 823 (collecting cases). It has also held that a “circuit court has the discretion to deny public records requests that are overly broad, of questionable relevance, and unlikely to lead to discoverable evidence.” *Id.* (quotation marks omitted) (quoting *Valle v. State*, 70 So. 3d 530, 547-49 (Fla. 2011)).

“A duty is ministerial when there is no room for the exercise of discretion, and the performance being required is directed by law.” *White*, 416 So. 3d at 404 (quoting *Fla. Agency for Health Care Admin. v. Zuckerman Spaeder, LLP*, 221 So. 3d 1260, 1263 (Fla. 1st DCA 2017)). Willacy may disagree with the lower court’s decision, but the lower court did not have a ministerial duty to grant his public records demands. In that regard, Willacy’s lengthy arguments in the petition about why he believes the lower court was wrong are beside the point. “If the discharge of the duty requires the exercise of judgment or discretion the act is not ministerial and mandamus will not lie.” *City of Miami Beach v. State ex rel. Epicure, Inc.*, 148 Fla. 255, 4 So. 2d 116, 117 (1941). Thus, the petition must be denied.

CONCLUSION

The State of Florida respectfully requests that this Honorable Court deny the petition for writ of mandamus.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

I HEREBY CERTIFY that the size and style of type used in this brief is 14-point Bookman Old Style in compliance with Fla. R. App. P. 9.045(b), and that the word count is 1,739 words in compliance with Fla. R. App. P. 9.100(j).

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No. _____

In the Supreme Court of the United States

CHADWICK WILLACY,
Petitioner,
v.
STATE OF FLORIDA,
Respondent.

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

APPENDIX TO PETITION FOR A WRIT OF CERTIORARI

CAPITAL CASE
DEATH WARRANT SIGNED
Execution Scheduled: April 21, 2026, at 6:00 PM ET

Appendix J

Pet'r's Reply to Resp't's Resp. to Pet. for Writ of Mandamus, Order, Chadwick Willacy v. State of Fla., et. al., SC2026-0483 (Fla. Mar. 26, 2026).

**IN THE SUPREME COURT OF FLORIDA
CASE NO: SC2026-0483**

Chadwick Willacy,
Petitioner,

v.

**State of Florida; William Scheiner, Office of the State Attorney
for the Eighteenth Judicial Circuit; Ricky Dixon, Sec'y, Fla.
Dept. of Corrections; James Uthmeier, Florida Attorney
General; Executive Office of Governor Ron DeSantis,**
Respondents.

**ON APPEAL FROM THE CIRCUIT COURT OF THE EIGHTEENTH
JUDICIAL CIRCUIT IN AND FOR BREVARD COUNTY, FLORIDA
Lower Tribunal No. 1990-CF-16062-A**

**REPLY TO RESPONSE TO
PETITION FOR WRIT OF MANDAMUS
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INTRODUCTION

The Petitioner, Chadwick Willacy, relies on arguments presented in his Petition for Writ of Mandamus, filed on March 25, 2026, and offers the following Reply to Respondent's Response for Writ of Mandamus filed on March 26, 2026. Any arguments not contained herein are not to be taken as waived and Willacy relies on the merits of his Initial Petition for Writ of Mandamus.

Procedural History Since Circuit Court Order Denying the Public Records Demands

The following pleadings were filed: [See, Appendices A-F]

- A. Defendant's Motion for Rehearing
- B. Order Denying Defendant's Motion for Rehearing
- C. Defendant's Motion for Extension of Time to File
- D. State's Response to Defendant's Motion for Extension of Time to File
- E. Defendant's Reply to State's Response to Defendant's Motion for Extension of Time to File
- F. Order Denying Defendant's Motion for Extension of Time to File

ARGUMENT

I. **Willacy lacks an Adequate Remedy on Appeal because appealing the public records denial after the time has lapsed in Circuit Court, affords Willacy absolutely no remedy to secure the performance of the Agencies' duties to provide public records.**

The State responds to Willacy's Writ of Mandamus and asserts that the relief sought is "reviewable on appeal from a final order denying postconviction relief." RB at p. 5. Appellate review in the "normal" course of post-warrant litigation would not remedy the issue presented by Willacy in his Writ of Mandamus. Relief can only be sought through the writ of mandamus. As written in *Welch v. State*,, cited to by the State in their Response at page 6:

The writ of mandamus does not supersede legal remedies, but rather supplies the want of a legal remedy; therefore two prerequisites must exist to warrant a court in granting this extraordinary remedy: First, it must appear that the relator has a clear, legal right to the performance of the particular duty by the respondent; and, second, that the law affords no other adequate or specific remedy to secure the performance of the duty which it is sought to coerce.

85 Fla. 264, 266 (Fla. 1923) (emphasis added). As argued in Willacy's Writ, filed March 25, 2026, the Florida Constitution and Statutes provide that Willacy has a clear right to the public records sought on

March 6 and 18, 2026. The Agencies have a duty *by law* to comply with public record demands.

Secondly, appealing the order denying public records demands and sustaining the Agencies' objections *after* postconviction proceedings have *concluded* in the trial court does not provide an adequate or specific remedy to secure the performance of the duty which is sought. Appealing the denial of the public records sought in the manner proposed by the State affords no legal remedy.

Furthermore, in *Trotter v. State of Florida*, SC2026-0168 (2026), Defendant attempted to appeal the review of a non-final order denying Trotter access to the same records requested in Willacy's case. The appeal was filed on January 30, 2026, and Trotter filed his successive 3.851 motion on February 2, 2026, without the benefit of the requested records. This Court denied the appeal of the denial of the 3.851 successive motion and *then* ruled the petition seeking review of the order denying public records "*moot.*"

Therefore, a defendant is being put in the position of not having the records he has a right to to support his claims and being forced to file a motion without them, then told his request for records is moot because the postconviction motion is denied. Willacy has

attempted to file his writ before the deadline for the successive motion but will not make the useless attempt to file a motion without the needed records to more fully support what is obvious from the evidence that has been revealed in the Walls records. Likewise, appealing the denial *after* the time has lapsed and proceedings have concluded in circuit court in compliance with this Court’s scheduling order, affords Willacy *absolutely no* remedy to secure the performance of the Agencies’ duties to provide public records.

The records sought in the public records demands filed March 6 and 18, 2026, are imperative to provide sufficient and/or important information to support a claim for relief in a successive 3.851 motion. Willacy has been prevented from filing a successive motion under Rule 3.851 *because the trial court sustained the Agencies’ objections and thus relieving the Agencies from fulfilling their public record duties.*

II. Florida Statute § 119.01(1) mandates that “[p]roviding access to public records is a duty of each agency.”

As argued in Willacy’s Writ of Mandamus, none of the Agencies put forth a colorable or legitimate objection to providing the public records demanded. The records sought by Willacy were not a “fishing expedition.” Willacy supported his demands for public records with a

relevant basis for seeking the records thus satisfying Florida Rules of Criminal Procedure 3.852 and Florida Statute § 27.7081. Again, as written in Willacy's Petition for Writ of Mandamus, the records in Walls have removed any presumption protecting the Florida Department of Corrections from fulfilling their public record duties. Again, as written in Willacy's Petition for Writ of Mandamus, the records in Walls have removed any presumption protecting the Florida Department of Corrections from fulfilling their public record duties.

The State's assertion that because this Court reviews appeals stemming from the denial of public records as "abuse of discretion" makes the circuit court's order discretionary in nature, and thus not subject to a Writ of Mandamus, violates the spirit of public record duties.

While the State believes that "Willacy's lengthy arguments in the petition about why he believes the lower court was wrong are beside the point" (RB at p. 8), it is Willacy's lengthy argument which supports that the Agencies have violated their duty from disclosing the public records sought and the circuit court's order has absolved them from such duty. As outlined in Willacy's petition, he rightfully

and with legal sufficiency demanded the copying and inspection of public records which are required to be disclosed. But for the circuit court's order, the Agencies would be required to provide such records as they did in *Walls*. as they did in *Walls*. Disclosure of public records is not a discretionary act, but rather it is a mandatory act. *Mills v. Doyle*, 407 So. 2d 348, 350 (Fla. 4th DCA 1981) (“...appellants argue that mandamus was an inappropriate remedy because disclosure of the records in question involved an exercise of appellants' discretion. While this record indicates utter good faith on appellants' part in denying access to the records in question, their legal conclusions were wrong. Disclosure of public records is not a discretionary act; it is mandatory act.”) (emphasis added).

CONCLUSION

Furthermore, any argument that Willacy is merely seeking to unduly delay the proceedings is meritless. Willacy sought public records on March 6, 2026, prior to the warrant signed.

Willacy respectfully requests this Court grant his Writ of Mandamus. Additionally, Willacy requests a reasonable extension of time to file a successive postconviction motion once the records requested have been received from the Agencies.

WHEREFORE, Willacy petitions this Court for an Order directing the lower court to grant Defendant's Demands and extend the deadline to file a successive postconviction motion; and requests this Court to extend its Scheduling Order entered in SC1960-86994.

Respectfully submitted,

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Counsel certifies that this Petition for Writ of Mandamus is produced in Bookman Old Style 14-point font in compliance with the requirements of Florida Rules of Appellate Procedure 9.045. The word count is 1,214 in compliance with Florida Rules of Appellate Procedure 9.100(g).

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that on this 26th day of March, 2026, the foregoing Reply has been electronically filed with the Clerk of the Circuit Court by using the Florida Courts e-portal filing

system which will send a notice of electronic filing to the following: the **Florida Supreme Court**, warrant@flcourts.org, and canovak@flcourts.org; the **Honorable Judge Kathryn Speicher**, Circuit Judge, 2825 Judge Fran Jamieson Way Viera, Florida 32940, Lisa.Baumhover@flcourts18.org; the **State Attorney's Office Eighteenth, Judicial Circuit**, 2725 Judge Fran Jamieson Way, Building D Viera, Florida 32940, wscheiner@sa18.org; ledmiston@sa18.org; eservice@sa18.org; the **Office of the Attorney General**, 3507 East Frontage Road, Suite 200, Tampa, Florida 33607-7013, Stephen D. Ake, stephen.ake@myfloridalegal.com, Michael Mervine, michael.mervine@myfloridalegal.com, Elizabeth Bueter, Elizabeth.Bueter@myfloridalegal.com, Marilyn Muir, Marilyn.Muir@myfloridalegal.com, Scott Brown, Scott.Browne@myfloridalegal.com, Assistants Stephanie Tesoro, stephanie.tesoro@myfloridalegal.com, and Paula Montlary, Paula.Montlary@myfloridalegal.com, Capapp@myfloridalegal.com; **FDOC**, Danielle Kelley, Danielle.Kelley@fdc.myflorida.com, kristen.lonergan@fdc.myflorida.com, Kelly.Forren@fdc.myflorida.com, Courtfilings@fdc.myflorida.com, CO-GCCapLit@fdc.myflorida.com; **EOG**,

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In the Supreme Court of the United States

CHADWICK WILLACY,
Petitioner,
v.
STATE OF FLORIDA,
Respondent.

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

APPENDIX TO PETITION FOR A WRIT OF CERTIORARI

CAPITAL CASE
DEATH WARRANT SIGNED
Execution Scheduled: April 21, 2026, at 6:00 PM ET

Appendix K

Pet'r's Pet. for Writ of Habeas Corpus, Chadwick Willacy v. State of Fla., et. al.,
SC2026-0526 (Fla. Apr. 2, 2026).

IN THE SUPREME COURT OF FLORIDA
CASE NO: _____

Chadwick Willacy,
Petitioner,

v.

**State of Florida; William Scheiner, Office of the State Attorney
for the Eighteenth Judicial Circuit; Ricky Dixon, Sec'y, Fla.
Dept. of Corrections; James Uthmeier, Florida Attorney
General; Executive Office of Governor Ron DeSantis,**
Respondents.

**ON APPEAL FROM THE CIRCUIT COURT OF THE EIGHTEENTH
JUDICIAL CIRCUIT IN AND FOR BREVARD COUNTY, FLORIDA**
Lower Tribunal No. 1990-CF-16062-A

PETITION FOR WRIT OF HABEAS CORPUS
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PRELIMINARY STATEMENT

This petition asserts substantial claims of error under the Fifth and Fourteenth Amendments to the Constitution of the United States. Correspondingly, this petition asserts substantial claims of error under Article I, Sections 2, 3, 9, 10, 12, 13, 15(a), 16(a), 17, 21, 22, and 24 of the Florida State Constitution. The petitioner, Mr. Chadwick Willacy, demonstrates that his convictions and sentence of death have been maintained in violation of his fundamental rights and liberties under the Fifth and Fourteenth Amendments of the U.S. Constitution and corresponding provisions of the Florida Constitution.

RECORD CITATIONS

References to the successive postconviction record are designated "PCR/" followed by the page number or numbers and line number or numbers, if relevant.

REQUEST FOR ORAL ARGUMENT

Through counsel, Mr. Willacy respectfully urges this Court to grant oral argument in this matter.

JURISDICTION

Article I, Section 13, of the Constitution of the State of Florida provides: “The writ of habeas corpus shall be grantable of right, freely and without costs.” In turn, under Article V, Section 3(b)(9), “[t]he Supreme Court . . . [m]ay, or any justice may, issue writs of habeas corpus returnable before the Supreme Court or any justice, a district court of appeal or any judge thereof, or any circuit judge.” Further, Article V, Section 3(b)(7), authorizes this Court to “issue writs of prohibition to courts and all writs necessary to the complete exercise of its jurisdiction.” Although the All Writs Provision is not an independent basis for jurisdiction, this Court may invoke it to “preserv[e] jurisdiction that has already been invoked or protect jurisdiction that likely will be invoked in the future.” *Roberts v. Brown*, 43 So. 3d 673, 677 (Fla. 2010); *Petit v. Adams*, 211 So. 2d 565, 566 (Fla. 1968) (finding All Writs provision applicable to preserve status quo and preserve future jurisdiction).

Here, this Court has jurisdiction to entertain this petition and grant the writ of habeas corpus. See Art. V, § 3(b)(9), Fla. Const. Moreover, each justice of this Court possesses independent authority to grant the writ. See *Id.*

NATURE OF RELIEF SOUGHT & SCOPE OF HABEAS CORPUS

Habeas corpus is the proper vehicle for raising “error that prejudicially denies fundamental constitutional rights” and urging “this Court [to] revisit a matter previously settled by the affirmance of a conviction or sentence.” *Kennedy v. Wainwright*, 483 So. 2d 424, 426 (Fla. 1986). Florida’s Constitution empowers this Court to prescribe “procedural vehicle[s] for the collateral remedy otherwise available by writ of habeas corpus” and impose “certain reasonable limitations consistent with [its] full and fair exercise.” *Allen v. Butterworth*, 756 So. 2d 52, 61 (Fla. 2000). But these procedural requirements must yield where necessary to ensure habeas relief is “available to all through simple and direct means without needless complication or impediment, and should be fairly administered in favor of justice and not bound by technicality.” *Id.*

Cautioning this Court against curtailing habeas relief without due consideration for its historical importance, Justice Anstead wrote:

[W]e must constantly keep in mind that we are dealing with the writ of habeas corpus, the Great Writ, which is expressly set out in Florida's Constitution. That writ is enshrined in our Constitution to be used as a means to correct manifest

injustices and its availability for use when all other remedies have been exhausted has served our society well over many centuries.

Baker v. State, 878 So. 2d 1236 (Fla. 2004) (Anstead, J. concurring) (emphasis added).

Habeas corpus jurisdiction is basic to our legal heritage. It is so basic that the authors of our habeas corpus jurisdiction made it unique with regard to this Court because it states that habeas corpus jurisdiction may not only be exercised by the entire Court, but it may also be exercised by a single justice. It is the only jurisdictional provision that gives authority to an individual justice. The provision also takes particular care to address the problem of resolving substantial issues of fact, a concern of the majority, by allowing the Court or any justice to make the writ returnable to “any circuit judge.”

Baker, 878 So. 2d at 1246 (quoting *Harvard v. Singletary*, 733 So.2d 1020, 1025 (Overton, S.J., dissenting)). (Emphasis added.)

Mr. Willacy asks this Court to exercise its inherent habeas authority to vindicate his rights and liberties guaranteed by the United States and Florida Constitutions. Willacy sought review by this Court in a Writ of Mandamus in SC2026-0483 which was denied without an opinion stating the legal basis for denial. Willacy now files this petition and seeks judicial review and remedy for the denial of

his due process and equal protection rights guaranteed to him by the Fifth and Fourteenth Amendments of the U.S. Constitution.

This Court, or any justice thereof, should grant the writ and remedy the manifest injustice set forth in this petition.

RELEVANT PROCEDURAL HISTORY & FACTS

Mr. Willacy's trial for first degree murder, and related offenses, was held in December of 1990. He was convicted and sentenced to death in October 1991. An evidentiary hearing was held on the defense's motion for new trial on October 12, 1992, and the motion was ultimately denied. On direct appeal, this Court reversed the death sentence and remanded for a new penalty phase. *Willacy v. State*, 640 So. 2d 1079 (Fla. 1994). The second penalty phase was held in 1995. The jury again recommended a death sentence. The court sentenced Mr. Willacy to death on November 20, 1995. This Court affirmed the sentence. *Willacy v. State*, 696 So. 2d 693 (Fla. 1997), *cert. denied Willacy v. Florida*, 522 U.S. 970 (1997).

The postconviction procedural history is outline in the State's "Statement of Facts and Procedural History," filed March 17, 2026. PCR126-136.

Prior to Florida's governor signing a warrant scheduling the execution of Chadwick Willacy, Willacy filed a demand for public records from the Florida Department of Corrections on March 6, 2026. PCR/54-61. Willacy's public record demand was instigated by the recent revelations concerning lethal injection protocols not being followed discovered in *Walls*.¹ Willacy sought a focused investigation into the Department of Corrections compliance with lethal injection protocols and whether noncompliance unnecessarily would subject Mr. Willacy to suffering and cruelty in violation of the Eighth and Fourteenth Amendments to the U.S. Constitution and corresponding provisions of the Florida Constitution. Additionally, Willacy's demand was reasonably calculated to lead to the discovery of admissible evidence regarding FDOC's administration of the lethal injection protocol.

On March 13, 2026, Florida's governor signed a Death Warrant for Mr. Willacy scheduling the execution of Chadwick Willacy to take

¹ *Walls v. Dixon*, No. 4:25-cv-0488, ECF 1 (N.D. Fla. Nov. 26, 2025); and *Melvin Trotter v. State*, SC2026-0214, Initial Brief, filed February 9, 2026, Appendix D, FDOC Logs, Record on Appeal 283-303, Appendix E, FDOC Logs, 304-324.

place on Tuesday, April 21, 2026, at 6:00 PM. This Court entered an order and directed that further proceedings shall be completed in the trial court by Thursday, April, 2, 2026, no later than 11:00 am. PCR/79-80.

Willacy filed additional public records demands on March 18, 2026, in the trial court. PRC/149-176. The Florida Department of Corrections, Office of the Attorney General, Executive Office of the Governor, and the Office of the State Attorney filed responses and objections which were sustained by the trial court after a hearing on March 23, 2026. PCR/208-265;351-361;366-373;551-616.

Willacy expeditiously sought review of the denial of the public records demands, in compliance with this Court's scheduling order. Willacy sought public records compliance from this Court in SC2026-0483 through a Writ of Mandamus filed on March 25, 2026. A motion for rehearing and request for in-camera inspection of public records request was denied on March 25, 2026. PCR/447-452. On March 26, 2026, the Circuit Court denied Willacy's Motion for Extension of Time to file a successive postconviction motion. PCR/458-470. The trial court entered an order "concluding post-warrant proceedings in the trial court" on March 27, 2026. PCR/518-524. This Court entered

an order denying Willacy's petition for writ of mandamus and an order of notice of delay on March 31, 2026, in SC2026-0483.

SUMMARY OF ARGUMENTS

The trial court erred when it sustained the Attorney General's, Florida Department of Corrections', State Attorney's and Executive Office of the Governor's (hereinafter, "Agencies") objections to Defendant's Demands because the trial court: imposed a higher burden upon defendant than is required in Florida Rules of Criminal Procedure, Rule 3.852; it misapplied and expanded what information is protected pursuant to Florida Statute § 945.10 to apply to all records held by the Departments pertaining to FDOC's lethal injection protocol; and it sustained meritless objections by the Agencies.

Willacy has been precluded from access to records prior to the expiration of proceedings in the trial court in accordance with this Court's scheduling order. As a result, Willacy has been prohibited from access to records which are both relevant to the postconviction proceedings and would reasonably lead to relevant and admissible evidence in support of an appropriate successive postconviction motion. This as foreclosed any meaningful postconviction review

which is afforded to him by Florida Statute and Rules of Criminal Procedure. This has denied Willacy his rights to due process, equal protection, and public records in violation of the Fifth and Fourteenth Amendments to the U.S. Constitution and Article I, Section 24 of the Florida Constitution. In addition to Willacy being continuously denied due process and equal protection as mandated by the law, he has further been blocked from any meaningful recourse during the present postconviction proceeding.

In sum, by preventing Willacy access to records which would reasonably be disclosed to the general public, this Court violates Mr. Willacy's Florida Constitutional rights to access to public records *and* his United States Constitutional right to due process as found in the Fifth Amendment and equal protection rights as found in the Fourteenth Amendment.

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ARGUMENT

The trial court unlawfully entered an order sustaining the objections of the Florida Department of Corrections, Office of the Attorney General, Executive Office of the Governor, and Office of the State Attorney, (hereinafter, “Agencies”) to the public records demands filed on March 6 and 18, 2026, and thus has precluded the Petitioner, Chadwick Willacy, from access to public records in violation of his Florida Constitutional rights under Article I, Section 24 and in violation of Florida Statutes. Additionally, the Agencies have neglected to fulfill their statutory and constitutional public record duties pursuant to Fla. Const. Art. I, § 24(a); Fla. Stat. § 119.01(1).

Florida Rules of Criminal Procedure, Rule 3.852(i) governs postproduction requests for additional records such as those requested in this case. Most significantly, the rule requires postconviction counsel for the defendant to “establish 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” Fla. R. Crim. P. 3.852(i)(1)(C) (emphasis added).

Despite satisfying this burden, Petitioner, Chadwick Willacy, a capital postconviction defendant, has been precluded from inspection and copying of specific public records in contravention with Chapter 119, “Public Record Laws;” Fla. Stat. § 27.7081; and the Fla. R. Crim. P. 3.852. The Agencies failed to assert any legitimate or colorable claims that the records sought are excluded from public copying and inspection due to a statutorily recognized exemption and/or confidentiality provision precluding the Agencies from fulfilling their duties to provide public records. They argued manufactured burdens upon Willacy which do not appear in Florida Statute. These illegitimate arguments and objections continue to cast a dark shadow on Florida’s robust public records statutes and misshape the rights of capital postconviction defendants, specifically Chadwick Willacy.

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I. CAPITAL POSTCONVICTION DEFENDANTS ARE SYSTEMICALLY PRECLUDED FROM OBTAINING FDOC'S PUBLIC RECORDS PERTAINING TO LETHAL INJECTION THEREFORE MAKING PROCEEDINGS PURSUANT TO FLORIDA STATUTE § 27.0781 AND RULE 3.852(I) AN IMPOSTURE FOR DUE PROCESS AND EQUAL PROTECTION.

The Fourteenth Amendment of the U.S. Constitution mandates that states implement standards to ensure fundamental fairness in judicial proceedings. *Lassiter v. Dep't of Soc. Servs. of Durham Cnty., N. C.*, 452 U.S. 18, 33 (1981). It is well established and accepted that a “fundamental requirement of due process is the opportunity to be heard ‘at a meaningful time and in a meaningful manner.’” *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976) (citing, *Armstrong v. Manzo*, 380 U.S. 545, 552 (1965)).

Postconviction proceedings are not immune from due process principles of fundamental fairness. This Court “has recognized that postconviction proceedings must comport with due process” and has found violations of due process when the defendant was deprived of the opportunity to present evidence or witnesses. *Roberts v. State*, 840 So. 2d 962, 971 (Fla. 2002) (citing, *Johnson v. Singletary*, 647

So. 2d 106 (Fla. 1994) and *Provenzano v. State*, 750 So. 2d 597 (Fla. 1999)).

a. Discretionary determinations must comport with due process principles.

Willacy has been denied fundamental principles of fairness when the trial court denied him public records regarding FDOC's compliance with its lethal injection protocol and sustained the Department's objections, despite the Department failing to provide a legally sufficient objection.

First, the Department argued case law from this Court regarding "colorable claims" stemming from public record demands which were filed after the death warrant was signed. Willacy was proactive and sought the public records exactly one week prior to the Governor signing his death warrant. Secondly, the trial court sustained the Department's objections after the Department argued Florida Statute § 945.10 precludes the disclosure of such records. The Department misrepresented Florida Statute as will be discussed below. The Department did not and has not provided a legally sufficient basis for the circuit court to lawfully sustain the

Department's objections therefore, Willacy has been denied due process in violation of fundamental fairness.

Determinations in which the trial court is making a decision within its discretion, "... discretion must be exercised with regard to the prisoner's right to due process." *Teffeteller v. Dugger*, 676 So. 2d 369, 371 (Fla. 1996) (citing, *Clark v. State*, 491 So. 2d 545, 546 (Fla. 1986)); See also, *State v. Reynolds*, 238 So. 2d 598 (Fla. 1970). In Willacy, the trial court did not properly exercise its discretion with regard to Willacy's due process rights when it sustained the objections of the Agencies, specifically the Florida Department of Corrections. Willacy even requested the trial court conduct an in-camera review of the records both in an *ores tenus* motion during the public records hearing and again formally in a written motion. PCR/586; 376-380. This was subsequently denied by the trial court. PRC/447-452. Additionally, Willacy suggested disclosure of the public records sought with a protective order, which was not objected to by the Agencies, but also denied by the trial court. PCR/591-592.

The trial court failed to meaningfully consider the arguments put forth by Willacy and instead heard arguments by the Agencies

and failed to hold them to any resemblance of a burden. The trial court took the objections by the Agencies at face value without any inquiry as to the validity of their objections. It would appear that a higher burden than what is required by rule or statute was placed upon Willacy for his demand for public records.

Due process mandates that postconviction capital defendants are given access to the evidence and information which are necessary for claims seeking postconviction relief and meaningful access to the courts. Precluding Willacy from access to information in the sole custody of FDOC, prevents meaningful access to the courts and prevents Willacy from being heard in a meaningful manner. Not only did Willacy satisfy the statutorily imposed burden of establishing the records sought were relevant to the postconviction proceeding, he also satisfied his burden that the records would lead to admissible evidence. Significantly, Willacy also satisfied the judicially imposed burden establishing that the public records sought were related to a colorable claim for relief. It was an abuse of discretion for the trial court to rule in favor of the Agencies objections which were neither supported by statute nor rule.

Petitioner anticipates the State will argue that the Willacy is not being denied due process because he was could have filed a successive motion for postconviction relief regarding FDOC's administration of the lethal injection protocol. This argument, and arguments like it, ignore an *indisputable* set of facts: the State is actively seeking and has continuously sought to block capital postconviction defendants from access to the very records that are relevant to postconviction claims regarding Florida's use of lethal injection in executions. Then when capital postconviction defendants seek relief on their lethal injection claims, despite the active preclusion, this Court then denies the claims based on insufficient evidence.² Then when the next public records demand comes around,

² See, *King v. State*, --- So. 3d ---, 2026 WL 672101 (Fla. Mar. 10, 2026); *Trotter v. State*, --- So. 3d ---, 2026 WL 444544 (Fla. Feb. 17, 2026); *Heath v. State*, 426 So. 3d 1253 (Fla. 2026); *Randolph v. State*, 422 So. 3d 166 (Fla. 2025); *Bates v. State*, 416 So. 3d 312 (Fla. 2025); *Zakrzewski v. State*, 415 So. 3d 203 (Fla. 2025); *Rogers v. State*, 409 So. 3d 1257 (Fla. 2025); *Tanzi v. State*, 407 So. 3d 385 (Fla. 2025); *Hutchinson v. State*, 416 So. 3d 273 (Fla. 2025); *Cole v. State*, 392 So. 3d 1054 (Fla. 2024); *Dailey v. State*, 383 So. 3d 782 (Fla. 2019); *Long v. State*, 271 So. 3d 938 (Fla. 2019); *Jimenez v. State*, 265 So. 3d 462 (Fla. 2018); *Branch v. State*, 236 So. 3d 981 (Fla. 2018); *Asay v. State*, 224 So. 3d 695 (Fla. 2017); *Braddy v. State*, 219 So. 3d 803 (Fla. 2017); *Chavez v. State*, 132 So. 3d 826 (Fla.

the State then argues that the defendant has not supported his demand with a colorable claim, citing to many of the cases in the above footnote, and the circular scenario starts all over. This continuous cycle chips away at due process little by little, resulting in an erosion of due process for Willacy.

As providence would have it, Frank Walls was able to obtain public lethal injection logs³ that spanned a brief period during 2025 but provided enough information to overcome FDOC's presumption that it follows protocols. The logs obtained for Walls support that the public records sought are not a fishing expedition, but rather a *focused* investigation.

2014); *Muhammad v. State*, 132 So. 3d 176 (Fla. 2013); *Prado v. State*, 108 So. 3d 558 (Fla. 2012); *Valle v. State*, 70 So. 3d 530 (Fla. 2011); *Tompkins v. State*, 994 So. 2d 1072 (Fla. 2008); *Schwab v. State*, 969 So. 2d 318 (Fla. 2007).

³ *Walls v. Dixon*, No. 4:25-cv-0488, ECF 1 (N.D. Fla. Nov. 26, 2025); and *Melvin Trotter v. State*, SC2026-0214, Initial Brief, filed February 9, 2026, Appendix D, FDOC Logs, Record on Appeal 283-303, Appendix E, FDOC Logs, 304-324.

b. Due process requires meaningful access to the judicial process.

This Court has recognized that due process in the context of postconviction relief, whether capital or non-capital, requires meaningful access to the judicial process. *State ex rel. Butterworth v. Kenny*, 714 So. 2d 404, 408 (Fla. 1998) (citing, *Bounds v. Smith*, 430 U.S. 817 (1977) (furnishing access to adequate law libraries or adequate assistance from persons trained in the law may fulfill a State's obligation to provide prisoners' right of access to courts)); *Bruce v. State*, 99 So. 3d 597, 598 (Fla. Dist. Ct. App. 2012) (“Due process requires ‘meaningful access to the judicial process’ in postconviction proceedings.” *Kokal v. State*, 901 So. 2d 766, 778 (Fla.2005)). Meaningful access to the judicial process necessarily includes the disclosure of public records which are relevant to the postconviction proceedings or reasonably calculated to lead to the discovery of admissible evidence. This requires the court to give access and provide “inmates with the tools needed to attack sentences directly or collaterally.” *Bounds v. Smith*, 430 U.S. 817 (1977).

Florida legislature and this Court have recognized the significance of public records in postconviction capital proceedings, as will be discussed below. The right to public records is analogous to the rationale given by this Court for the right to court appointed capital collateral counsel. “Florida, to ensure the credibility and constitutionality of its death penalty process, has provided postconviction representation only in cases where the defendant has been sentenced to death. This statutory right to representation acts to ensure meaningful access to the courts in a complex area of the law and to ensure that our death penalty process is constitutional.” *State ex rel. Butterworth v. Kenny*, 714 So. 2d 404, 408 (Fla. 1998).

Confidence in the postconviction proceeding is undermined when postconviction capital defendants are precluded from access to evidence and information held exclusively by the State of Florida and more narrowly the Department of Corrections. “By continuing to shroud ... executions in secrecy, Florida undermines both the integrity of its own execution process and, potentially, this Court’s ability to ensure the State’s compliance with its constitutional

obligations.” *Trotter v. Florida*, 607 U.S. ___ (2026) (Statement of Sotomayor, J. respecting denial of cert. petition).

c. Willacy is being denied due process and meaningful access to the judicial process because he is being denied a meaningful avenue for judicial review.

The process which has been afforded to Willacy is nothing more than a mere *gesture* and performative at best. Willacy has been foreclosed from proper review of his postconviction claim for relief because this Court has foreclosed any avenue for redress. Simply providing that Willacy may file public records demands or successive motions is meaningless when he is denied meaningful access to records to support such a motion. “[P]rocess which is a mere gesture is not due process.” *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 315 (1950). By simply providing a means for capital postconviction defendants to seek public records provides nothing more than a mere gesture when this Court has yet to find public records should be disclosed.

Most recently, in *Trotter v. State of Florida*, SC2026-0168 (2026), Defendant attempted to appeal the review of a non-final order denying Trotter access to the same records requested in Willacy’s

case. The appeal was filed on January 30, 2026, and Trotter filed his successive 3.851 motion on February 2, 2026, without the benefit of the requested records. This Court denied the appeal of the denial of the 3.851 successive motion and *then* ruled the petition seeking review of the order denying public records “*moot.*” Willacy petitioned this Court for a Writ of Mandamus seeking records which were sought **pre-warrant** and asked for an extension of time to file the successive postconviction motion, but his writ was denied without an opinion. And the circuit court denied his motion for extension of time to file a postconviction motion and concluded the proceeding *before* this Court even ruled on the writ.

Therefore, a defendant is being put in the position of not having the records he has a right to support his claims and being forced to file a motion without them, then told his request for records is moot because the postconviction motion is denied. Willacy attempted to file his writ before the deadline for the successive motion but did not make the useless attempt to file a motion without the needed records to more fully support what is obvious from the evidence that has been revealed in the Walls records. Likewise, appealing the denial *after*

the time has lapsed and proceedings have concluded in circuit court in compliance with this Court's scheduling order, affords Willacy *absolutely no* remedy to secure the performance of the Agencies' duties to provide public records.

This has been going on for at least the past 26 years. It has been the intention of the Florida Department of Corrections and the State to actively preclude capital postconviction defendants from receiving the public records for which they are entitled. FDOC's pursuit of secrecy surrounding their lethal injection protocol is not novel. The Department of Corrections has sought to evade judicial review and scrutiny of the implementation of the lethal injection protocol dating back 26 years. Judicial review has paved the way for the Department to achieve this goal.

In 2000, this Court reviewed pleadings and claims for relief in *Sims v. State*, 753 So. 2d 66 (Fla. 2000). In *Sims*, this Court affirmed the trial court's denial of Sims motion to compel public records filed during warrant litigation. *Id.* at 67. This Court reasoned that Rule 3.852 was "not intended for use by defendants as, in the words of the trial court, 'nothing more than an eleventh-hour attempt to delay the

execution rather than a focused investigation into some legitimate area of inquiry.” *Id.* at 70. *Sims* also made clear that this Court’s review of public record demands *post-warrant* are distinguishable from demands made *pre-warrant*. This Court eased “concerns” that Rule 3.852(h)(3) would “lead to harsh results in the nonwarrant situation should be ameliorated by rule 3.852(i) which is patterned on section” § 27.7081 Florida Statute.⁴ *Id.* This Court went on to provide assurances that capital postconviction defendants could obtain additional “**at any time**” by a showing that collateral counsel has made a diligent search of the records repository and “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.” *Id.* (emphasis added) (citing, Fla. R. Crim. P. Rule 3.852(i)(2)).

However, as can be seen in Willacy’s case, this is not how the rules have been implemented. Willacy specifically sought public records **before** his death warrant was signed. Willacy has no control over

⁴ The exact quote found in *Sims* is “which is patterned on section 119.19(9), Florida Statutes (1999)” however, in 2005 Florida Statute 119.19 was renumbered as Florida Statute § 27.7081.

when Florida's governor will sign a death warrant. Willacy should not be prejudiced by Florida's governor signing his death warrant. Therefore, Willacy should have been provided and should be provided with the lethal injection records which would be afforded to him in accordance with the rules of public record production pre-warrant as discussed in *Sims*.

Additionally, *Sims* provides historical context to FDOC's intention and desire for secrecy. In *Sims*, when his postconviction counsel sought information regarding the newly adopted execution method it was revealed that, FDOC, with the assistance of the State of Florida sought to shield themselves from judicial scrutiny.⁵ Now more than 26 years later, FDOC, with the assistance of the State, continues to prevent judicial scrutiny and continues to argue that defendants are precluded from access to records kept in accordance with the lethal injection protocol.

Even more insightful, the State explicitly expressed its intention to keep capital defendants in the dark about the lethal injection

⁵Initial Brief of Appellant, *Terry Melwin Sims v. State of Florida*, SC2000-295, 2000 WL 33998600.

protocol during the trial court proceedings in *Sims*. Sims attorney sought public records and filed motions for subpoena duces tecum and again sought lethal injection information at a *Huff* hearing held in February of 2000. In *Sims*:

The DOC counsel refused to provide even the names of the chemicals to be used, citing vague safety concerns. When the trial court expressed concern over DOC's refusal to provide any information and the need for judicial review, T60-63, DOC counsel and the attorney general conferred. **At the end of that conference, the attorney general admitted the real reason for the concealment was that DOC was concerned if it gave doses "that we're gonna be fighting about that from now on."** Huff T65. **He said the concern was they not get into "the same thing we got into with the electric chair as to when we got to talking about volts and amperage"** Huff T65. It then agreed to make the drugs known. T67. However, it continued to fight having to advise counsel and the court what the dosage was, and of any protocols, saying they were confidential. T66. Only the chemicals to be used were given to counsel that day at the close of the February 7th hearing.

Initial Brief of Appellant, *Terry Melvin Sims v. State of Florida*, SC2000-295, 2000 WL 33998600, at *69 (emphasis added). The State of Florida "continued to [] refuse[] to provide any specific written guidelines for the participants who are to prepare and administer the lethal injection." Initial Brief of Appellant, *Terry Melvin Sims v. State*

of Florida, SC2000-295, 2000 WL 33998600, at *74-75. In fact, in Sims' case, it became clear that "DOC has chosen to provide only general written guidelines to those carrying out the lethal injection, **in an admitted effort to avoid judicial scrutiny of its methods.** See Remarks of Nunnelley, Huff Hrg T65-66." Initial Brief of Appellant, *Terry Melvin Sims v. State of Florida*, SC2000-295, 2000 WL 33998600, at *74-75; FN 28.

Just months before January 2000, FDOC and the State of Florida came under scrutiny in *Provenzano v. Moore*, 744 So. 2d 413 (Fla. 1999) regarding FDOC's ability to competently carry out executions with the electric chair. Interestingly, the State's arguments made back in 1999 are oddly similar to those made by FDOC and the State in present day regarding the records discovered in *Walls*. In *Provenzano*, Attorneys for the Appellants pointed out to this Court:

When Provenzano initiated the instant habeas proceeding after the Davis execution, he noted that the problematic language in the protocol had not been followed in carrying out the execution. Richard Martell, Chief, Capital Appeals for Attorney General, signed a response which stated:

As to the voltage administered, Provenzano's allegations are apparently based upon his own

counsel's interpretation of the chart recordings and are squarely contradicted by the attestations by Warden Crosby and engineer Whitlock, previously supplied to this Court. Engineer Whitlock has attested that he was present in the electrical equipment room during Davis' electrocution and personally observed the monitoring equipment, and that he observed no anomalies. (Response to Petition, filed July 8, 1999, at 2).

(emphasis added) Initial Brief of Petitioners/Appellants, *Provenzano v. Moore, et. al.*, 1999 WL 33626830 (Fla.), at *88-89. After FDOC came under scrutiny, FDOC, with the assistance of the State, have actively sought to ensure that they would not make the same mistake when it came to its lethal injection protocol compliance. They would ensure from the start that they would prevent any disclosure about the way in which FDOC is carrying out lethal injections to prevent any risk of scrutiny or accountability.

This shield of secrecy runs afoul with due process principles.

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II. FLORIDA LAW “PROVIDES ANY MEMBER OF THE PUBLIC ACCESS TO PUBLIC RECORDS, WHETHER HE OR SHE BE THE MOST OUTSTANDING CIVIC CITIZEN OR THE MOST HEINOUS CRIMINAL”⁶

Our State constitution provides explicitly that:

Every person has the right to inspect or copy any public record made or received in connection with the official business of any public body, officer, or employee of the state, or persons acting on their behalf, except with respect to records exempted pursuant to this section or specifically made confidential by this Constitution. This section specifically includes the legislative, executive, and judicial branches of government and each agency or department created thereunder; counties, municipalities, and districts; and each constitutional officer, board, and commission, or entity created pursuant to law or this Constitution.

Fla. Const. Art. I, §24(a) (emphasis added) . This fundamental right is also echoed in Florida statute Fla. Stat. § 119.01(a), “General state policy on public records” which provides “[i]t is the policy of this state that all state, county, and municipal records are open for personal

⁶ 47, Florida Office of the Attorney General, *GOVERNMENT-IN-THE-SUNSHINE MANUAL, A Reference For Compliance with Florida’s Public Records and Open Meetings Laws*, (2025 ed.) p. 164. Downloadable PDF version is available at: Office of Attorney General, James Uthmeier, Sunshine Manual, [myfloridalegal.com, https://www.myfloridalegal.com/sites/default/files/government-in-the-sunshine-manual.pdf](https://www.myfloridalegal.com/sites/default/files/government-in-the-sunshine-manual.pdf) (last accessed Mar. 22, 2026). (hereinafter, “Attorney General Manual.”)

inspection and copying by any person. Providing access to public records is a duty of each agency.” (emphasis added).

Chadwick Willacy filed public records demands on March 6 and 18, 2026, all of which demanded the inspection and copying of public records held by each specified agency in connection with the transaction of the agency’s official business. Had a member of the public sought the same public records, that member of the public would have been entitled as a matter of *right* to each record sought.

Chadwick Willacy seeks records which fit squarely within the meaning of “public record” as defined by Florida Statute.

Florida Statute § 119.011(12), defines public record as *all* documents and records, regardless of form, “made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.” This includes “any material prepared in connection with official agency business which is intended to perpetuate, communicate, or formalize knowledge of some type.” *Shevin v. Byron, Harless, Schaffer, Reid, and Associates, Inc.*, 379 So. 2d 633, 640 (1980). Furthermore, records generated

from the performance of duties fall within the scope of the meaning of “public record.”⁷

The definition of “public records” also includes logs which are relevant to and required by written operating procedures and duties of an agency. *Miami-Dade County v. Professional Law Enforcement Ass’n*, 997 So. 2d 1289, 1290-1 (Fla. 3d DCA 2009) (*aff’ing* the order requiring County Police Department aviation unit to allow the inspection and copying of the pilots’ personal flight logs as “public record”). Similarly, logs which “show the functioning of the public agency” have been determined to be public records within the meaning of Chapter 119. *Cruz v. State*, 279 So. 3d 154, 158 (Fla. 4th DCA 2019) (*holding*, “if public policy demands” names of experts visiting a defendant to be redacted from jail visitation logs as confidential, “it is for the legislature to provide an exemption by statute.”), *review denied*, 2020 WL 1169444 (Fla. 2020).

“If there is any doubt as to whether a matter is a public record subject to disclosure, the doubt is to be resolved in favor of

⁷ See, *Mem’l Hosp. Volusia Inc. v. News-Journal Corp.*, 729 So. 2d 373 (Fla. 1999); *Weekly Planet, Inc. v. Hillsborough County Aviation Authority, et al*, 829 So. 2d 970 (Fla. 2d DCA 2002).

disclosure.” *Everglades Law Center v. South Florida Water Management District*, 290 So. 3d 123, 129 (Fla. 4th DCA 2019) (citing, *Morris Publ’g Grp., LLC v. Fla. Dep’t of Educ.*, 133 So. 3d 957, 960 (Fla. 1st DCA 2013)). Public records laws are “to be construed liberally in favor of the state’s policy of open government.” *Id.*

None of the parties to Chadwick Willacy’s demands ever disputed that the records sought are in fact “public records” within the meaning of Chapter 119. The agencies and offices subject to Willacy’s demands objected to required compliance based on the judicially imposed requirement of “colorable claim” and Florida Statute § 945.10, neither of which provided a lawful basis precluding the agencies from fulfilling their disclosure duties under public records laws.

III. THE TRIAL COURT UNLAWFULLY SUSTAINED THE AGENCIES’ OBJECTIONS AND DENIED WILLACY’S DEMAND FOR PUBLIC RECORDS BASED ON LEGALLY INSUFFICIENT OBJECTIONS BY THE AGENCIES.

The trial court erred when it entered its order and sustained the Agencies’ objections based upon “a review of the Official Court file, demands and objections thereto, argument presented, and authorities submitted.” PRC/368.

The Florida Department of Corrections, the Office of the Attorney General, and the Office of the State Attorney, failed to satisfy their burden of proving the right to *any* exemption to public records disclosure and failed to assert a proper basis that the Agencies' objections should be sustained. As to the Executive Office of the Governor, the Office failed to assert an exemption to records which would not fall within the purview of clemency determinations.

The trial court sustained the Agencies' objections without an in-camera review of the records thus, the validity of the assertions made by the Agencies were taken at face value despite the Agencies failing to make responsive objections to the demands filed. *See, Everglades Law Center, 290 So. 3d at 133-4 (holding, "the trial court erred in denying the petition for writ of mandamus without conducting an in-camera review of the transcript to determine if redactions of claimed mediation communications are appropriate")*. The failure of the trial court to conduct an in-camera inspection amounts to "fundamental error." *Id.* at 133. This is also in direct contradiction with the State's policy of open government.

a. All of the public records demands filed on March 6 and 18, 2026, were pled with specificity and none were unduly burdensome.

On March 6, 2026, Chadwick Willacy filed a public records demand requesting specified public records from the Florida Department of Corrections as to the agency's lethal injection protocol compliance. PCR/54-61. The records demanded on March 6, 2026, were requested with specificity to the records as called for in connection with the Department of Corrections' official business of carrying out lethal injection executions. Willacy specified each record sought in direct connection with the Florida Department of Corrections Lethal Injection Protocol itself. There is no reasonable question as to what records Willacy sought or demanded. Additionally, Willacy's public record demands filed on March 18, 2026, were filed with specificity and were limited and narrow in time and subject matter he sought.

None of the demands filed in this case included broad and sweeping language, i.e. "any and all" language, which would reasonably leave the Agencies unclear as to what records Willacy demands. PCR/54-61;149-176. Willacy's post-warrant demands were limited to records generated within a single week and even went

further to specify the nature of the communications and records sought. The arguments of the Florida Department of Corrections, the Office of the Attorney General, and the State Attorney's Office failed to support their objection that the demands are overly broad and unduly burdensome.

The Agencies relied on *Muhammad v. State*, 132 So. 3d 176 (Fla. 2013) for their argument that Willacy's demands are unduly burdensome and overly broad. The demands filed by Willacy are distinguishable from the demands held to be overly broad and unduly burdensome in *Muhammad v. State*.

In *Muhammad* the public records demand sought "any filed, records, letters, memoranda, notes, drafts, and/or electronic mail... pertaining to Mr. Muhammad that were received or produced..." since the last public records demand. *Id.* at 203. The request in *Muhammad* is vastly different than the demands filed in Willacy. Unlike *Muhammad*, Willacy seeks records which would fall within very narrow subject matters: "the records demand filed by Willacy on March 6, 2026; the governor scheduling Mr. Willacy's execution; or any communications regarding Mr. Willacy's death warrant." See, PCR/149-176.

While reasonably, Willacy did not seek any records as to clemency determinations from the Office of the Governor, this did not preclude intraoffice and interoffice communications among the agencies which would include, the Florida Department of Corrections, the Office of the Attorney General, and the State Attorney's Office. Any intraoffice or interoffice communications among the Agencies which were for the purpose or intended to perpetuate, communicate, or formalize knowledge, would thus be "public record" subject to disclosure. *See, Shevin*, 379 So. 2d at 640.

The Florida Department of Corrections argued during the Public Records Hearing on March 23, 2026, "the demand as written" was overly broad because it sought "records through the date of March 13th without limiting to the time at which the warrant was issued, ... accordingly it impermissibly seeks records regarding actions taken after the warrant... which are confidential attorney/client communications or work product." PCR/602:23-603:7. This argument did not support a finding that the demands as written are overbroad because of failure to state a *time*. Meriam-Websters Dictionary defines overbroad as "too widely applicable or applied" and defines broad as "wide in range or amount." Willacy's failure to state

a specific time does not make the demand “too widely applicable.” Additionally, communications and public records that are in fact work product would be properly exempt, however, no such facts were presented to support the communications/records are in fact work product because the trial court did not conduct an in-camera inspection to determine as such. Furthermore, even taking Florida Department of Corrections argument at face value, work product records would not render the entirety of the public records exempt from public copying and inspection. FDOC could simply object to disclosing records created after the warrant was signed. FDOC conflates a request being “unduly burdensome” to mean any request of records they claim are confidential. PCR/603.

Next, the Office of the Attorney General argued that the demand was “unduly burdensome or overly broad” because the demand sought “personal cell phone information and seeking all of these records.” PCR/605:8-12. The Office of the State Attorney also argued that Willacy’s demand as applied to them was overly burdensome because the request “is not sufficient or based on a colorable claim” and the demand included personal communications on a “personal

cell phones, not just e-mail communications.” See, PCR/606:19-21; 607:9-12. Both offices’ objections fail as a matter of law.

Emails and communications transmitted by text message, regardless of whether the message was sent by a personal or a government/agency issued cell phone, are public records when the communication falls within the definition of public records. *O’Boyle v. Town of Gulf Stream*, 257 So. 3d 1036, 1042 (Fla. 4th D.C.A. 2018) (“The purpose of both Article I, section 24 and Chapter 119 is to ensure that citizens may review (and criticize) government actions. That purpose would be defeated if a public official could shield the disclosure of public records by conducting business on a private device.”). It is well accepted and established that emails and records kept electronically are public records within the common meaning and understanding of the term “public record.” *Seigle v. Barry*, 422 So. 2d 63, 65 (Fla. 4th D.C.A. 1982) (“[t]here can be no doubt that information stored on a computer is as much a public record as a written page in a book or a tabulation in a file stored in a filing cabinet”), *review denied*, 431 So. 2d 988 (Fla. 1983); See also, Op. Att’y Gen. Fla. 96-34 (1996); “Attorney General Manual,” p. 84-85.

b. Each of the Agencies failed to meet their burden that each agency is entitled to specific exemptions.

It is well established that an agency asserting that records are exempt from disclosure based upon a specified exemption bear the burden of establishing it is entitled to such exemption. *See Barfield v. School Board of Manatee County*, 135 So. 3d 560, 562 (Fla. 2d DCA 2014); *Woolling v. Lamar*, 764 So. 2d 765, 768 (Fla. 5th DCA 2000), *review denied*, 786 So. 2d 1186 (Fla. 2001); *Barfield v. City of Fort Lauderdale Police Department*, 639 So. 2d 1012, 1015 (Fla. 4th DCA), *review denied*, 649 So. 2d 869 (Fla. 1994); and *Florida Freedom Newspapers, Inc. v. Dempsey*, 478 So. 2d 1128, 1130 (Fla. 1st DCA 1985); *See also*, Attorney General Manual, p. 179-180.

The Florida Department of Corrections continues to proclaim that Fla. Stat. § 945.10 establishes a broad restriction exempting the disclosure of public records and information regarding the lethal injection protocol. This is misplaced. Fla. Stat. § 945.10(1)(j)1 very limitedly and narrowly exempts and makes confidential:

Information or records that identify or could reasonably lead to the identification of any person or entity that participates in, has participated in, or will participate in an execution, including persons or entities administering, compounding, dispensing, distributing, maintaining,

manufacturing, ordering, preparing, prescribing, providing, purchasing, or supplying drugs, chemicals, supplies, or equipment necessary to conduct an execution in compliance with chapter 922.

(emphasis added). To say that the Florida legislature intended to prevent *all of the records* kept in accordance with carrying out executions is an embellishment and intentional misrepresentation of the plain meaning of the statute.

Not only is the Department of Corrections reliance on Fla. Stat. § 945.10 misplaced, its own assertions that “[t]hese records are confidential in total [and] [t]here’s no portion of the records that are not confidential under Florida Statute”⁸ fails to acknowledge that if the statute did make *all records* regarding lethal injection exempt and confidential in total, then the public records would never have been disclosed in Franks Walls case in the first place. PCR/362-363, citing to *Walls v. Dixon* and *Melvin Trotter v. State*. Additionally, as further evidence that Fla. Stat. § 945.10 does not make lethal injection records in their entirety exempt and confidential, the Department has not sought a protective order or sought the records be held by the courts as confidential, in any of the cases which have filed, pled facts

⁸ PCR/600:11-13.

from, or cited to the records, following the execution Frank Walls.

Nothing requested by Willacy in his public record demand filed March 6, 2026, invokes any information which would lead to the unmasking of those people and entities that participate in the lethal injection execution and if it did, redacting the identifying information would keep the information exempt and confidential.

IV. NEITHER FLORIDA STATUTE NOR RULE 3.852 IMPOSE A BURDEN UPON CAPITAL POSTCONVICTION DEFENDANTS TO ASSERT A COLORABLE CLAIM IN DEMANDS FOR PUBLIC RECORDS.

Each Agency responded and objected to all of Willacy's public records demands asserting that Willacy failed to establish a colorable claim. However, the burden of establishing a colorable claim is not found in any Florida Statute or in Rule 3.852 of the Florida Rules of Criminal Procedure.

a. Limiting capital postconviction defendants' access to public records is in contradiction with the rationale and intention for which Rule 3.852 was established and Florida Statute § 27.708(3) was enacted.

Capital postconviction defendants are precluded from seeking public records under the provisions of chapter 119 and instead statutorily required to seek public records pursuant to Florida

Statutes § 27.708(3), which precludes capital postconviction defendants represented by capital collateral counsel from making any public records requests “except as provided in § 27.7081.”

Florida’s three branches of government have sought to improve efficiency of capital postconviction proceedings throughout the years, dating back to the 1990’s. The pursuit to improve efficiently has included rules adopted by this Court and statutory changes adopted in legislation.

In 1996, Robert Shevin was asked by the then Chief Justice of this Court to prepare a “Special Master’s Report” to assist this Court, after concerns were raised about capital postconviction attorneys’ ability to fulfill their ethical duty of providing effective assistance of counsel. This report has become known as the “Shevin Report.”⁹ Four proposed reforms were suggested, with the most significant reform becoming known as “the Chapter 119 problem.”

The “Shevin Report” identified that Rule 3.850, now known in our context as Rule 3.851, lacked a formal discovery mechanism and

⁹ The entirety of the report can be found as Attachment A, to the court’s opinion in *Hill v. Butterworth*, 941 F. Supp. 1129 (N.D. Fla. 1996).

thus public records sought by capital postconviction defendants were acquired through Chapter 119 public records requests. Resolving disputes between agencies and capital postconviction defendants required separate civil lawsuits outside of the 3.851 proceedings which resulted in “significant delays and time consuming civil litigation.” The “Shevin Report” recommended this Court “promptly solve this problem by enacting a Rule of Discovery in 3.850 proceedings, *with expedited time schedules* for both requesting and providing of public records...”¹⁰ The “Shevin Report” suggested the “goal of the new rule should be to expedite ... access to Chapter 119 information that it can be reviewed ... in a time to be incorporated in the original 3.850 motion.”¹¹

In response to the recommendations, this Court promulgated Rule 3.852 of the Florida Rules of Criminal Procedure. *In re Amendment to Florida Rules of Criminal Procedure -Capital Postconviction Public Records Production*, 683 So. 2d 475 (Fla. 1996); See also, *In re Amendments to Florida Rules of Criminal Procedure -*

¹⁰ *Hill*, 941 F. Supp. at 1157.

¹¹ *Hill*, 941 F. Supp. at 1157.

Capital Postconviction Public Records Production, 673 So. 2d 483 (Mem) (Fla. 1996).

Then in 1997 the, "...Legislature provided that all requests for records in capital postconviction proceedings must be made in accordance with Rule 3.852, and the request must be approved by the capital collateral regional counsel." Florida Staff Analysis, S.B. 1330, 4/22/1998. In 1998 the Florida legislature amended Florida Statute § 27.708(3) again to be consistent with Florida Rules of Criminal Procedure 3.852 stating "[e]xcept as provided in s. 119.19, the capital collateral regional counsel or contracted private counsel shall not make any public records requests on behalf of his or her client." Later, Fla. Stat. § 119.19 was renumbered as Fla. Stat. § 27.7081 in 2005. Florida Statute § 27.7081 states that it applies to the production of public records for capital postconviction defendants. It also defines "public records" as consistent with the "same meaning as provided in s. 119.011."

This Court's intent and the legislative intent were clear in the promulgation and amendments, **neither was to limit a capital postconviction defendant's constitutional and statutory rights to production of public records.** *In re Amendment*, 683 So. 2d at

475-476; *See also*, SB 898 (1998), Bill Analyses; SB 1330 (1998), Bill Analyses. Nothing found in the history of rule 3.852 or chapter 27 statutes suggest that either was intended to prevent the disclosure of relevant public records to capital postconviction defendants. In fact, in 1996 when this Court promulgated Rule 3.852 it wrote:

We specifically address the comments of those who are concerned that the rule will unconstitutionally limit a capital postconviction defendant's right to production of public records pursuant to article I, section 24, Florida Constitution, and chapter 119, Florida Statutes (1995). We conclude that the rule does not invade those constitutional and statutory rights.

In re Amendment, 683 So. 2d at 475-476, (emphasis added). This intention was stated again in Judge Anstead's concurrence:

As noted by the majority opinion, this rule in no way diminishes the right of an individual Florida citizen, including a capital defendant, to access to public records pursuant to article I, section 24, Florida Constitution, and chapter 119, Florida Statutes (1995). Trial courts must be mindful of our intention that a capital defendant's right of access to public records be recognized under this rule. If there is any category of cases where society has an interest in seeing that all available information is disclosed, it is obviously in those cases where the ultimate penalty has been imposed.

Id. at 477 (emphasis added).

The same definitions and exemptions as found in chapter 119 of Florida Statutes applies to public record demands filed pursuant to 3.852 of the Florida Rules of Criminal Procedure.

b. Capital postconviction defendants are required to show merely that the additional public records sought are either relevant to the subject matter of the postconviction proceeding or are reasonably calculated to lead to the discovery of admissible evidence.

Florida Statute § 27.7081 requests for postproduction public records mirrors Florida Rule of Criminal Procedure Rule 3.852, each requires that capital postconviction defendant’s counsel:

1. Attests that collateral counsel has made a timely and diligent search of the records repository.
2. Identifies with specificity those public records not at the records repository.
3. 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.
4. Must be served in accordance with subsection (4).

Fla. Stat. § 27.7081(9)(a)1-4. Notably, *neither* the Rule *nor* the statute requires that a capital postconviction defendant establish a “*colorable claim.*” Additionally, Florida does not require the general public to

advance a colorable claim, or even state a reason for the records sought, to gain public records compliance.

The Agencies argue that Willacy's demands must be denied because he fails to prove a colorable claim. PCR/208-265; 351-361. Each of the Agencies in Willacy's case argued that "[u]nder Rule 3.852 there has to be a colorable claim for postconviction relief asserted in order to be entitled to these records." *See*, PCR/603:21-24 (argument for the Office of the Attorney General). However, the plain meaning and reading of the Rule does not support such a burden. Capital postconviction defendants must only show that the additional public records are relevant to the *proceeding* or would reasonably lead to the discovery of admissible evidence.

One cannot imagine what would be more relevant to the postconviction capital *proceeding*, than public records regarding the Florida Department of Corrections' compliance with the lethal injection execution protocol. Interestingly, the Agencies often argue that post-warrant public records requests should be weighed against capital postconviction defendants. However, in this case, Willacy filed his demand for public records prior to Florida's governor signing his death warrant. The timing of the warrant in light of the pre-warrant

public records demand supports the relevancy of the March 18, 2026, public records demands. Again, it is unimaginable that the communications in the week between March 6, 2026, public records demand and the signing of the warrant would be anything other than relevant to the present proceedings.

c. The Agencies' objections based on their assertions that Willacy has failed to present a colorable claim are meritless.

Black's Law Dictionary defines "colorable claim" as: "a claim that is legitimate and that may reasonably be asserted, given the facts presented and the current law."

The public records sought by Willacy on March 6, 2026, prior to Florida's governor signing Willacy's execution warrant, reasonably relate to a colorable claim. For example, if the facts presented in the records show that FDOC is not carrying out the lethal protocol accepted by this Court and facts presented show that failure to properly administer the lethal injection protocol would cause unnecessary suffering, then under the current law, Willacy would have a legitimate claim that the maladministration of the lethal injection protocol violates Willacy's Eighth Amendment protection against cruel and unusual punishment. To require Willacy to assert

anything more than what has been argued in support of a colorable claim in essence requires Mr. Willacy to prove his colorable claim beyond a reasonable doubt *prior* to allowing Mr. Willacy any *evidence* to further support his claim. Willacy *at the very least* has shown probable cause and *prima facie* case to support a colorable claim based upon the information contained in the lethal injection protocol records cited to by *Walls v. Dixon*. Having done so, Willacy has overcome the “presumption that the Department conducts itself properly,” as claimed by FDOC. PCR/598.

As recognized by Justice Sotomayor, this Court:

appears to be placing prisoners in a Catch-22: It has affirmed the denial of requests for records on these issues, at least in part, because the prisoners do not yet have enough information to raise a “colorable” Eighth Amendment claim. *Ibid.* The very reason the prisoners are seeking the records, however, is to gather enough information to raise a colorable Eighth Amendment claim.

Trotter v. State of Florida, 607 U.S. ___ (2026) (statement respecting the denial of the application for stay and petition for certiorari). While Florida Department of Corrections continues to mock postconviction defendants’ readings of the logs and argues that they “purposefully misread[]” the lethal injection logs filed in Frank Walls, FDOC has yet

to provide any explanation or *facts* to support their argument that the records are being universally misunderstood. PCR/599:17-18.

The comment by Justice Sotomayor, overcomes any argument that Willacy failed to identify a colorable claim. Justice Sotomayor wrote:

Individuals seeking to challenge the method of their execution should not have to guess at whether the State is, or is not, following its execution protocol. Nor does the State appear to have any legitimate confidentiality interest in shielding from inspection basic facts about the implementation of its execution protocol, such as whether the State is using expired drugs. If the protocol is in fact being followed, then transparency instills confidence in the protocol for everyone—prisoners, the courts, and the public alike. If it is not, then secrecy is intolerable, and disclosure of the relevant records is indispensable for determining whether the lapses at issue are likely to lead to an Eighth Amendment violation.

Trotter v. State of Florida, 607 U.S. ___ (2026).

Preventing Willacy access to records which would reasonably be disclosed to the general public, this Court violates Mr. Willacy's Florida Constitutional rights to access to public records *and* his United States Constitutional right to due process as found in Fifth

Amendment and equal protection rights as found in the Fourteenth Amendment.

CONCLUSION AND RELIEF SOUGHT

WHEREFORE, Willacy petitions this Court for an order granting his petition for writ of habeas corpus and an Order directing the lower court to grant Defendant's Demands and extend the deadline to file a successive postconviction motion; and requests this Court to extend its Scheduling Order entered in SC1960-86994.

If this matter cannot be resolved before April 21, 2026, Willacy asks this Court to stay his execution until the requested records have been received, Willacy has a reasonable amount of time to review and file a successive postconviction motion and the circuit court and/or this Court have a reasonable amount of time to rule on the postconviction motion.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

Counsel certifies that this Petition for Writ of Habeas Corpus is produced in Bookman Old Style 14-point font in compliance with the requirements of Florida Rules of Appellate Procedure 9.045. The word count is 9,503 in compliance with Florida Rules of Appellate Procedure 9.100(g).

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that on this 2nd day of April, 2026, the foregoing petition has been electronically filed with the Clerk of the Circuit Court by using the Florida Courts e-portal filing system which will send a notice of electronic filing to the following: the **Florida Supreme Court**, warrant@flcourts.org, and canovak@flcourts.org; the **Honorable Judge Kathryn Speicher**, Circuit Judge, 2825 Judge Fran Jamieson Way Viera, Florida 32940, Lisa.Baumhover@flcourts18.org; the **State Attorney's Office Eighteenth, Judicial Circuit**, 2725 Judge Fran Jamieson Way, Building D Viera, Florida 32940, wscheiner@sa18.org; ledmiston@sa18.org; eservice@sa18.org; the **Office of the Attorney General**, 3507 East Frontage Road, Suite 200, Tampa, Florida

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WE HEREBY FURTHER CERTIFY that a copy has also been furnished via U.S. mail, this 2nd day of April, 2026, to Chadwick Willacy, DOC #707742, at Florida State Prison, P.O. Box 800, Raiford, Florida 32083.

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No. _____

In the Supreme Court of the United States

CHADWICK WILLACY,
Petitioner,
v.
STATE OF FLORIDA,
Respondent.

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

APPENDIX TO PETITION FOR A WRIT OF CERTIORARI

CAPITAL CASE
DEATH WARRANT SIGNED
Execution Scheduled: April 21, 2026, at 6:00 PM ET

Appendix L

Resp't's Resp. to Pet. for Writ of Habeas Corpus, Chadwick Willacy v. State of Fla.,
et. al., SC2026-0526 (Fla. Apr. 8, 2026).

IN THE SUPREME COURT OF FLORIDA

CHADWICK WILLACY,

Petitioner,

v.

STATE OF FLORIDA,

Respondent.

**FSC Case No. SC2026-0526
L.T. Case No. 1990-CF-16062
ACTIVE DEATH WARRANT
Execution scheduled for
April 21, 2026 @ 6:00 pm**

_____ /

RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS

Respondent, State of Florida, by and through the undersigned attorneys, responds to the Petition for Writ of Habeas Corpus filed in this case.

INTRODUCTION

Petitioner, Chadwick Willacy, a Florida prisoner under an active death warrant with an execution scheduled for April 21, 2026, asks this Court to issue a writ of habeas corpus to stay the lawful execution of the death sentence imposed for the first-degree murder of Marlys Sather, a crime he committed over thirty-five years ago. He also asks this Court to compel the production of additional public records and extend the deadline for filing a successive postconviction

motion. Because the Petition is untimely, successive, non-cognizable, and, in any event, meritless, this Court should deny relief.

JURISDICTION

The Florida Constitution, Article V, sections 3(b)(1) and (9), grants exclusive jurisdiction over appeals in death penalty cases to this Court, including habeas petitions. *James v. State*, 404 So. 3d 317, 319 (Fla. 2025); *see also* Fla. R. App. P. 9.030(a)(3) (noting this Court's original jurisdiction to issue writs of habeas corpus). This Court has jurisdiction; however, as will be explained, the instant Petition is an improper exercise of this Court's jurisdiction.

RESPONSE TO REQUEST FOR ORAL ARGUMENT

This Court generally does not conduct oral arguments in active warrant cases, and this case is no exception. As discussed below, Willacy does not raise any viable claim and therefore oral argument is not warranted.

FACTS AND PROCEDURAL HISTORY

The facts of the case and procedural history are recited in the State's Answer Brief filed contemporaneously with this Response.

ARGUMENT

WILLACY IS NOT ENTITLED TO HABEAS RELIEF OR A STAY OF EXECUTION.

Willacy challenges the circuit court's denial of his March 6 and March 18, 2026, public records demands, recasting that ruling as a violation of due process, equal protection, and access to courts. He contends that, by sustaining the agencies' objections, the circuit court prevented him from obtaining records necessary to investigate the lethal injection protocol and to develop a potential Eighth Amendment claim. From that premise, he asserts that the postconviction process was rendered illusory.

That argument fails at every level. The Petition is untimely, successive, and an improper attempt to obtain duplicative review of public records rulings already before this Court. Even if considered on the merits, Willacy's claims rest on a flawed premise that he was entitled to broad discovery to determine whether a colorable postconviction claim might exist, an approach squarely foreclosed by Florida Rule of Criminal Procedure 3.852 and this Court's controlling precedent. Because his demands were speculative, unrelated to any specific, colorable claim for postconviction relief, and facially

overbroad and unduly burdensome, the circuit court properly denied them. Those same defects also defeat any constitutional challenge, as this Court has repeatedly upheld Florida’s postconviction public records framework as constitutional.

A. The Petition Is Untimely, Successive, and Improperly Duplicative.

Willacy’s petition fails at the threshold. Florida Rule of Criminal Procedure 3.851(d)(3) requires that habeas petitions be filed contemporaneously with the initial postconviction appeal, and this Court has made clear in pre-warrant cases that “[t]here are no exceptions to untimely filed habeas petitions.” *Griffin v. McCollum*, 22 So. 3d 67 (Fla. 2009) (table) (dismissing untimely petition for writ of habeas corpus and stating that “[t]here are no exceptions to untimely filed habeas petitions.”). The rule contains no exception for post-warrant litigation, and this is Willacy’s third habeas petition since the conclusion of his postconviction proceedings. *See Willacy v. McNeil*, 33 So. 3d 36 (Fla. 2010); *Willacy v. Jones*, No. SC16-497, 2017 WL 1033679, at *1 (Fla. Mar. 17, 2017). The Petition is therefore both untimely and impermissibly successive.

The Petition is also improperly duplicative. The same public records rulings were previously challenged in a mandamus petition and are currently being litigated on direct appeal. This Court has rejected similar attempts to relitigate identical issues through multiple procedural vehicles. *See Mann v. Moore*, 794 So. 2d 595, 602 (Fla. 2001) (finding habeas claim procedurally barred where it merely repackaged arguments raised elsewhere and relied on “the same passages”). Allowing habeas review under these circumstances would reward fragmented litigation tactics that undermine finality and orderly review.

B. The Petition Is Non-Cognizable Because It Repackages Public Records Claims.

Even apart from these procedural defects, Willacy’s claims are not cognizable in habeas. Although framed in constitutional terms, the Petition challenges only the denial of additional public records requests, an issue properly addressed on appeal, and habeas corpus may not be used as a substitute for appellate review or as a vehicle to relitigate matters already raised or capable of being raised in postconviction proceedings. *See Rodriguez v. State*, 919 So. 2d 1252, 1284 (Fla. 2005) (rejecting habeas claims as “a substitute for or an

additional appeal of his postconviction motion”); *Thompson v. State*, 759 So. 2d 650, 657 n.6 (Fla. 2000) (habeas improper where petitioner advances merely a variant of previously decided issues); *Parker v. Dugger*, 550 So. 2d 459, 460 (Fla. 1989) (habeas may not function as an additional appeal of issues raised or raisable in postconviction proceedings). Willacy’s attempt to recast his public records claims as due process, equal protection, and access-to-courts violations does not transform them into a proper basis for habeas relief. *See Jennings v. State*, 422 So. 3d 107, 120 (Fla. 2025) (rejecting as procedurally barred a habeas claim that was “nearly identical to” an issue the defendant had raised in his post-warrant successive postconviction motion and on appeal, and which the defendant had “simply reword[ed]” in his habeas petition “as a deprivation of life, liberty, and property interests”).

C. The March 6 and March 18 Demands Did Not Satisfy Rule 3.852.

Even if the Court were to reach the merits, Willacy’s claims fail because his public records demands did not satisfy Rule 3.852’s threshold requirements. That rule establishes a claim-driven framework requiring a capital defendant to identify a specific,

colorable postconviction claim and demonstrate that the requested records are relevant to it. *King v. State*, No. SC2026-0336, 2026 WL 672101, at *5 (Fla. Mar. 10, 2026), *cert. denied*, 2026 WL 730666 (U.S. Mar. 16, 2026) (citing *Branch v. State*, 236 So. 3d 981, 984 (Fla. 2018)). It does not authorize requests aimed at discovering whether a claim might exist. *Heath v. State*, 426 So. 3d 1253, 1263-65 (Fla.), *cert. denied*, 2026 WL 363902 (U.S. Feb. 10, 2026).

The March 6 demand exemplifies a failure to satisfy Rule 3.852's threshold requirement. It sought sweeping categories of lethal-injection records without identifying any specific protocol violation, instead asserting that the materials were necessary to evaluate compliance and potentially develop a claim. (R. 54–61). Under *Heath*, such speculative requests premised on the possibility that records might reveal irregularities are legally insufficient.

The March 18 demands were broader still. Directed to multiple agencies, they sought expansive internal and interagency communications across numerous platforms and were unrelated to any identified colorable claim for postconviction relief. (R. 149–76). Rather than advancing a colorable postconviction claim, those requests were designed to explore whether one could be constructed.

That is precisely the type of fishing expedition Rule 3.852 prohibits, and the circuit court properly denied the demands on that basis.

D. Rule 3.852 Is Constitutional and No Constitutional Violation Occurred.

Willacy's constitutional claims fail because they rest on a premise this Court has repeatedly rejected, that Rule 3.852 and section 27.7081 impermissibly restrict access to public records. Those provisions do not deny access to public records; they regulate the manner of access in the capital postconviction context by requiring a claim-specific showing after the State has already produced records to the postconviction repository.

This Court has consistently upheld those limitations. In *Wyatt v. State*, 71 So. 3d 86, 111 (Fla. 2011), this Court rejected facial and as-applied challenges to the statutory and rule-based framework, holding that requiring a defendant to conduct a diligent review and submit targeted requests constitutes a reasonable restriction on access. Likewise, in *Lambrix v. State*, 124 So. 3d 890, 895 n.2 (Fla. 2013), the Court rejected constitutional challenges to Rule 3.852.

More recently, this Court has repeatedly rejected similar claims in the warrant context. In *Gudinas v. State*, 412 So. 3d 701, 715

(Fla.), *cert. denied*, 145 S. Ct. 2833 (2025), and *Hutchinson v. State*, 416 So. 3d 273, 279 (Fla.), *cert. denied*, 145 S. Ct. 1980 (2025), this Court rejected due process and equal protection challenges where defendants failed to tie requested records to a colorable postconviction claim. And in *Randolph v. State*, 422 So. 3d 166, 172 (Fla.), *cert. denied*, 146 S. Ct. 819 (2025), this Court again confirmed that Rule 3.852's limitations do not violate constitutional provisions.

Most importantly, *Heath* and *King* foreclose Willacy's position. In *Heath*, this Court rejected an Eighth Amendment-based request for execution-related records where the defendant sought materials to determine whether a claim might exist, explaining that Rule 3.852 does not authorize discovery aimed at discovering whether possible claims exist. 426 So. 3d at 1265. In *King*, this Court reaffirmed that principle while also rejecting due process challenges, holding that a defendant must first identify a colorable postconviction claim before being entitled to additional records. 2026 WL 672101, at *5–6.

Taken together, these decisions resolve each of Willacy's constitutional theories. Due process is satisfied because the rule provides a structured mechanism for obtaining records. Equal protection is not implicated because the rule imposes uniform,

rational limitations tailored to capital postconviction proceedings. And access to courts is preserved because the Constitution guarantees the ability to present claims, not the right to conduct unfettered discovery in search of one.

E. No Basis Exists for a Stay of Execution.

Finally, Willacy is not entitled to a stay of execution, which is only warranted where “there are substantial grounds upon which relief might be granted.” *Dillbeck v. State*, 357 So. 3d 94, 103 (Fla. 2023). He cannot satisfy that standard. As demonstrated above, his claim is untimely, successive, non-cognizable in habeas, duplicative of pending litigation, foreclosed by controlling precedent, and factually speculative. Where no viable ground for relief exists, equitable intervention is unwarranted.

Additionally, the family members of victims possess a constitutional right to proceedings free from unreasonable delay and to the prompt and final conclusion of post-judgment litigation. See Art. I, § 16(b)(10), Fla. Const. Those rights must be protected “in a manner no less vigorous than protections afforded to criminal defendants.” Art. I, § 16(b), Fla. Const. Granting a stay to litigate speculative and procedurally barred claims would undermine those

constitutional guarantees and frustrate the State's compelling interest in the timely enforcement of lawful judgments.

Finally, the timing of Willacy's request weighs against relief. The United States Supreme Court has cautioned that courts should be especially wary of last-minute stay applications designed to facilitate eleventh-hour collateral litigation. *Bucklew v. Precythe*, 587 U.S. 119, 150 (2019). Such stays are the extreme exception, not the norm, and dilatory filings that could have been brought earlier are grounds for denial. *Id.* Willacy's Petition fits squarely within the category of disfavored last-minute claims. In sum, because Willacy has no likelihood of success, advances only a speculative and procedurally barred claim, and seeks equitable relief that would impair the constitutional rights of the victim's family and the State's interest in finality, Willacy's request for a stay of execution should be denied.

CONCLUSION

Based on the foregoing, Respondent respectfully requests that this Honorable Court dismiss or deny the instant Petition.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 8th day of April 2026, I electronically filed the foregoing with the Clerk of Court by using the Florida Courts E-Portal Filing System which will send a notice of electronic filing to the following: the Honorable Melanie Chase, Chief Judge, 101 Eslinger Way, Sanford, Florida, 32773, **jennifer.biron@flcourts18.org**; the Honorable Kathryn M. Speicher, Circuit Judge, Eighteenth Judicial Circuit, Brevard County, 2825 Judge Fran Jamieson Way Viera, Florida, 32940,

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CERTIFICATE OF COMPLIANCE

I HEREBY CERTIFY that the size and style of type used in this brief is 14-point Bookman Old Style, in compliance with Florida Rule of Appellate Procedure 9.045(b).

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No. _____

In the Supreme Court of the United States

CHADWICK WILLACY,
Petitioner,
v.
STATE OF FLORIDA,
Respondent.

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

APPENDIX TO PETITION FOR A WRIT OF CERTIORARI

CAPITAL CASE
DEATH WARRANT SIGNED
Execution Scheduled: April 21, 2026, at 6:00 PM ET

Appendix M

Initial Br. of the Appellant, Chadwick Willacy v. State of Fla., SC2026-0519
(Fla. Apr. 6, 2026).

**IN THE SUPREME COURT OF FLORIDA
CASE NO: SC2026-0519**

CHADWICK WILLACY,
Appellant,
v.
STATE OF FLORIDA,
Appellee.

**ON APPEAL FROM THE CIRCUIT COURT OF THE EIGHTEENTH
JUDICIAL CIRCUIT IN AND FOR BREVARD COUNTY, FLORIDA
Lower Tribunal No. 1990-CF-16062-A**

**INITIAL BRIEF OF THE APPELLANT
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REQUEST FOR ORAL ARGUMENT

Undersigned counsel for the Appellant respectfully requests the opportunity to present oral argument pursuant to Fla. R. App. P. 9.320. This is a capital case, which presents novel issues of constitutional significance and the resolution of the issues presented will determine whether Chadwick Willacy (Mr. Willacy) will live or die, and a complete understanding of the complex factual, legal and procedural history and the arguments presented are critical to the proper disposition of this appeal.

JURISDICTIONAL STATEMENT

This is a timely appeal from the trial court's final orders denying postconviction demands and motions filed a week before and since a death warrant was signed by the governor on March 13, 2026. This Court has plenary jurisdiction over death penalty cases. Fla. Const. art. V, § 3(b)(1); *Orange County v. Williams*, 702 So. 2d 1245 (Fla. 1997).

PRELIMINARY STATEMENT ABOUT THE RECORD

The postconviction record on appeal for the current death warrant litigation consists of one volume and is referenced to as "PCR" followed by the page number.

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SB 1330, Reg. Session (Fla. 1998), Bill Analyses 28

JUDGEMENT, SENTENCE AND MOTIONS UNDER APPEAL

Mr. Willacy's trial for first degree murder, and related offenses, was held in December of 1990. He was convicted and sentenced to death in October 1991. An evidentiary hearing was held on the defense's motion for new trial on October 12, 1992, and the motion was ultimately denied. On direct appeal, this Court reversed the death sentence and remanded for a new penalty phase. *Willacy v. State*, 640 So. 2d 1079 (Fla. 1994). The second penalty phase was held in 1995. The jury again recommended a death sentence. The court sentenced Mr. Willacy to death on November 20, 1995. [PCR129]. This Court affirmed the sentence. *Willacy v. State*, 696 So. 2d 693 (Fla. 1997), *cert. denied Willacy v. Florida*, 522 U.S. 970 (1997).

Willacy challenged his conviction and death sentence pursuant to Florida Rules of Criminal Procedure 3.851 in four separate filings. The last challenge was in 2020 following the Supreme Court opinion in *Flowers v. Mississippi*, 139 S. Ct. 2228 (2019). [PCR 34-38].

On March 13, 2026, Governor Ron DeSantis signed a Death Warrant for Mr. Willacy and Mr. Willacy's execution date is set for

Tuesday, April 21, 2026, at 6:00 PM. On March 6, 2026, Willacy, through undersigned counsel, filed “Defendant’s Demand for Additional Public Records Florida Department of Corrections (“FDOC”).” [PCR 55-62] On March 18, 2026, Willacy filed additional Demands of government agencies involved with Mr. Willacy’s execution concerning possible communication within and between the agencies between March 6 and March 13, 2026. [PCR 150-177] On March 23, 2026, the circuit court entered its Order following the public records hearing denying all of Willacy’s demands for additional public records. [PCR 366-373] Willacy filed a Petition for Writ of Mandamus on March 25, 2026, seeking an order from this Court directing the lower court to order the release of certain public records as part of his postconviction warrant litigation. [SC2026-0483] Appellant’s Writ of Mandamus was denied by this Court on March 31, 2026. [SC2026-0483]

A motion for rehearing and request for in-camera inspection of public records request was denied on March 25, 2026. [PCR 448-453] On March 26, 2026, the Circuit Court denied Willacy’s Motion for Extension of Time to file a successive postconviction motion. [PCR 459-471] This appeal of those orders follows.

STATEMENT OF FACTS AND PROCEDURAL HISTORY

See Statement of Facts and Procedural History, filed by the State on March 17, 2026, Filing # 243942036. [PCR 127-137]

Additional history not included in the State's filing:

On March 6, 2026, Willacy filed "Defendant's Demand for Additional Public Records Florida Department of Corrections ("FDOC")," [PCR 55-62]

On March 18, 2026, Willacy filed "Defendant's Demand for Additional Public Records Florida Department of Corrections" (hereinafter "FDOC") [PCR 157-165], "Defendant's Demand for Additional Public Records from the Office of the Attorney General" (hereinafter "AG") [PCR 150-156], "Defendant's Demand for Additional Public Records from the Office of the State Attorney, Eighteenth Judicial Circuit" (hereinafter "SA"), [PCR 171-177], and "Defendant's Demand for Additional Public Records from the Executive Office of Governor Ron DeSantis" (hereinafter "EOG") [PCR 164-170].

On March 19, 2026, general counsels for FDOC, AG, SA and EOG filed their response and objections to defendant's demands. See, "Department of Corrections' Objections to Defendant's Demands for Additional Public Records" (re lethal injection protocols), [PCR 218-235], "Department of Corrections' Objections to Defendant's Demands for Additional Public Records" (re communications), [PCR 236-243], "Office of the Attorney General's Response and Objections to Willacy's Demand for Additional Public Records" [PCR 254-266], "Office of the State Attorney's Response and Objections to Willacy's Demand for Additional Public Records" [PCR 352-362], and "The Executive Office of the Governor's Response and Objection to Defendant's Demand for Public Records" [PCR 209-217].

On March 23, 2026, the Circuit Court held a hearing on Willacy's demands. That afternoon, on March 23, 2026, the Circuit Court entered its written orders denying all the Demands, "Order on Public Record Objections" [PCR 367-374].

On March 25, 2026, Willacy filed a Motion for Rehearing on the court's order sustaining the objections to the Public Records Demands filed March 6 and 18, 2026 and also requested an in-

camera inspection of the records before denying the request. [PCR 377-381; 417] This motion was denied the same day. [PCR 448-453] Additionally, on March 25, 2026, Willacy filed a Motion for Extension of Time to file a successive postconviction motion until the requested records had been received and Willacy has a reasonable amount of time to review and respond to them. [PCR 454-458, 479-484] The Circuit Court entered an Order denying this motion on March 26, 2026. [PCR 465-471]

Chadwick Willacy files this timely appeal seeking an order from this Court directing the lower court to order the release of the requested public records held by the FDOC, AG, SA and EOG as they are relevant to his current postconviction warrant litigation. Additionally, Willacy seeks an extension of time to file a successive postconviction motion until the requested records have been received and Willacy has a reasonable amount of time to review and respond to them.

STANDARD OF REVIEW

This is an appeal from successive postconviction motions and demands filed under Fla. R. Crim. P. 3.852. The Court employs a

mixed standard of review, deferring to the factual findings of the circuit court that are supported by competent, substantial evidence, but *de novo* review of legal conclusions. *See, Sochor v. State*, 883 So. 2d 766, 771-72 (Fla. 2004).

SUMMARY OF ARGUMENTS

As to Claim 1, the Circuit Court erred when it sustained the Attorney General's, Florida Department of Corrections', State Attorney's and Executive Office of the Governor's objections to Defendant's Demands because the court imposed a higher burden upon defendant than is required in Florida Rules of Criminal Procedure, Rule 3.852. The court also misapplied and expanded what information is protected pursuant to Florida Statute § 945.10 to apply to all records held by the Departments pertaining to FDOC's lethal injection protocol.

The records are necessary to allow Willacy to file a timely successive postconviction motion based on FDOC currently not following their lethal injection protocols. Willacy is in possession of records that support his entitlement to the requested records and that would negate the presumption FDOC has been following their protocols.

By preventing Willacy access to records which would reasonably be disclosed to the general public, this Court violates Mr. Willacy's Florida Constitutional rights to access to public records *and* his United States Constitutional right to due process as found in the Fifth Amendment and equal protection rights as found in the Fourteenth Amendment.

As to Claim 2, the Circuit Court committed fundamental error when it denied the record demands without conducting an in-camera inspection of the requested records and when it denied Willacy's motions for rehearing and in-camera inspection.

As to Claim 3, the Circuit Court erred when it denied Willacy an extension of time to file a successive postconviction motion. Willacy established good cause for his request stating, "Willacy is prevented from filing a facially sufficient successive motion before this Court because the documents requested in our Demands filed March 6 and 18, 2026 *are necessary* to filing a viable claim for relief before this Court."

If this matter cannot be resolved before April 21, 2026, Willacy asks this Court to stay his execution until the requested records have

been received, Willacy has a reasonable amount of time to review and file a successive postconviction motion and the circuit court and/or this Court has a reasonable amount of time to rule on the postconviction motion.

ARGUMENT

CLAIM ONE:

Claim One was filed in Petition for Writ of Mandamus in SC 2026-0483. The State argued that a writ was not the appropriate vehicle to achieve our remedy. We disagree. However, this Court denied the Writ of Mandamus without an opinion. The merits and issues raised in the writ of mandamus have not been addressed by this Court; therefore, Appellant properly raises the issue in this appeal.

APPEAL FROM DENIAL OF PUBLIC RECORDS DEMANDS

The trial court unlawfully entered an order sustaining the objections of the Florida Department of Corrections, Office of the Attorney General, Executive Office of the Governor, and Office of the State Attorney (hereinafter “Agencies”), to the public records demands filed on March 6 and 18, 2026, and thus has precluded the

Petitioner, Chadwick Willacy, from access to public records in violation of his Florida Constitutional rights under Article I, Section 24 and in violation Florida Statute.

Florida Rule of Criminal Procedure, Rule 3.852(i) governs postproduction requests for additional records such as those requested in this case. The rule requires Collateral Counsel to file an affidavit in the circuit court meeting the following requirements:

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

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

(C) establish 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.

Fla. R. Crim. P. 3.852(i)(1).

Despite satisfying his burden, Petitioner, Chadwick Willacy, a capital postconviction defendant, is being precluded from inspection and copying of specific public records in contravention with Chapter 119, "Public Record Laws;" Fla. Stat. § 27.7081; and the Fla. R. Crim. P. Rule 3.852. The Agencies have failed to assert any legitimate or

colorable claims that the records sought are excluded from public copying and inspection due to a statutorily recognized exemption and/or confidentiality provision precluding the Agencies from fulfilling their duties to provide public records. They have argued manufactured burdens upon Willacy, which do not appear in Florida Statute. These illegitimate arguments and objections continue to cast a dark shadow on Florida's robust public records statutes and allow government to continue to act within the shadows and not in the sunshine. There is not a legitimate governmental interest in treating Mr. Willacy's public records demands differently than that of the general public.

The Agencies have neglected to fulfill their statutory and constitutional public record duties and Willacy seeks the intervention of this Court to compel the production of the records sought pursuant to Fla. Const. Art. I, § 24(a); Fla. Stat. § 119.01(1); Fla. Stat. § 27.7081; and the Fla. R. Crim. P. Rule 3.852.

Willacy filed facially sufficient public records demands on March 6 and 18, 2026. The trial court unlawfully sustained the Agencies' objections. Willacy filed a Motion for Rehearing on March

25, 2026, seeking reconsideration and in camera inspection. [PCR 377-381;417] The trial court denied that motion on the same day. [PCR 448-453] Willacy now files this appeal.

I. FLORIDA LAW “PROVIDES ANY MEMBER OF THE PUBLIC ACCESS TO PUBLIC RECORDS, WHETHER HE OR SHE BE THE MOST OUTSTANDING CIVIC CITIZEN OR THE MOST HEINOUS CRIMINAL”¹

Florida and its citizens have recognized the significance of public records here in the Sunshine State. Our State Constitution provides that:

Every person has the right to inspect or copy any public record made or received in connection with the official business of any public body, officer, or employee of the state, or persons acting on their behalf, except with respect to records exempted pursuant to this section or specifically made confidential by this Constitution. This section specifically includes the legislative, executive, and judicial branches of government and each agency or department created thereunder; counties, municipalities, and districts; and each constitutional officer, board, and

¹ 47, Florida Office of the Attorney General, *GOVERNMENT-IN-THE-SUNSHINE MANUAL, A Reference For Compliance with Florida’s Public Records and Open Meetings Laws*, (2025 ed.) p. 164.

Downloadable PDF version is available. Office of Attorney General, James Uthmeier, Sunshine Manual, myfloridalegal.com, <https://www.myfloridalegal.com/sites/default/files/government-in-the-sunshine-manual.pdf> (last accessed Mar. 22, 2026).

commission, or entity created pursuant to law or this Constitution.

(emphasis added) Fla. Const. Art. I, § 24(a). This fundamental right is also echoed in Florida statute as spoken by the Florida Legislature in Fla. Stat. § 119.01(a), “General state policy on public records” which provides “[i]t is the policy of this state that all state, county, and municipal records are open for personal inspection and copying by any person. Providing access to public records is a duty of each agency.” (emphasis added).

Chadwick Willacy filed public records demands on March 6 and 18, 2026, all of which demanded the inspection and copying of public records held by each specified agency in connection with the transaction of the agencies’ official business. Had a member of the public sought the same public records, that member of the public would have been entitled as a matter of *right* to each record sought.

Chadwick Willacy seeks records which fit squarely within the meaning of “public record” as defined by Florida Statute.

Florida Statute § 119.011(12), defines public record as *all* documents and records, regardless of form, “made or received pursuant to law or ordinance or in connection with the transaction

of official business by any agency.” This includes “any material prepared in connection with official agency business which is intended to perpetuate, communicate, or formalize knowledge of some type.” *Shevin v. Byron, Harless, Schaffer, Reid, and Associates, Inc.*, 379 So. 2d 633, 640 (1980). Furthermore, records generated from the performance of duties fall within the scope of the meaning of “public record.” See, *Mem’l Hosp. Volusia Inc. v. News-Journal Corp.*, 729 So. 2d 373 (Fla. 1999); *Weekly Planet, Inc. v. Hillsborough County Aviation Authority, et al*, 829 So. 2d 970 (Fla. 2d DCA 2002).

The definition of “public records” also includes logs which are relevant to and required by written operating procedures and duties of an agency. *Miami-Dade County v. Professional Law Enforcement Ass’n*, 997 So. 2d 1289, 1290-1 (Fla. 3d DCA 2009) (*aff’ing* the order requiring County Police Department aviation unit to allow the inspection and copying of the pilots’ personal flight logs as “public record”). Similarly, logs which “show the functioning of the public agency” have been determined to be public records within the meaning of Chapter 119. *Cruz v. State*, 279 So. 3d 154, 158 (Fla. 4th DCA 2019) (holding “if public policy demands” names of experts

visiting a defendant to be redacted from jail visitation logs as confidential, “it is for the legislature to provide an exemption by statute.”), *review denied*, 2020 WL 1169444 (Fla. 2020).

“If there is any doubt as to whether a matter is a public record subject to disclosure, the doubt is to be resolved in favor of disclosure.” *Everglades Law Center v. South Florida Water Management District*, 290 So. 3d 123, 129 (Fla. 4th DCA 2019) (citing, *Morris Publ’g Grp., LLC v. Fla. Dep’t of Educ.*, 133 So. 3d 957, 960 (Fla. 1st DCA 2013)). Public records laws are “to be construed liberally in favor of the state’s policy of open government.” *Everglades Law Center*, 290 So. 3d at 129 (citing, *Morris Publ’g Grp.*, 133 So. 3d at 960).

None of the parties to Chadwick Willacy’s demands have disputed that the records sought are in fact “public records” within the meaning of Chapter 119. The agencies and offices subject to Willacy’s demands objected to required compliance based on the judicially imposed requirement of “colorable claim” and Florida Statute § 945.10, neither of which preclude the agencies from fulfilling their disclosure duties under public records laws.

II. THE TRIAL COURT UNLAWFULLY SUSTAINED THE AGENCIES' OBJECTIONS AND DENIED WILLACY'S DEMAND FOR PUBLIC RECORDS BASED ON LEGALLY INSUFFICIENT OBJECTIONS BY THE AGENCIES.

The trial court erred when it entered its order and sustained the Agencies' objections based upon "a review of the Official Court file, demands and objections thereto, argument presented, and authorities submitted." [PCR 369]

The Florida Department of Corrections, the Office of the Attorney General, and the Office of the State Attorney, failed to satisfy their burden of proving the right to *any* exemption to public records disclosure and failed to assert a proper basis that the Agencies' objections should be sustained. As to the Executive Office of the Governor, the Office failed to assert an exemption to records which would not fall within the purview of clemency determinations.

The trial court sustained the Agencies' objections without an in-camera review of the records thus, the validity of the assertions made by the Agencies were taken at face value despite the Agencies failing to make responsive objections to the demands filed. *See, Everglades Law Center, 290 So. 3d at 133-4 (holding, "the trial court erred in denying the petition for writ of mandamus without*

conducting an in-camera review of the transcript to determine if redactions of claimed mediation communications are appropriate”). The failure of the trial court to conduct an in-camera inspection amounts to “fundamental error.” *Id.* at 133. This is also in direct contradiction with the State’s policy of open government.

a. All of the public records demands filed on March 6 and 18, 2026, were pled with specificity and none were unduly burdensome.

On March 6, 2026, Chadwick Willacy filed a public records demand requesting specified public records from the Florida Department of Corrections as to the agency’s lethal injection protocol compliance. [PCR 54-61] The records demanded on March 6, 2026, were requested with specificity to the records as called for in connection with the Department of Corrections’ official business of carrying out lethal injection executions. Willacy specified each record sought in direct connection with the Florida Department of Corrections Lethal Injection Protocol itself. There is no reasonable question as to what records Willacy is seeking and demanding. Additionally, Willacy’s public record demands filed on March 18,

2026, was filed with specificity and was limited and narrow in time and in the subject matter he sought.

None of the demands filed in this case included broad and sweeping language, i.e. “any and all” language, which would reasonably leave the Agencies unclear as to what records Willacy demands. [PCR 54-61, 149-176] Additionally, Willacy’s demands filed on March 18, 2026, were limited to records generated within a single week and even went further to specify the nature of the communications and records sought. *The arguments of the Florida Department of Corrections, the Office of the Attorney General, and the State Attorney’s Office fail to support their objection that the demands are overly broad and unduly burdensome.*

The Agencies rely on *Muhammad v. State*, 132 So. 3d 176 (Fla. 2013) for their argument that Willacy’s demands are unduly burdensome and overly broad. The demands filed by Willacy are distinguishable from the demands held to be overly broad and unduly burdensome in *Muhammad v. State*. In *Muhammad* the public records demand sought “any filed, records, letters, memoranda, notes, drafts, and/or electronic mail... pertaining to Mr. Muhammad

that were received or produced...” since the last public records demand. *Id.* at 203. The request in *Muhammad* is vastly different than the demands filed in Willacy. Unlike *Muhammad*, Willacy seeks records which would fall within very narrow subject matters: “the records demand filed by Willacy on March 6, 2026; the governor scheduling Mr. Willacy’s execution; or any communications regarding Mr. Willacy’s death warrant.” [PCR 55-62, 150-177]

While reasonably, Willacy is not seeking any records as to clemency determinations from the Office of the Governor, this does not preclude intraoffice and interoffice communications among the agencies which would include, the Florida Department of Corrections, the Office of the Attorney General, and the State Attorney’s Office. Any intraoffice or interoffice communications among the Agencies which were for the purpose or intended to perpetuate, communicate, or formalize knowledge, would thus be “public record” subject to disclosure. *See, Shevin v. Byron, Harless, Schaffer, Reid, and Associates, Inc.*, 379 So. 2d 633, 640 (1980).

The Florida Department of Corrections argued during the Public Records Hearing on March 23, 2026, “the demand as written” was

overly broad because it sought “records through the date of March 13th without limiting to the time at which the warrant was issued, ... accordingly it impermissibly seeks records regarding actions taken after the warrant... which are confidential attorney/client communications or work product.” [PCR 636-637] This argument does not support a finding that the demands as written are overboard because of failure to state a *time*. Meriam-Websters Dictionary defines overboard as “too widely applicable or applied” and defines broad as “wide in range or amount.” Willacy’s failure to state a specific time does not make the demand “too widely applicable.” Additionally, communications and public records that are in fact work product would be properly exempt, however, no such facts were presented to support the communications/records are in fact work product because the trial court did not conduct an in camera inspection to determine as such. Furthermore, even taking Florida Department of Corrections argument at face value, work product records would not render the entirety of the public records exempt from public copying and inspection. FDOC could simply object to disclosing records created after the warrant was signed. FDOC

conflates a request being “unduly burdensome” to mean any request of records they claim are confidential. [PCR 637]

Next, the Office of the Attorney General argued that the demand was “unduly burdensome or overly broad” because the demand sought “personal cell phone information and seeking all of these records.” [PCR 639:8-12] The Office of the State Attorney also argued that Willacy’s demand as applied to them was overly burdensome because the request “is not sufficient or based on a colorable claim” and the demand included personal communications on a “personal cell phones, not just e-mail communications.” [PCR 640:19-21; 641:9-12] Both offices’ objections fail as a matter of law.

Emails and communications transmitted by text message, regardless of whether the message was sent by a personal or a government/agency issued cell phone, are public records when the communication falls within the definition of public records. *O’Boyle v. Town of Gulf Stream*, 257 So. 3d 1036, 1042 (Fla. Dist. Ct. App. 2018) (“The purpose of both Article I, section 24 and Chapter 119 is to ensure that citizens may review (and criticize) government actions. That purpose would be defeated if a public official could shield the

disclosure of public records by conducting business on a private device”). It is well accepted and established that emails and records kept electronically are public records within the common meaning and understanding of the term “public record.” *Seigle v. Barry*, 422 So. 2d 63, 65 (Fla. Dist. Ct. App. 1982) (“[t]here can be no doubt that information stored on a computer is as much a public record as a written page in a book or a tabulation in a file stored in a filing cabinet”), *review denied*, 431 So. 2d 988 (Fla. 1983); See also, Op. Att’y Gen. Fla. 96-34 (1996); 47, Florida Office of the Attorney General, *GOVERNMENT-IN-THE-SUNSHINE MANUAL, A Reference For Compliance with Florida’s Public Records and Open Meetings Laws*, (2025 ed.), p. 84-85.

b. Each of the Agencies failed to meet their burden that each agency is entitled to specific exemptions.

It is well established that an agency asserting that records are exempt from disclosure based upon a specified exemption bear the burden of establishing it is entitled to such exemption. *See Barfield v. School Board of Manatee County*, 135 So. 3d 560, 562 (Fla. 2d DCA 2014); *Woolling v. Lamar*, 764 So. 2d 765, 768 (Fla. 5th DCA 2000), *review denied*, 786 So. 2d 1186 (Fla. 2001); *Barfield v. City of Fort*

Lauderdale Police Department, 639 So. 2d 1012, 1015 (Fla. 4th DCA), review denied, 649 So. 2d 869 (Fla. 1994); and *Florida Freedom Newspapers, Inc. v. Dempsey*, 478 So. 2d 1128, 1130 (Fla. 1st DCA 1985); See also, 47, Florida Office of the Attorney General, *GOVERNMENT-IN-THE-SUNSHINE MANUAL, A Reference For Compliance with Florida's Public Records and Open Meetings Laws*, (2025 ed.), p. 179-180.

The Florida Department of Corrections continues to proclaim that Fla. Stat. § 945.10 establishes a broad restriction exempting the disclosure of public records and information regarding the lethal injection protocol. This is misplaced. Fla. Stat. § 945.10(1)(j)1 very limitedly and narrowly exempts and makes confidential:

Information or records that identify or could reasonably lead to the identification of any person or entity that participates in, has participated in, or will participate in an execution, including persons or entities administering, compounding, dispensing, distributing, maintaining, manufacturing, ordering, preparing, prescribing, providing, purchasing, or supplying drugs, chemicals, supplies, or equipment necessary to conduct an execution in compliance with chapter 922.

(emphasis added). To say that the Florida legislature intended to prevent *all of the records* kept in accordance with carrying out

executions is an embellishment and intentional misrepresentation of the plain meaning of the statute.

Not only is the Department of Corrections reliance on Fla. Stat. § 945.10 misplaced, its own assertions that “[t]hese records are confidential in total [and] [t]here’s no portion of the records that are not confidential under Florida Statute”² fails to acknowledge that if the statute did make *all records* regarding lethal injection exempt and confidential in total, then the public records would never have been disclosed in Franks Walls case in the first place. [See PCR 363-365, Defendant’s Notice of Authority citing to *Walls v. Dixon* and *Melvin Trotter v. State*] Additionally, as further evidence that Fla. Stat. § 945.10 does not make lethal injection records in their entirety exempt and confidential, the Department has not sought a protective order or sought the records be held by the courts as confidential, in any of the cases which have filed, pled facts from, or cited to the records, following the execution Frank Walls.

Nothing requested by Willacy in his public record demand filed

² PCR 639:11-13.

March 6, 2026, invokes any information which would lead to the unmasking of those people and entities that participate in the lethal injection execution and if it did, redacting the identifying information would keep the information exempt and confidential.

III. NEITHER FLORIDA STATUTE NOR RULE 3.852 IMPOSE A BURDEN UPON CAPITAL POSTCONVICTION DEFENDANTS TO ASSERT A COLORABLE CLAIM IN DEMANDS FOR PUBLIC RECORDS.

Each Agency responded and objected to all of Willacy's public records demands asserting that Willacy failed to establish a colorable claim. However, the burden of establishing a colorable claim is not found in Florida Statute or in Rule 3.852 of the Florida Rules of Criminal Procedure.

a. Limiting capital postconviction defendants' access to public records is in contradiction with the rationale and intention for which Rule 3.852 was established and Florida Statute § 27.708(3) was enacted.

Capital postconviction defendants are precluded from seeking public records under the provisions of chapter 119 and instead statutorily required to seek public records pursuant to Florida Statutes § 27.708(3), which precludes capital postconviction

defendants represented by capital collateral counsel from making any public records requests “except as provided in § 27.7081.”

Florida’s three branches of government have sought to improve efficiency of capital postconviction proceedings throughout the years, dating back to the 1990’s. The pursuit to improve efficiently has included rules adopted by this Court and statutory changes adopted in legislation.

In 1996, Robert Shevin was asked by the then Chief Justice of this Court to prepare a “Special Master’s Report” to assist this Court, after concerns were raised about capital postconviction attorneys’ ability to fulfill their ethical duty of providing effective assistance of counsel. This report has become known as the “Shevin Report.”³ Four proposed reforms were suggested, with the most significant reform becoming known as “the Chapter 119 problem.”

The “Shevin Report” identified that Rule 3.850, now known in our context as Rule 3.851, lacked a formal discovery mechanism and thus public records sought by capital postconviction defendants were

³ The entirety of the report can be found as Attachment A, to the court’s opinion in *Hill v. Butterworth*, 941 F. Supp. 1129 (N.D. Fla. 1996).

acquired through Chapter 119 public records requests. Resolving disputes between agencies and capital postconviction defendants required separate civil lawsuits outside of the 3.851 proceedings which resulted in “significant delays and time-consuming civil litigation.” The “Shevin Report” recommended this Court “promptly solve this problem by enacting a Rule of Discovery in 3.850 proceedings, *with expedited time schedules* for both requesting and providing of public records...”⁴ The “Shevin Report” suggested the “goal of the new rule should be to expedite ... access to Chapter 119 information that it can be reviewed ... in a time to be incorporated in the original 3.850 motion.”⁵

In response to the recommendations, this Court promulgated Rule 3.852 of the Florida Rules of Criminal Procedure. *In re Amendment to Florida Rules of Criminal Procedure -Capital Postconviction Public Records Production*, 683 So. 2d 475 (Fla. 1996); See also, *In re Amendments to Florida Rules of Criminal Procedure -*

⁴ *Hill*, 941 F. Supp. at 1157.

⁵ *Hill*, 941 F. Supp. at 1157.

Capital Postconviction Public Records Production, 673 So. 2d 483 (Mem) (Fla. 1996).

Then in 1997 the, “...Legislature provided that all requests for records in capital postconviction proceedings must be made in accordance with Rule 3.852, and the request must be approved by the capital collateral regional counsel.” Florida Staff Analysis, S.B. 1330, 4/22/1998. In 1998 the Florida legislature amended Florida Statute § 27.708(3) again to be consistent with Florida Rules of Criminal Procedure 3.852 stating “[e]xcept as provided in s. 119.19, the capital collateral regional counsel or contracted private counsel shall not make any public records requests on behalf of his or her client.” Later, Fla. Stat. § 119.19 was renumbered as Fla. Stat. § 27.7081 in 2005. Florida Statute § 27.7081 states that it applies to the production of public records for capital postconviction defendants. It also defines “public records” as consistent with the “same meaning as provided in s. 119.011.”

This Court’s intent and the legislative intent were clear in the promulgation and amendment: **neither was to limit a capital postconviction defendant’s constitutional and statutory rights**

to production of public records. *In re Amendment to Florida Rules of Criminal Procedure -Capital Postconviction Public Records Production*, 683 So. 2d 475, 475-476 (Fla. 1996); SB 898, Reg. Session (Fla. 1998), Bill Analyses; SB 1330, Reg. Session (Fla. 1998), Bill Analyses. Nothing found in the history of rule 3.852 or chapter 27 statutes suggest that either was intended to prevent the disclosure of relevant public records to capital postconviction defendants. In fact, in 1996 when this Court promulgated Rule 3.852 it wrote:

We specifically address the comments of those who are concerned that the rule will unconstitutionally limit a capital postconviction defendant's right to production of public records pursuant to article I, section 24, Florida Constitution, and chapter 119, Florida Statutes (1995). We conclude that the rule does not invade those constitutional and statutory rights.

In re Amendment to Florida Rules of Criminal Procedure -Capital Postconviction Public Records Production, 683 So. 2d 475, 475-476 (Fla. 1996) (emphasis added). This intention was stated again in Judge Anstead's concurrence:

As noted by the majority opinion, this rule in no way diminishes the right of an individual Florida citizen, including a capital defendant, to access to public records pursuant to article I, section 24, Florida Constitution, and chapter 119, Florida Statutes (1995). Trial courts must be

mindful of our intention that a capital defendant's right of access to public records be recognized under this rule. If there is any category of cases where society has an interest in seeing that all available information is disclosed, it is obviously in those cases where the ultimate penalty has been imposed.

Id. at 477 (emphasis added).

The same definitions and exemptions as found in chapter 119 of Florida Statutes applies to public record demands filed pursuant to 3.852 of the Florida Rules of Criminal Procedure.

b. Capital postconviction defendants are required to show merely that the additional public records sought are either relevant to the subject matter of the postconviction proceeding or are reasonably calculated to lead to the discovery of admissible evidence.

Florida Statute § 27.7081 requests for postproduction public records mirrors Florida Rule of Criminal Procedure Rule 3.852, each requires that capital postconviction defendant's counsel:

1. Attests that collateral counsel has made a timely and diligent search of the records repository.
2. Identifies with specificity those public records not at the records repository.
3. 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.

4. Must be served in accordance with subsection (4).

Fla. Stat. § 27.7081(9)(a)1-4. Notably, *neither* the Rule *nor* the statute states that a capital postconviction defendant establish a “*colorable claim*.”

The Agencies argue in the Responses they filed that Willacy’s demands must be denied because he fails to prove a colorable claim. [PCR 209-217, 218-235, 236-243, 254-266] Each of the Agencies in Willacy’s case argued during the records hearing that “[u]nder Rule 3.852 there has to be a colorable claim for postconviction relief asserted in order to be entitled to these records.” [PCR 703-704, see also 694, 699-700, 706] However, the plain meaning and reading of the Rule does not support such a burden. Capital postconviction defendants must only show that the additional public records are relevant to the *proceeding* or would reasonably lead to the discovery of admissible evidence.

One cannot imagine what would be more relevant to the postconviction capital *proceeding*, than public records regarding the Florida Department of Corrections’ compliance with the lethal injection execution protocol. Interestingly the Agencies often argue

that post-warrant public records requests should be weighed against capital postconviction defendants. However, in this case, Willacy filed his demand for public records prior to Florida's governor signing his death warrant. The timing of the warrant in light of the pre-warrant public records demand supports the relevancy of the March 18, 2026, public records demands. Again, it is unimaginable that the communications in the week between March 6, 2026, public records demand and the signing of the warrant would be anything other than relevant to the present proceedings.

c. The Agencies' objections based on their assertions that Willacy has failed to present a colorable claim are meritless.

Black's Law Dictionary defines "colorable claim" as: "a claim that is legitimate and that may reasonably be asserted, given the facts presented and the current law."

The public records sought by Willacy on March 6, 2026, prior to Florida's governor signing Willacy's execution warrant, reasonably relate to a colorable claim. For example, if the facts presented in the records show that FDOC is not carrying out the lethal protocol accepted by this Court and facts presented show that failure to

properly administer the lethal injection protocol would cause unnecessary suffering, then under the current law, Willacy would have a legitimate claim that the maladministration of the lethal injection protocol violates Willacy's Eighth Amendment protection against cruel and unusual punishment. To require Willacy to assert anything more than what has been argued in support of a colorable claim in essence requires Mr. Willacy to prove his colorable claim beyond a reasonable doubt *prior* to allowing Mr. Willacy any *evidence* to further support his claim. Willacy *at the very least* has shown probable cause to support a colorable claim based upon the information contained in the lethal injection protocol records cited to by *Walls v. Dixon*. [PCR 363-365]. Having done so, Willacy has overcome the "presumption that the Department conducts itself properly," as claimed by FDOC. [PCR 698, at 7-11]

As recognized by Justice Sotomayor, this Court:

...appears to be placing prisoners in a Catch-22: It has affirmed the denial of requests for records on these issues, at least in part, because the prisoners do not yet have enough information to raise a "colorable" Eighth Amendment claim. *Ibid.* The very reason the prisoners are seeking the records, however, is to gather enough information to raise a colorable Eighth Amendment claim.

Trotter v. State of Florida, et. al, 607 U.S. ___ (2026) (statement respecting the denial of the application for stay and petition for certiorari).

While Florida Department of Corrections continues to mock postconviction defendants’ readings of the logs and argues that they “purposefully misreads” the lethal injection logs filed in Frank Walls, FDOC has yet to provide any explanation or *facts* to support their argument that the records are being universally misunderstood. [PCR 699 at 17-18]

The comment by Justice Sotomayor, overcomes any argument that Willacy has failed to identify a colorable claim. Justice Sotomayor wrote:

Individuals seeking to challenge the method of their execution should not have to guess at whether the State is, or is not, following its execution protocol. Nor does the State appear to have any legitimate confidentiality interest in shielding from inspection basic facts about the implementation of its execution protocol, such as whether the State is using expired drugs. If the protocol is in fact being followed, then transparency instills confidence in the protocol for everyone—prisoners, the courts, and the public alike. If it is not, then secrecy is intolerable, and disclosure of the relevant records is indispensable for

determining whether the lapses at issue are likely to lead to an Eighth Amendment violation.

Trotter v. State of Florida, et. al, 607 U.S. ___ (2026).

By preventing Willacy access to records which would reasonably be disclosed to the general public, this Court violates Mr. Willacy's Florida Constitutional rights to access to public records *and* his United State Constitutional right to due process as found in Fifth Amendment and equal protection rights as found in the Fourteenth Amendment.

CLAIM TWO:
APPEAL FROM DENIAL OF MOTION FOR IN-CAMERA
INSPECTION AND REHEARING

On March 23, 2026, the Circuit Court held a hearing on Willacy's March 6 and 18, 2026, public record demands. During the hearing, counsel for Willacy noted to the Court that in-camera inspection could be conducted for the Court to determine whether disclosure would be required. [PCR 686] In addition, counsel for Willacy attempted to negotiate/mediate disclosure of the requested records by making an *ore tenus* motion for a protective order, allowing the release of the records to counsel and any defense experts. [PCR

692] *See also*, Florida Statute § 27.7081(12)(c). None of the agencies involved made an objection to this request.

On the afternoon of March 23, 2026, the Circuit Court denied all five of Mr. Willacy’s demands for additional public records in the Court’s “Order on Public Records Objections” (“Order”). [PCR 367-374] In the Order, the Circuit Court sustained each of the involved agency’s objections, thus denying each demand. The Circuit Court, however, did not specify which objections made by the agency were sustained or provide any reasoning for the rulings. *Id.*

Additionally, despite no objection from the agencies, the Circuit Court also denied the *ore tenus* request for protective order. No reasoning for this denial was provided in the Order. *Id.*

No in-camera inspection of the relevant records was conducted prior to the Circuit Court’s denial of Willacy’s demands for additional public records.

The Circuit Court sustained the Agencies’ objections without in-camera review of the records. Thus, the validity of the assertions made by the agencies were taken at face value. *See, Everglades Law Center v. South Florida Water Management District*, 290 So. 3d 123, 133-4 (Fla. 4th DCA 2019) (*holding*, “the trial court erred in denying

the petition for writ of mandamus without conducting an in-camera review of the transcript to determine if redactions of claimed mediation communications are appropriate”). The failure of the Circuit Court to conduct an in-camera inspection amounts to “fundamental error. *Id.* at 133.

This Court has also held that “where doubt existed as to whether the State must disclose a particular document, the proper procedure is to have a trial judge conduct an in-camera review of the documents.” *Rose v. State*, 774 So. 2d 629 (Fla. 2000) (receded from on other grounds, citing *Ragsdale v. State*, 720 So. 2d 203, 206 (Fla. 1998)). *See also State v. Kokal*, 562 So. 2d 324, 327 (Fla. 1990) (when certain statutory exemptions are claimed by the party against whom the records have been filed or when doubt exists as to whether a particular document must be disclosed, the proper procedure is to furnish the document to the trial judge for an in-camera inspection). After in-camera inspection, the party from whom records are sought must turn over the nonexempt materials. *Ragsdale*, 720 So. 2d at 206.

Wherefore, Willacy respectfully requests this Court order the Circuit Court to conduct in-camera inspection of the records subject

to his demands for additional public records and conduct a rehearing of the public records demands with knowledge of the contents of the records.

CLAIM THREE:
**APPEAL FROM DENIAL OF MOTION FOR EXTENSION OF TIME
TO FILE**

Willacy has properly sought a legal remedy to the Circuit Court's order sustaining the objections of the Florida Department of Corrections; the Office of the Attorney General; the Executive Office of the Governor; and the State Attorney's Office. Willacy filed a petition for writ of mandamus before the deadline to file a successive postconviction motion. Willacy also filed a Petition for Writ of Habeas Corpus on April 2, 2026.

The Attorney General's Office's allegation that this "reflects a deliberate choice to delay proceedings" is without merit and baseless. Willacy sought public records well before Florida's governor signed his warrant. The Circuit Court entered an order denying Willacy access to the records to support his colorable claim *and* the records that are relevant to the present postconviction proceedings. Willacy is prevented from filing a facially sufficient successive motion before the Circuit Court because the documents requested in our Demands

filed March 6 and 18, 2026 *are necessary* for a focused investigation for a viable claim for relief before this Court.

The State has intentionally turned away from an obvious fact recognized by Justice Sotomayor:

The record reflects at least the possibility that recent Florida executions have involved—in addition to expired drugs—incorrect drug doses, the use of nonprotocol drugs, and recordkeeping lapses that could mask yet additional failings. The Florida Supreme Court, moreover, has thus far not allowed further inquiry into these potential problems and has recently denied requests for records that would prove or disprove claims like Trotter’s. See, e.g., *Heath*, ___ S. 3d, at ___. The Florida Supreme Court appears to be placing prisoners in a Catch-22: It has affirmed the denial of requests for records on these issues, at least in part, because the prisoners do not yet have enough information to raise a “colorable” Eighth Amendment claim. *Ibid.* The very reason the prisoners are seeking the records, however, is to gather enough information to raise a colorable Eighth Amendment claim.

Trotter v. State of Florida, et. al, 607 U.S. ___ (2026) (statement respecting the denial of the application for stay and petition for certiorari).

Additionally, there would have been no prejudice to the State or risk of violating this Court’s scheduling order, as this Court ordered Willacy to file a reply to the State’s Response to Writ of Mandamus

by March 26, 2026, at 3:00 pm. If the public records requests had been properly granted, then Willacy would have been able to meet this Court’s scheduling Order. Any delays are due to the Agencies presenting obstacles to lawful record demands being received and the circuit court supporting the Agencies’ attempts to block Willacy from receiving the requested public records.

Willacy has established good cause for his request stating, “Willacy is prevented from filing a facially sufficient successive motion before this Court because the documents requested in our Demands filed March 6 and 18, 2026 *are necessary* to filing a viable claim for relief before this Court.” He respectfully requests that this Court extend the deadline for filing a successive postconviction motion until the requested records have been received, and Willacy has a reasonable amount of time to review and file a successive postconviction motion.

CONCLUSION AND RELIEF SOUGHT

Willacy has established that his Demands are reasonably calculated to lead to the discovery of admissible evidence, rebutting the presumption that FDOC does and will comply with its own

protocols, and that his demands are neither overly broad nor unduly burdensome upon the State that seeks to end his life. The requested records are necessary for Willacy to support a timely claim that the FDOC's failure to follow Florida's lethal injection protocols is unconstitutional. The Circuit Court should do an in-camera inspection and release records that are not exempt and/or confidential according to the statute, redacting any portions necessary to exclude information that would suggest identity of the executioners and the suppliers of the lethal injection drugs.

WHEREFORE, Willacy asks this Court for an Order directing the lower court to grant Defendant's Demands [PCR 55-62, 150-177]

If this matter cannot be resolved before April 21, 2026, Willacy asks this Court to stay his execution until the requested records have been received, Willacy has a reasonable amount of time to review and file a successive postconviction motion and the circuit court and/or this Court have a reasonable amount of time to rule on the postconviction motion.

CERTIFICATE OF COMPLIANCE

Counsel certifies that this Initial Brief is produced in Bookman Old Style 14-point font in compliance with the requirements of Florida Rules of Appellate Procedure 9.100. The word count is 7,464.

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that on this 6th day of April, 2026, the foregoing brief has been electronically filed with the Clerk of the Circuit Court by using the Florida Courts e-portal filing system which will send a notice of electronic filing to the following: the **Florida Supreme Court**, warrant@flcourts.org, and canovak@flcourts.gov; the **Honorable Judge Kathryn Speicher**, Circuit Judge, 2825 Judge Fran Jamieson Way Viera, Florida 32940, Lisa.Baumhover@flcourts18.org; the **State Attorney's Office Eighteenth, Judicial Circuit**, 2725 Judge Fran Jamieson Way, Building D Viera, Florida 32940, wscheiner@sa18.org; ledmiston@sa18.org; eservice@sa18.org; the **Office of the Attorney General**, 3507 East Frontage Road, Suite 200, Tampa, Florida 33607-7013, Stephen D. Ake, stephen.ake@myfloridalegal.com, Michael Mervine, michael.mervine@myfloridalegal.com, Elizabeth

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WE HEREBY FURTHER CERTIFY that a copy has also been
furnished via U.S. mail, this 6th day of April 2026, to Chadwick
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No. _____

In the Supreme Court of the United States

CHADWICK WILLACY,
Petitioner,
v.
STATE OF FLORIDA,
Respondent.

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

APPENDIX TO PETITION FOR A WRIT OF CERTIORARI

CAPITAL CASE
DEATH WARRANT SIGNED
Execution Scheduled: April 21, 2026, at 6:00 PM ET

Appendix N

Appellee's Answer Br. on the Merits, Chadwick Willacy v. State of Fla.,
SC2026-0519 (Fla. Apr. 8, 2026).

No. SC2026-0519

In the Supreme Court of Florida

CHADWICK WILLACY,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

ANSWER BRIEF ON THE MERITS

On Appeal from the Circuit Court of the Eighteenth
Judicial Circuit in and for Brevard County, Florida
L.T. No. 1990-CF-16062

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Padovano, Philip J., *Florida Appellate Practice* § 1:6 (2026 ed.) 26

ORAL ARGUMENT OBJECTION

The State opposes Willacy's request for oral argument. The issues on appeal are straightforward, and it is against this Court's policy to grant oral argument in successive capital appeal cases. See Fla. S. Ct. Internal Op. Proc. II.A.3(a) (Successive capital postconviction appeals are treated "in the same manner as" cases "in which review is granted without oral argument."). This Court has not held oral argument in any recent warrant case over the past three years and should not hold oral argument in this one either.

STATEMENT OF THE CASE AND FACTS

On September 5, 1990, Marlys Sather returned home unexpectedly to find Willacy, her next-door neighbor, burglarizing her house. *Willacy v. State*, 967 So. 2d 131, 135 (Fla. 2007). Willacy bludgeoned Sather and bound her ankles with wire and duct tape. *Id.* He choked and strangled her with a cord with a force so intense that a portion of her skull was dislodged. *Id.* Willacy then obtained Sather's ATM pin number, her ATM card, and the keys to her car; drove to her bank; and withdrew money out of her account. Willacy returned to Sather's home where he disabled the smoke detectors, doused Sather with gasoline, placed a fan at her feet to provide more

oxygen for the fire, and struck several matches as he set her on fire. *Id.* Medical testimony established that her death was caused by inhalation of smoke from her burning body. *Id.*

Willacy's fingerprints were found on the fan at Sather's feet and on a gas can. *Id.* Witnesses reported seeing a man matching Willacy's description near Sather's house and driving her car on the day of the murder. *Id.* Further, Willacy's girlfriend discovered Sather's check register in Willacy's wastebasket. *Id.* A search of Willacy's home uncovered Sather's property, as well as several articles of clothing containing blood consistent with her blood type. *Id.*

The jury convicted Willacy of first-degree murder, burglary, robbery, and arson and recommended the death penalty by a 9-3 vote. *Id.* at 135. The trial court followed the jury's recommendation and sentenced Willacy to death. *Id.*

Direct Appeal

Following his convictions and sentence of death, Willacy filed his direct appeal to this Court, and raised eight claims: (1) the court committed reversible error when it refused the defense an opportunity to rehabilitate a prospective juror; (2) a prospective juror was improperly challenged based on his race; (3) the jury foreman

was ineligible to serve; (4) the court improperly found that Willacy's statements were voluntarily made; (5) the killing was not committed to avoid arrest; (6) the killing was not heinous, atrocious or cruel; (7) the court improperly weighed the mitigating and aggravating factors; and (8) death is an inappropriate penalty. *Willacy v. State*, 640 So. 2d 1079, 1081 n.2 (Fla. 1994).

On May 12, 1994, this Court issued its opinion affirming Willacy's convictions but vacating his death sentence. *See id.* at 1081-84 (remanding for a new penalty phase because the trial court should have afforded defense counsel an opportunity to rehabilitate a venireperson who stated that she could not recommend the death penalty).

Resentencing and Appeal

On remand, a jury again recommended the death penalty, this time by a vote of 11-1. The trial court followed the recommendation and sentenced Willacy to death. *Willacy v. State*, 696 So. 2d 693, 695 (Fla. 1997). The court found five aggravating circumstances.¹ Willacy

¹ The murder was committed in the course of a robbery, arson, and burglary; the murder was committed to avoid lawful arrest; the murder was committed for pecuniary gain; the murder was especially

proposed thirty-seven mitigating factors. *Id.* at 695 n.2. This Court noted that most of the proposed factors were cumulative to others and were of a general nature. *Id.* The trial court rejected six factors and gave the others little weight. *Id.* This Court affirmed Willacy's death sentence, *id.* at 697, and on November 19, 1997, the United States Supreme Court denied certiorari review. *Willacy v. Florida*, 522 U.S. 970 (1997).

On May 11, 1998, Willacy filed an initial motion for postconviction relief under Florida Rule of Criminal Procedure 3.850 followed by a March 18, 2002, amended motion for postconviction relief, raising thirty-one issues. *Willacy*, 967 So. 2d at 137 nn.7-8. The postconviction court denied the motion. On appeal, this Court affirmed the lower court's denial of postconviction relief. *Id.* at 148. This Court also denied Willacy's petition for writ of habeas corpus, which alleged that appellate counsel had been ineffective for failing to raise seven issues. *Id.* at 145-48. Willacy then filed a certiorari petition in the United States Supreme Court, which denied review. *Willacy v. Florida*, 552 U.S. 1265 (2008).

heinous, atrocious, or cruel (HAC); and the murder was committed in a cold, calculated, and premeditated manner (CCP). *Id.* at 694 n.1.

Initial Federal Habeas Proceeding

In 2008, Willacy filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 in the United States District Court for the Middle District of Florida. He filed an amended petition in 2013. The federal district court denied the amended petition. *Willacy v. Sec'y, Dep't of Corr.*, No. 6:08-CV-619, 2014 WL 3594213 (M.D. Fla. July 18, 2014). The United States Court of Appeals for the Eleventh Circuit affirmed the denial of habeas relief. *Willacy v. Sec'y, Fla. Dep't of Corr.*, 703 Fed. Appx. 744 (11th Cir. 2017). The United States Supreme Court denied certiorari review on April 30, 2018. *Willacy v. Jones*, 584 U.S. 964 (2018).

Successive State Postconviction Proceedings

Since the conclusion of his initial state postconviction proceedings, Willacy has filed three successive motions for postconviction relief and three petitions for writ of habeas corpus in this Court.

On March 19, 2010, this Court denied a successive petition for writ of habeas corpus, in which Willacy challenged the trial court's granting of a State preemptory strike. *Willacy v. McNeil*, 33 So. 3d 36 (Fla. 2010). Willacy then filed his first successive postconviction

motion on November 1, 2010. He argued that his sentence was unconstitutional under *Porter v. McCollum*, 558 U.S. 30 (2009). The circuit court summarily denied relief, and this Court affirmed that decision on appeal. *Willacy v. State*, 90 So. 3d 822 (Fla. 2012). The United States Supreme Court denied certiorari review on January 22, 2013. *Willacy v. Florida*, 568 U.S. 1147 (2013).

In 2016, Willacy filed a successive petition for writ of habeas corpus seeking relief under *Hurst v. Florida*, 577 U.S. 92 (2016). This Court denied the petition. *Willacy v. Jones*, No. SC16-497, 2017 WL 1033679, at *1 (Fla. Mar. 17, 2017). In the meantime, he filed a second successive postconviction motion in the circuit court under Florida Rule of Appellate Procedure 3.851 on January 10, 2017, also seeking relief pursuant to *Hurst*. The circuit court summarily denied relief, and this Court affirmed that decision on appeal. *Willacy v. State*, 238 So. 3d 100, 101 (Fla. 2018). Willacy sought certiorari review, which the United States Supreme Court denied. *Willacy v. Florida*, 586 U.S. 866 (2018).

On January 30, 2020, Willacy filed his third successive rule 3.851 motion, in which he sought relief based on *Flowers v. Mississippi*, 588 U.S. 284 (2019). The circuit court denied relief, and

this Court affirmed, finding the claim was untimely and had been raised by Willacy on direct appeal and in earlier successive postconviction proceedings. *Willacy v. State*, 314 So. 3d 246 (Fla. 2021). Finally, on December 5, 2022, Willacy filed a pro se all writs petition in this Court, seeking the appointment of conflict-free counsel. The petition was denied on April 13, 2023. *Willacy v. State*, No. SC2022-1653, 2023 WL 2943017, at *1 (Fla. Apr. 13, 2023).

Successive Federal Habeas Proceedings

Willacy returned to federal district court in 2018, filing a motion to alter or amend judgment, which the district court denied. *Willacy v. Sec'y, Dep't of Corr.*, No. 6:08-CV-619, 2018 WL 11244847, at *1 (M.D. Fla. June 27, 2018). The Eleventh Circuit subsequently denied a certificate of appealability, *Willacy v. Sec'y, Dep't of Corr.*, No. 18-13072 (11th Cir. Apr. 19, 2019), as well as a petition seeking leave to file a successive habeas corpus petition. *Willacy v. Sec'y, Dep't of Corr.*, No. 21-12460 (11th Cir. Aug. 10, 2021).

Death Warrant Proceedings

On March 13, 2026, Governor Ron DeSantis signed a death warrant for the execution of Willacy, and his execution is scheduled

for April 21, 2026, at 6:00 p.m. (R. 79).² As a result, this Court issued a scheduling order requiring that all proceedings in the circuit court be concluded by Thursday, April 2, 2026, at 11:00 a.m. *Id.*

On March 6, 2026, one week before the warrant was signed, Willacy served a supplemental public records demand on the Florida Department of Corrections (FDOC) pursuant to Florida Rule of Criminal Procedure 3.852(h) and (i), seeking post-March 1, 2025, records relating to FDOC's implementation of its lethal injection protocol. (R. 54-61). The demand broadly sought operational materials, including training records, execution logs, checklists, internal memoranda, documentation regarding the sourcing, handling, and administration of execution drugs, monitoring records (including Florida Department of Law Enforcement (FDLE) observations), IV-line procedures, medical assessments of consciousness and death, and post-execution debriefings. *Id.* The demand asserted that these materials were necessary to evaluate compliance with the February 18, 2025, protocol and to develop a potential Eighth and Fourteenth Amendment challenge. (R. 54-55).

² "R" citations are to the Supplemental Record on Appeal filed on April 2, 2026.

FDOC objected to the March 6 demand in its entirety. (R. 217-34). It observed at the outset that the demand was identical to requests made on it in recent warrant cases seeking records related to its lethal injection protocol, procedures, and process, and that this Court has consistently held that such records are not relevant to a colorable claim for postconviction relief. FDOC pointed out that it is entitled to a presumption that it is performing its duties correctly. Willacy's speculation to the contrary was insufficient to raise a colorable method-of-execution challenge, which requires more than a mere alleged deviation from protocol, but a substantial and imminent risk that the method used is sure or very likely to cause serious illness and needless suffering. (R. 218-21).

FDOC further argued that the demand sought lethal injection materials that were exempt from disclosure under section 945.10, Florida Statutes; failed to relate to a colorable due process claim under the Fourteenth Amendment (to the extent Willacy was raising such a claim); was untimely because Willacy had not explained why he did not seek the records earlier; and was a mere fishing expedition that failed to raise any potential as-applied constitutional challenge that had not been previously considered and rejected by this Court.

(R. 221-28). Finally, FDOC objected that individual requests within the demand improperly sought records relating to the lethal injection protocol, internal policies and procedures, protocol drugs, execution team members, and prior executions. (R. 228-34).

After the Governor signed the execution warrant, the circuit court entered a scheduling order on March 17, 2026. (R. 138-47). The order directed that defense counsel should file all demands for additional public records by March 18, 2026. (R. 141). On that date, Willacy filed four additional supplemental public records demands directed to the Office of the Attorney General (OAG), FDOC, the Executive Office of the Governor (EOG), and the Office of the State Attorney for the Eighteenth Judicial Circuit (SAO). (R. 149-76). These substantially similar demands sought all internal and interagency communications across all platforms during the one-week period encompassing the March 6 demand and the Governor's March 13 signing of the warrant. *Id.* The requests focused on communications concerning the March 6 additional public records demand and the warrant decision. They were premised on the theory that such materials might reveal the Governor's motivation for signing the execution warrant, coordination among agencies, strategic delay or

avoidance of public records obligations, or concealed noncompliance with the lethal injection protocol. *Id.*

On March 19, 2026, each responding agency filed written objections advancing overlapping grounds. (R. 208-42, 253-65). The agencies argued that the demands were facially overbroad and sought categories of records beyond the scope of Florida Rule of Criminal Procedure 3.852, including internal deliberative communications and interagency discussions that are not public records or are exempt from disclosure under Chapter 119 due to privilege, work-product protection, or statutory exemptions. *Id.* The objections further asserted that Willacy failed to identify any colorable postconviction claim and instead sought to use the public records process to conduct generalized discovery into executive decision-making. *Id.*

The circuit court conducted a hearing on the additional public records demands on March 23, 2026, (R. 551-616), and later that same day entered its written “Order on Public Records Objections.” (R. 366-73). In that order, the circuit court stated that it had reviewed the court file, the demands, the objections, the arguments presented, and the authorities submitted, and it sustained the agencies’

objections and denied all of Willacy's additional public records demands. (R. 368-69). The circuit court specified that FDOC's objections were sustained as to both the March 6 and March 18 requests. (R. 368). Willacy sought rehearing, (R. 376-80), which the circuit court denied on March 25, 2026. (R. 447-52).

Meanwhile, the circuit court's scheduling order required Willacy to file any successive postconviction motion by March 25, 2026, at 4:00 p.m. (R. 141). Rather than filing a Rule 3.851 motion, Willacy filed a petition for writ of mandamus in this Court shortly before the deadline. *See Willacy v. State*, No. SC2026-0483. Then, thirty-seven seconds before the deadline expired, Willacy filed a motion in the circuit court seeking an extension of time to file his postconviction motion until after this Court had ruled on his mandamus petition. (R. 453-57). The next morning, the State filed a response in opposition to the extension motion, and Willacy filed a reply. (R. 471-83). Soon after, the circuit court denied the motion for extension of time and ordered Willacy to file any successive postconviction motion by March 26, 2026, at 2:00 p.m. (R. 458-70). That extended deadline likewise passed without the filing of a successive postconviction motion. (R. 484-86).

On March 27, 2026, the circuit court conducted the scheduled case management/*Huff*³ hearing, (R. 683-99), and afterward entered its “Order on Case Management/*Huff* Hearing and Concluding Post-Warrant Proceedings.” (R. 490, 518-24). In that order, the circuit court concluded that because Willacy had not filed a successive postconviction motion, there were no claims requiring factual development. Accordingly, it determined that no evidentiary hearing was warranted, denied any remaining pending relief, directed the clerk to prepare the record, and formally concluded all post-warrant proceedings in the trial court. (R. 518-24).

On March 31, 2026, this Court denied Willacy’s petition for writ of mandamus. The next day, Willacy filed a notice of appeal from the orders denying his public records demands, rehearing motion, and motion for extension of time, *see* Notice of Appeal, *Willacy v. State*, SC2026-0519 (Fla. Apr. 1, 2026), and on April 2, 2026, he filed a Petition for Writ of Habeas Corpus. *See* Petition for Writ of Habeas Corpus, *Willacy v. State*, SC2026-0526 (Fla. Apr. 2, 2026).

³ *Huff v. State*, 622 So. 2d 982 (Fla. 1993).

SUMMARY OF THE ARGUMENT

Claims I and II fail because Willacy's challenge to the denial of his March 6 and March 18 public records demands rests on the flawed premise that he was entitled to expansive lethal-injection records and internal and interagency communications without first identifying a colorable postconviction claim. That premise is contrary to Florida Rule of Criminal Procedure 3.852, which requires a capital defendant to identify a legally sufficient, colorable postconviction claim and demonstrate that the requested records are specifically relevant to it. Instead, Willacy sought sweeping execution-related materials and broad communications across multiple agencies to determine whether a claim might exist, an impermissible fishing expedition under this Court's precedent. The demands were also speculative, facially overbroad, and unduly burdensome, independently justifying the agencies' objections and the circuit court's ruling. Because the requests were legally insufficient on their face, the circuit court was not required to conduct in camera review. Further, Willacy's constitutional arguments do not alter these conclusions, because this Court has repeatedly upheld Rule 3.852 and section 27.7081 as imposing reasonable and constitutional

limitations on access to public records in capital postconviction proceedings.

Claim III likewise fails. Willacy's motion for an extension of time was premised on the assertion that his pending mandamus petition prevented him from filing a successive postconviction motion. As Florida law makes clear, however, the filing of a mandamus petition neither stays proceedings nor tolls Rule 3.851 deadlines, and Willacy remained free to file a postconviction motion and challenge any adverse public records rulings on appeal. The circuit court also properly adhered to this Court's binding scheduling order requiring that warrant proceedings be completed expeditiously. In any event, Willacy cannot demonstrate prejudice, as his requested extension depended on a mandamus petition that was ultimately denied. Accordingly, the denial of the extension motion was a proper exercise of discretion and affords no basis for relief.

STANDARDS OF REVIEW

This Court reviews the denial of public records requests for an abuse of discretion. *Tanzi v. State*, 407 So. 3d 385, 391 (Fla. 2025) (citing *Cole v. State*, 392 So. 3d 1054, 1065 (Fla. 2024)). A trial court abuses its discretion only when its action "is arbitrary, fanciful, or

unreasonable,” meaning no reasonable person “would take the view adopted by the trial court.” *Canakaris v. Canakaris*, 382 So. 2d 1197, 1203 (Fla. 1980). Similarly, a trial court’s denial of a motion for extension of time is reviewed for abuse of discretion. See Fla. R. Crim. P. 3.050. Further, this Court’s precedent makes clear that continuances, functionally indistinguishable from requests to extend deadlines, are reviewed under that same deferential standard. See, e.g., *Geralds v. State*, 674 So. 2d 96, 99 (Fla. 1996); *Fennie v. State*, 648 So. 2d 95, 97 (Fla. 1994). Finally, the standard of review for a constitutional claim is de novo. *Correll v. State*, 184 So. 3d 478, 487 (Fla. 2015).

ARGUMENT

I. & II. The Circuit Court Did Not Abuse Its Discretion In Denying The Public Records Demands Or In Declining To Conduct In Camera Review.

Willacy contends in Claims I and II that the circuit court erred in denying his March 6 and March 18 public records demands by imposing extra-statutory requirements, accepting legally insufficient agency objections, and declining to conduct in camera review. He maintains that his requests were sufficiently specific, relevant to anticipated postconviction litigation, and not unduly burdensome; and further argues that Rule 3.852 does not require a capital defendant to identify a colorable postconviction claim before obtaining additional public records. In his view, the denial of those requests violated Chapter 119 as well as his state and federal constitutional rights, and the failure to conduct in camera review prevented meaningful judicial scrutiny of the agencies' objections.

These arguments fail because the demands did not satisfy the governing requirements of Rule 3.852. The requests were not tied to any legally sufficient, colorable postconviction claim, but instead sought expansive execution-related records and internal and interagency communications to determine whether a claim might

exist. They were also facially overbroad and unduly burdensome. For those reasons, the circuit court properly denied the demands.

Rule 3.852 establishes a claim-driven framework for post-warrant public records litigation, requiring a capital defendant to demonstrate that the requested records are specifically related to a colorable claim for postconviction relief. *King v. State*, No. SC2026-0336, 2026 WL 672101, at *5 (Fla. Mar. 10, 2026), *cert. denied*, 2026 WL 730666 (U.S. Mar. 16, 2026) (citing *Branch v. State*, 236 So. 3d 981, 984 (Fla. 2018)); *see also Damas v. State*, 423 So. 3d 811, 823 (Fla. 2025) (“[W]here a defendant cannot demonstrate that he or she is entitled to relief on a claim or that records are relevant or may reasonably lead to the discovery of admissible evidence, the trial court may properly deny a records request.”) (original alteration) (quoting *Asay v. State*, 224 So. 3d 695, 700 (Fla. 2017)); *Allen v. State*, 416 So. 3d 291, 307 (Fla. 2025) (finding no abuse of discretion in denial of pre-warrant public records demand where the claim the defendant sought to establish would not have warranted any relief). Consistent with that framework, the rule does not authorize speculative discovery or “fishing expedition[s] for records unrelated to a colorable claim for postconviction relief.” *Sims v. State*, 753 So.

2d 66, 70 (Fla. 2000). Nor does it permit requests aimed at uncovering whether a claim might exist or demands that are overly broad or unduly burdensome. *Heath v. State*, 426 So. 3d 1253, 1263-65 (Fla.), *cert. denied*, 2026 WL 363902 (U.S. Feb. 10, 2026).

Measured against these principles, the March 6 demand filed a week before the warrant falls well short. Directed to FDOC, the request sought sweeping categories of records relating to virtually every aspect of the State's lethal injection process, including training materials, execution logs and checklists, internal communications, drug sourcing and testing documentation, chain-of-custody records, administration procedures, monitoring data, and post-execution reports. (R. 54-61). The demand was not confined to any specific execution, did not identify a protocol deviation, and did not provide a discrete factual predicate. Instead, it broadly sought to examine whether FDOC had complied with its protocol, asserting that the requested materials were necessary to determine whether potential Eighth Amendment and Fourteenth Amendment claims could be developed. (R. 54-55).

That defect is dispositive. As this Court explained in *Heath*, requests for execution-related records that are unrelated to a

specifically identified protocol violation and instead seek materials in the hope that irregularities might be uncovered do not satisfy Rule 3.852's threshold requirement. 426 So. 3d at 1263-64. The rule does not authorize discovery aimed at discovering whether possible claims exist, and a defendant must do more than speculate that records might reveal a defect. *Id.* Consistent with that principle, this Court reaffirmed that a defendant bears the burden of demonstrating a connection between the records sought and a colorable claim, not merely a generalized desire to explore potential issues. *King*, 2026 WL 672101, at *5. Because the March 6 demand was premised on precisely that type of speculation, it failed as a matter of law. Its sweeping scope further rendered it unduly burdensome, independently justifying denial.

The March 18 demands fare no better. They sought expansive categories of internal and interagency communications during the period between the March 6 public records demand and the signing of the execution warrant. (R. 149-76). They were not limited to discrete records, but instead encompassed communications across multiple mediums. *Id.* The subject matter was equally broad, covering any communication relating to Willacy's prior records

request, the agencies' responses, the timing or issuance of the execution warrant, and any coordination among agencies. *Id.*

As framed by Willacy, these demands were not tied to any identified colorable claim for postconviction relief but instead sought to explore whether government actors may have communicated in a manner that could give rise to a claim. That type of inquiry, seeking wide-ranging communications to uncover a potential theory of relief, falls squarely within the speculative discovery prohibited by Rule 3.852 and foreclosed under *Heath* and *King*. The breadth of the requests, spanning multiple agencies, communication platforms, and categories of records, further underscores their undue burden. To the extent Willacy was attempting to inquire into the Governor's reasons for signing the warrant, such an inquiry is likewise foreclosed by this Court's precedent. *See Heath*, 426 So. 3d at 1264-65 (“[C]hallenges to the Governor's absolute discretion to issue death warrants and allegations that the Governor's decision to sign a warrant was influenced by public input do not present colorable claims for postconviction relief.”). The circuit court therefore correctly sustained the agencies' objections and denied the March 18 demands.

In sum, both the March 6 and March 18 demands suffer from the same fundamental defect: neither is anchored to a specifically identified, colorable postconviction claim, and both instead seek expansive categories of records in the hope of uncovering one. Rule 3.852 does not permit that approach. Because the requests were speculative, unrelated to any colorable postconviction claim, and facially overbroad and unduly burdensome, the circuit court correctly denied the additional public records demands.

These same deficiencies necessarily defeat Claim II. Willacy's assertion that the circuit court was required to conduct an in camera review is entirely derivative of his flawed premise that the demands were legally sufficient. But requiring in camera review in the absence of a colorable postconviction claim would invert Rule 3.852, forcing courts to comb through agency records in search of a claim rather than requiring the defendant to first present one. Because Willacy failed to satisfy that threshold requirement, the circuit court properly denied the demands without conducting in camera review.

Willacy's constitutional arguments do not alter these conclusions. Framed as violations of Chapter 119, the Florida Constitution, and the United States Constitution, his claims rest on

the premise that Rule 3.852 impermissibly restricts access to public records otherwise available to the general public. But that premise has been repeatedly rejected. Rule 3.852 and section 27.7081 do not deny access to public records; they regulate the manner in which such records may be obtained in the capital postconviction context by requiring a defendant to proceed in a claim-specific, non-speculative manner.

This Court's precedent squarely forecloses Willacy's position. See *Wyatt v. State*, 71 So. 3d 86, 111 (Fla. 2011); *Lambrix v. State*, 124 So. 3d 890, 895 n.2 (Fla. 2013); *Gudinas v. State*, 412 So. 3d 701, 715 (Fla.), *cert. denied*, 145 S. Ct. 2833 (2025); *Hutchinson v. State*, 416 So. 3d 273, 279 (Fla.), *cert. denied*, 145 S. Ct. 1980 (2025); *Randolph v. State*, 422 So. 3d 166, 172 (Fla. 2025), *cert. denied*, 146 S. Ct. 819 (2025); *King*, 2026 WL 672101, at *6. These decisions confirm that Rule 3.852 imposes reasonable, constitutionally permissible limitations on the manner of access to public records in capital cases.

Finally, Justice Sotomayor's statement in *Trotter v. Florida*, No. 25-6853 (25A926), slip op. at 1 (U.S. February 24, 2026), does not alter the analysis. It does not constitute binding authority and does

not change this Court's settled interpretation of Rule 3.852 or Florida's public records framework. To the extent the statement discusses broader concerns regarding transparency, those considerations do not create a constitutional right to public records unrelated to a colorable postconviction claim.

Accordingly, because Rule 3.852 permissibly channels access to public records through a claim-specific framework and Willacy failed to satisfy the rule's threshold showing, his claims afford no basis for relief, and the circuit court's rulings should be affirmed.

III. The Circuit Court Did Not Abuse Its Discretion by Denying Willacy's Motion for Extension of Time.

Finally, Willacy argues that the circuit court erred by denying his motion for an extension of time to file a successive motion for postconviction relief. Under the circuit court's scheduling order, any successive postconviction motion was due no later than 4:00 p.m. on March 25, 2026. (R. 141); *see* Fla. R. Crim. P. 3.851(h)(6) (providing that after a death warrant has been signed, "the [circuit] court shall set a time for filing a postconviction motion"). Mere seconds before that deadline, Willacy filed a motion for an extension of time to file his postconviction motion until after this Court had ruled on his

mandamus petition challenging the circuit court’s public records rulings. (R. 453-55). Willacy claimed in the extension motion that he “c[ould]not file a Successive Postconviction Motion while the Florida Supreme Court maintains jurisdiction.” (R. 455).

The State filed a response in opposition at 8:56 a.m. the next morning (March 26, 2026), in which it observed that Willacy’s last-minute filing of the extension motion appeared to be an intentional delay tactic, and further pointed out that the filing of a mandamus petition does not divest a trial court of jurisdiction or operate as an automatic stay. (R. 471-74); *see Byrd-Green v. State*, 40 So. 3d 848, 848-49 (Fla. 3d DCA 2010); Fla. R. App. P. 9.100(h). The State argued, as well, that Willacy’s mandamus petition was meritless, since he could challenge the public records rulings on appeal upon the conclusion of the post-warrant proceedings. (R. 474-75). Willacy filed a reply shortly thereafter, asserting that the public records sought through the mandamus petition were necessary for him to file a postconviction claim. (R. 478-83). At 10:50 a.m., the circuit court denied the extension motion and directed Willacy to file his motion for postconviction relief no later than 2:00 p.m. on March 26, 2026. (R. 458-63). The 2:00 p.m. deadline came and went, and Willacy

again failed to file a postconviction motion. (R. 484-86). Consequently, the circuit court, after holding a case management hearing, entered an order on March 27, 2026, concluding the post-warrant proceedings. (R. 519-25, 683-99). On March 31, 2026, this Court denied Willacy's petition.

A trial court's decision on a motion for extension of time is discretionary. See Fla. R. Crim. P. 3.050. Here, there was no abuse of the circuit court's discretion. The filing of the mandamus petition did not, contrary to Willacy's assertions, deprive the circuit court of jurisdiction or prevent him from filing a motion for postconviction relief. See *Byrd-Green*, 40 So. 3d at 848-49; see also Philip J. Padovano, *Florida Appellate Practice* § 1:6 (2026 ed.) (explaining that, except in a prohibition proceeding where the appellate court has entered an order to show cause pursuant to rule 9.100(h), the filing of an extraordinary writ petition "does not restrict the exercise of jurisdiction by the lower tribunal," which "has continuing jurisdiction to enter all orders, including the final order disposing of the case, unless the appellate court has entered a stay or an order that otherwise prevents further action in the lower tribunal").

Nor did the mere denial of Willacy's requests for additional public records prevent him from filing a postconviction motion. Capital inmates under warrant can, and often do, file such motions after their public records requests have been denied. The proper procedure in such cases is to challenge the lower court's public records rulings on appeal following the entry of a final order denying postconviction relief. *See, e.g., Heath*, 426 So. 3d at 1263-64; *Tanzi*, 407 So. 3d at 391; *Cole v. State*, 392 So. 3d 1054, 1065 (Fla. 2024).

Importantly, the circuit court remained bound by this Court's scheduling order, which required that all proceedings in the circuit court be completed "as expeditiously as possible, but by no later than 11:00 a.m., Thursday, April 2, 2026." (R. 79). To that end, the circuit court entered its own scheduling order requiring Willacy to file any postconviction motion by 4:00 p.m. on Wednesday, March 25, 2026; requiring the State to file its response by 4:00 p.m. on Thursday, March 26, 2026; setting a *Huff* hearing for 10:00 a.m. on Friday, March 27, 2026; and setting an evidentiary hearing, if needed, for 9:30 a.m. on Monday, March 30, 2026. (R. 141-43).

When Willacy filed his extension motion, this Court had not entered any order staying the proceedings or altering its scheduling

order. And although Willacy, like all death-sentenced inmates after the signing of a death warrant, was given the *opportunity* to file a post-warrant postconviction motion, *see* Fla. R. Crim. P. 3.851(h)(6), nothing required him to do so. Based on their representations in the extension motion and reply, Willacy’s postconviction counsel appear to have assessed that—absent the fishing expedition they sought to conduct through the public records requests regarding FDOC’s lethal injection protocols and the Governor’s reasons for signing the death warrant—there were no viable postconviction claims that could be raised in good faith. The circuit court, however, remained obligated to conclude the proceedings “as expeditiously as possible,” and no later than 11:00 a.m. on April 2, 2026. (R. 79).

Under these circumstances, the circuit court properly gave Willacy one final opportunity—until 2:00 p.m. on March 26, 2026, or 22 hours after the circuit court’s original filing deadline—to file a postconviction motion. When he failed to do so, the circuit court then correctly determined that there was no further work to be done and entered a final order concluding the proceedings. The denial of the extension motion, which was wholly consistent with this Court’s binding scheduling order, was not an abuse of the circuit court’s

discretion. *See Williams v. State*, 415 So. 3d 168, 173 (Fla. 2025) (“Abuse of discretion is a ‘highly deferential’ standard of review, and ‘we will not find an abuse of discretion unless the trial court makes a ruling which no reasonable judge would agree with.’”) (*quoting Wells v. State*, 364 So. 3d 1005, 1013 (Fla. 2023)).

Further, even if the circuit court had abused its discretion, any error was harmless, since Willacy only requested an extension until this Court had ruled on his mandamus petition, and the mandamus petition was later denied on March 31, 2026. Accordingly, Willacy would still not have had any postconviction claims to raise before this Court’s deadline of 11:00 a.m. on April 2, 2026, and the outcome of the proceedings in the lower court would have been the same. *See* § 924.051(3), Fla. Stat. (stating that “[a]n appeal may not be taken from a judgment or order of a trial court unless a *prejudicial* error is alleged”) (emphasis added); § 924.051(1)(a), Fla. Stat. (“‘Prejudicial error’ means an error in the trial court that harmfully affected the judgment or sentence.”). Thus, the denial of Willacy’s extension motion entitles him to no relief in this Court.

CONCLUSION

Based on the authorities and arguments presented herein, this Court should affirm the lower court's Order on Public Records Objections, Order Denying Defendant's "Motion for Rehearing of Public Records Demands/Motion for In Camera Inspection," and Amended Order Denying Defendant's Motion for Extension of Time.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 8th day of April 2026, I electronically filed the foregoing with the Clerk of Court by using the

Florida Courts E-Portal Filing System which will send a notice of electronic filing to the following: the Honorable Melanie Chase, Chief Judge, 101 Eslinger Way, Sanford, Florida, 32773, **jennifer.biron@flcourts18.org**; the Honorable Kathryn M. Speicher, Circuit Judge, Eighteenth Judicial Circuit, Brevard County, 2825 Judge Fran Jamieson Way Viera, Florida, 32940, **lisa.baumhover@flcourts18.org**; William J. Scheiner, State Attorney, Eighteenth Judicial Circuit, 2725 Judge Fran Jamieson Way, Building D Viera, Florida, 32940, **wscheiner@sa18.org**, **ledmiston@sa18.org**, **eservice@sa18.org**; Eric Pinkard, Chief Assistant, Melody Jacquay-Acosta, Joshua Chaykin, Ann Marie Mirialakis, Mahham Syed, Assistants CCRC-M, Capital Collateral Regional Counsel-Middle Region, 12973 North Telecom Parkway, Temple Terrace, Florida 33637, **pinkard@ccmr.state.fl.us**, **jacquay@ccmr.state.fl.us**, **mirialakis@ccmr.state.fl.us**, **syed@ccmr.state.fl.us**, **chaykin@ccmr.state.fl.us**, **support@ccmr.state.fl.us**; and the Florida Supreme Court, **warrant@flcourts.org**, **canovak@flcourts.org**.

/s/ Michael W. Mervine
Counsel for State of Florida

CERTIFICATE OF COMPLIANCE

I HEREBY CERTIFY that the size and style of type used in this brief is 14-point Bookman Old Style, in compliance with Florida Rule

of Appellate Procedure 9.045(b). This brief contains 5,625 words, in compliance with Florida Rule of Appellate Procedure 9.210(a)(2)(B).

/s/ Michael W. Mervine
Counsel for the State of Florida

No. _____

In the Supreme Court of the United States

CHADWICK WILLACY,
Petitioner,
v.
STATE OF FLORIDA,
Respondent.

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

APPENDIX TO PETITION FOR A WRIT OF CERTIORARI

CAPITAL CASE
DEATH WARRANT SIGNED
Execution Scheduled: April 21, 2026, at 6:00 PM ET

Appendix O

“Attachment A, Shevin Report,” dated Feb. 26, 1996, 10 Fla. L. Weekly D166-169. (attachment to opinion found in *Hill v. Butterworth*, 941 F. Supp. 1129 (N.D. Fla. 1996) (substance of the opinion is not of value. Petitioner cites for reference to the “The Shevin Report” attached to the district court’s opinion).

is not being assigned to these individuals in accordance with the new substitution procedures. See generally Fla. Stat. § 27.703 (providing for appointment of "one or members of The Florida Bar" to represent collateral defendants when CCR is conflicted out, with such counsel to be paid from funds appropriated to the Justice Administrative Commission).

³⁵To hold otherwise, as the Defendants apparently suggest, could have the effect of shrinking the six-month statute of limitations under Chapter 154 to such a short amount of time that it would deprive capital defendants of procedural due process.

³⁶In reaching this preliminary conclusion, the Court is unconcerned with the reasons for the backlog. Regardless of whether it is caused by inadequate funding or a misallocation of resources by CCR, the effect is the same.

³⁷In *Bonner v. City of Prichard*, 661 F.2d 1206, 1207 (11th Cir. 1981) (en banc), the Eleventh Circuit adopted as precedent the decisions of the Fifth Circuit rendered prior to October 1, 1981.

³⁸In 1995, fifty-six murderers were put to death in the United States—the largest number in nearly four decades. However, in Florida, where convicted murderers spend an average of 9.7 years on death row, there were only three executions. Diane Hirth, *State Looks to Shrink Death Row Appeal Time—Executions Expected to Increase in 1996*, FT. LAUDERDALE SUN-SENTINEL, Dec. 30, 1995, at A1. In fact, in the twenty-two years since Florida reinstated the death penalty, more than seven hundred convicted murderers have been sentenced to death, but fewer than forty have actually been executed. Bentley Orrick, *Murderers Detour from Death Row: Legal Appeals Help Keep Most Condemned Killers in Florida from Being Executed in the Electric Chair*, TAMPA TRIB., Nov. 6, 1995, Florida/Metro Sec., at 1.

³⁹The Court concurs with the Supreme Court of Florida's discussion of this point:

The importance of finality in any justice system, including the criminal justice system, cannot be understated. It has long been recognized that, for several reasons, litigation must, at some point, come to an end. In terms of the availability of judicial resources, cases must eventually become final to allow effective appellate review of other cases. . . . [A]n absence of finality casts a cloud of tentativeness over the criminal justice system, benefiting neither the person convicted nor society as a whole.

Witt v. State, 387 So. 2d 922, 925 (Fla.), cert. denied, 449 U.S. 1067, 101 S. Ct. 796, 66 L. Ed. 2d 612 (1980).

⁴⁰See *City of Atlanta v. Metropolitan Atlanta Rapid Transit*, 636 F.2d 1084 (5th Cir. 1981).

ATTACHMENT A SHEVIN REPORT

VIA FEDERAL EXPRESS

February 26, 1996

The Honorable Stephen H. Grimes
Chief Justice
Supreme Court of Florida
500 South Duval Street
Tallahassee, Florida 32399-1925

RE: Study Of The Capital Collateral Representative

Dear Mr. Chief Justice:

I am pleased to submit the following report based on my study of the Office of the Collateral Capital Representative ("CCR") and the current status of postconviction counsel for Florida's death row inmates.

BRIEF PROCEDURAL HISTORY

In June of 1995, Michael J. Minerva, the head of CCR, filed a motion for relief from the new one-year deadline for filing 3.850 postconviction motions in capital cases. See Fla. R. Crim. P. 3.851. At the same time, Mr. Minerva stopped designating individual staff counsel to represent death row inmates whose one-year deadline had started running. At present, there are 40 inmates for whom CCR is the statutorily authorized representative, but for whom CCR has refused to designate individual counsel.

Mr. Minerva's actions were precipitated by the Supreme Court's affirmation in 1994 of 46 new death penalty cases, twice the historical average. Mr. Minerva's motion claimed that CCR could not incorporate all of these cases into its current caseload of 138 clients, and that to accept all of these cases with a one-year filing deadline would require his staff attorneys to violate their ethical duty of providing effective assistance of counsel.

Mr. Minerva supplemented his motion for relief in August of 1995 after the Volunteer Lawyers' Post-Conviction Defender Organization, formerly known as the Volunteer Lawyers' Resource

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- D. The Office of the Governor
 1. W. Dexter Douglass, Counsel to the Governor
 2. Phyllis Hampton, Assistant Counsel
- E. Representative Elvin L. Martinez, Chair of the House Criminal Justice

Committee.

- F. Chandler R. Muller, President of the Board of VLRC.
- G. Judge Rodolfo Sorondo, Jr., Criminal Division, 11th Judicial Circuit in and for Dade County, Florida.
- H. Judge Thomas M. Carney, Criminal Division, 11th Judicial Circuit in and for Dade County, Florida.
- I. Bennett H. Brummer, Public Defender, 11th Judicial Circuit in and for Dade County, Florida.
- J. James Rinaman, Former President of The Florida Bar.
- K. Michael Millman, Executive Director of the California Appellate Project.

I also reviewed numerous written materials, including the 1987 Case-load/Workload Formula developed for CCR by The Spangenberg Group (the "Spangenberg Report"), the report of the federal Subcommittee on Death Penalty Representation chaired by Judge Emmett Ripley Cox of the Eleventh Circuit Court of Appeals (the "Cox Report"), the American Bar Association Standards for representation in death penalty cases (the "ABA Standards"), the Report of the Supreme Court Committee on Postconviction Relief in Capital Cases chaired by Justice Ben F. Overton (the "Overton Committee Report"), the Florida Supreme Court's case tracking summary of active death penalty cases, CCR's current caseload docket, CCR's 1996-97 legislative budget requests, and the Governor's 1996-97 budget recommendations.

TWO QUESTIONS PRESENTED

I have been asked to address two principal questions:

First, is CCR capable of accepting the 40 new cases in which they have so far refused to designate counsel?

Second, how should the State of Florida provide support to private counsel in the 41 cases that were previously assisted by VLRC?

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Federal habeas corpus is a statutory remedy provided for by 28 U.S.C. § 2254(a) that permits a state inmate to ask the federal district court to review any violation of federal law that may have tainted the inmate's conviction or sentence. Subject to limited exceptions, the federal court may only consider claims previously asserted in the direct appeal or the 3.850 review; thus, federal habeas petitions are the last stage of death penalty proceedings. Review of the federal district court's habeas decision is to the Eleventh Circuit Court of Appeals, and then to the United States Supreme Court.

Under the current practice in Florida, the Governor will not sign a death warrant until a death-sentenced defendant has exhausted his or her 3.850 remedy and federal habeas corpus review. Once the Governor signs a death warrant, however, an inmate typically files a *second* 3.850 motion, a *second* federal habeas petition, and various motions to stay the execution pending resolution of this second round of proceedings.

B. WHAT IS CCR?

CCR was created by the Florida Legislature in 1985 for the following purpose:

[T]o provide for the representation of any person convicted and sentenced to death in this state who is unable to secure counsel due to indigency, so that collateral legal proceedings to challenge such conviction and sentence may be commenced in a timely manner and so as to assure the people of this state that the judgments of its courts may be regarded with the finality to which they are entitled in the interests of justice.

§ 27.7001, Fla. Stat.

CCR is obligated to represent *all* indigent death-sentenced defendants in collateral proceedings in both state and federal courts, including the United States Court of Appeals for the 11th Circuit and the United States Supreme Court. § 27.702(1), Fla. Stat. The only defendants that CCR cannot represent are defendants in cases where CCR may have a conflict of interest, such as where two defendants have been convicted as co-defendants, or where CCR staff counsel participated in the direct appeal. § 27.703, Fla. Stat.

The head of CCR is appointed by the Governor, subject to Senate confirmation, for a 4-year term. § 27.701, Fla. Stat.

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VLRC currently provides representation, with the assistance of volunteer lawyers, to 41 death row inmates, 19 of which are "conflict cases" that cannot be represented by CCR. The reason that VLRC represents 22 defendants who, by statute, should be represented by CCR, is that CCR became overloaded with cases during Governor Martinez's administration (due to the record number of death warrants). In addition, the Overton Committee Report recommended that VLRC provide temporary relief to CCR pending CCR's receipt of adequate funding.

There is presently no logical reason to maintain the distinction between CCR and VLRC with respect to these 22 non-conflict cases. The problem, of course, is that the 40 cases that created the current impasse could become a 62-case problem, which would represent an approximate 45% increase in CCR's client base if

all the allowable cases were assigned to CCR.

D. THE 1991 OVERTON COMMITTEE REPORT

In early 1991, the Florida Supreme Court convened the Committee on Post-conviction Relief in Capital Cases to address CCR's inability to process its current caseload and because of substantial delays in the resolution of capital collateral proceedings.

The Committee made a number of significant findings in its 1991 report. First, that CCR was underfunded and understaffed despite its 1990-91 budget of \$1.9 million. Second, that one of the major problems with the collateral process was that the triggering mechanism to start the postconviction relief process moving was the signing of a death warrant, resulting in a disorderly and unmanageable system of representation. Third, that all the parties involved in the death penalty process—CCR, the Attorney General, the Governor, and the Courts—needed to coordinate their efforts to monitor death penalty cases and to assure that there are no unjustified delays.

Consistent with these findings, the Committee made three recommendations. The first recommendation, which resulted in the enactment of Rule 3.851, was that CCR should designate specific named counsel no later than 30 days after certiorari was denied in a capital inmate's direct appeal. Second, the Committee recommended that the initial round of collateral proceedings should be completed within a period of 2 years and eight months. To accomplish this time table, the Committee recommended that Rule 3.850 be shortened to 1 year in capital cases, and that trial court should resolve 3,850 motions on an expedited basis. Third, the Committee recommended that, to avoid delays at the

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Commentary to the rule, which is based on the Overton Committee Report, the reduction in the time period was conditioned on CCR being "fully funded."

By July 1993, CCR's caseload increased 20%, to 100 clients, and by July 1994 to 118 clients. As of June 1995, CCR's assigned case load had grown to 141 clients, representing a 59% increase in clients since 1991, with no increase in budget to directly correspond to the increase in clients.

The current impasse arose after the Court affirmed 46 death penalty cases in 1994.⁵ As a result of these affirmances, CCR would have been required to file 3,850 motions in most of the 46 cases in 1996. This would represent approximately twice the number of 3,850 motions that CCR regularly files in any given year. Pursuant to a previous order of extension, CCR was supposed to begin designating lawyers for 40 of these cases in May of 1995. The current impasse was created when CCR began refusing to designate lawyers in any of the 40 cases.⁶

B. CURRENT POSTCONVICTION CAPITAL COUNSEL STATISTICS

Florida currently has 367 death row inmates. 139 of the inmates are now involved in the direct appeal of their cases. All of these defendants are represented either by private counsel or local public defender organizations.

There are 228 postconviction cases in various stages of collateral proceedings. These defendants are represented as follows:

⁵The extremely high number of affirmances in 1994 was caused by the departure of two Supreme Court Justices, Rosemary Barkett and Parker Lee McDonald. Justice Barkett was appointed to the United States Court of Appeals for the Eleventh Circuit, and Parker Lee McDonald retired. The Court issued final decisions in all cases in which Justices Barkett and McDonald were sitting in order to avoid giving a back log of cases to the two new Justices, Harry Lee Anstead and Charles Wells.

⁶The deadlines to designate counsel have already passed for 25 of the 40 cases; the deadlines in the other 15 cases are approaching.

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CCR's 138 cases are assigned as follows:

Anderson, Gail	16
Anderson, Mary	4
Backhus, Terri	20
Brewer, Heidi	2
Gardner, Lissa	4
Kissinger, Stephen	29
McClain, Martin	21
Scher, Todd	14
Shavazz, Harum	8
Shippy, Daren	12
Strand, Bret	8
TOTAL	138

The 138 cases are in the following procedural postures: 3,850 motions have been filed in all but 7 cases; 90 cases are pending at the circuit court level, having had no evidentiary hearing; 19 are on appeal to the Florida Supreme Court; 18

cases are pending habeas corpus review in the federal court; 5 cases have completed the first round of collateral appeals.

Based on its historical record of filing sixteen or seventeen 3,850 motions annually, but also recognizing that CCR filed 28 3,850 motions in 1995, CCR should be able to absorb a good portion of the 40 impasse cases into its caseload.

CCR contends that it has "just about" reached its limit, and that, even if extensions of time are granted, it cannot accept many more cases. The basis for CCR's contention is its claim that the volume of 138 cases has a cumulative weight that cannot be measured with complete objectivity. Although there is some basis for this claim—especially because 90 cases have not yet been decided by the trial courts, some of which have been pending for up to 4 years—the claim must be countered by the fact that CCR has filed 3,850 motions in virtually all of its cases. Because the bulk of CCR's investigation should be performed before 3,850 motions are filed, it would appear that CCR can accept new cases.

The problem would be more easily resolved if there was an accepted methodology to determine the maximum annual caseload for capital lawyers. The existing studies, including the Cox Report and the Spangenberg Report, indicate that each lawyer should be assigned no more than 4-6 cases per year. There is cause, however, to doubt the accuracy of this figure. First, both studies are based on anecdotal, not empirical data, without the benefit of contemporaneous time records. Second, the studies do

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My proposal assumes that, in every case, CCR should be given the full 11 months anticipated by Rule 3.851 to investigate and file the 3,850 motion. In addition, as mentioned above, my proposal assumes that the reforms outlined below will be implemented, thereby easing some of the burden on CCR. Finally, this schedule recognizes that CCR has already gained an approximate 10-month respite by virtue of the present impasse.

As to the second set of 20 cases, I believe that they should be incorporated as part of the 6 new lawyers that CCR will hopefully be authorized to hire by the Legislature, consistent with the Governor's recommended budget. Each of these lawyers should be qualified to handle 4 new cases, and also should be able to assist as second-chairs on existing cases.¹¹ I would recommend that CCR be required to designate counsel in these cases over a several month period beginning in September or October 1996.

D. RECOMMENDED REFORMS TO THE 3.850 PROCESS

In making my recommendation, I respectfully, but strongly suggest that reforms be implemented in the following four areas.

1. Approval of The Governor's 1996-97 Recommended Budget For CCR

The most important financial reform for resolving the present impasse is for the Legislature to adopt the Governor's recommended budget for CCR as part of the 1996-97 Budget. Although CCR has requested that the Legislature double its budget and staff size, I believe that the Governor's budget recommendation is more realistic and will be initially sufficient to accomplish most of the recommendations set forth in this Report.

The Governor has recommended an annualized increase in CCR's budget of approximately \$730,000, with 14 new positions as follows:

¹¹I am assuming that, with the creation of branch offices, and the provision of additional funding, CCR will be able to hire experienced mid-level attorneys to fill these six positions and will *not* continue to hire only entry level lawyers.

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civil litigation.¹³ CCR estimates that it has over 100 pending Chapter 119 civil suits.¹⁴

The Supreme Court should promptly solve this problem by enacting a Rule of Discovery in 3,850 proceedings, with expedited time schedules for both the requesting and providing of public records, for the filing of objections, and for the resolution of disputes by the trial judge who eventually will rule on the 3,850 motion. The goal of the new rule should be to expedite CCR's access to Chapter 119 information so that it can be reviewed by CCR in time to be incorporated in the original 3,850 motion. The new rule should eliminate a significant portion of the delay in ruling on 3,850 motions that has occurred because of tangential civil litigation and the inability of CCR to file a complete 3,850 motion within the 1 year time period.

3. The Need For Branch Offices

CCR is a statewide public defender organization. It is required to represent all indigent death-sentenced defendants regardless of the county in which they were convicted. Thus, although all of CCR's clients are housed on death row at Union Correctional Institution in Raiford, CCR is required to file 3,850 motions in the trial courts of the counties where the defendants were originally convicted. Because CCR's only office is in Tallahassee, CCR investigators and lawyers have

been required to travel throughout the State of Florida to handle hearings and to investigate cases.

CCR currently spends over \$100,000 per year in travel expenses for its attorneys and investigators. In addition, CCR loses countless hours of attorney and investigator time in transit, and in setting up temporary field offices when arguing evidentiary hearings in other parts of Florida.

¹³As it stands, CCR has been required to file incomplete 3.850 motions to meet the one-year deadline, reserving the right to supplement the motion upon the receipt and review of belated Chapter 119 materials. This procedure obviously defeats the purpose of Rule 3.851.

¹⁴Part of the problem in obtaining Chapter 119 material has been the result of lack of cooperation in providing prompt and full disclosure by some state and local agencies. Although the Attorney General has indicated that such files should be disclosed as a matter of public policy, he does not have the authority to mandate disclosure.

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order to preserve them for future review. This can be done, however, without the presentation of extensive legal argument resulting in 170-page motions that create unnecessary delays at the trial level. Issues that have been adversely decided can simply be listed at the end of the 3.850 motion, with the express notation that they are being raised only to preserve the issue for appellate review.¹⁵

E. OTHER SIGNIFICANT ISSUES

In addition to the issues discussed above, I believe it is necessary to note a number of other significant issues that recurred throughout my study and that have influenced my report.

1. "Death In Different"

When I argued *Proffitt v. Florida*, 428 U.S. 242 (1976), for the state, I agreed with the United States Supreme Court Justices that the death penalty was, in fact, "different" from other criminal sanctions because of the immutable consequence of the punishment. That is why, in upholding the constitutionality of Florida's death penalty, the Court recognized the necessity for heightened procedural and substantive protections for capital defendants. These necessary protections have resulted in extra time and expense associated with death penalty representations.

2. Expertise And Continuity of Counsel

Florida and federal death penalty jurisprudence is complex and rapidly evolving. This fact was recognized by all of the sources I consulted. The complexity of death penalty

¹⁵Rule 4-3.3(a)(3) of the Florida Rules of Professional Conduct, provides that a lawyer shall *not* knowingly "fail to disclose to the tribunal legal authority in the controlling jurisdiction known to the lawyer to be directly adverse to the position of the client and not disclosed by opposing counsel." CCR raises issues for their clients, with knowledge of legal authority directly adverse to their clients' positions, and without disclosing this either to the trial judge in the 3.850 motion or to the Florida Supreme Court in the appellate briefs. This procedure evades the spirit of the rule and should *not* be tolerated. It also has the effect of lengthening the entire 3.850 procedure, both at the trial and appellate levels, and is probably one of the reasons that 90 cases remain pending at the trial court level.

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qualified private lawyers were available), the cost would be approximately \$9 million per year to fund just the existing 138 cases and the 40 impasse cases. In addition, as Mr. Rinaman suggested, significant resources would be expended in the recruiting process itself.

The institutionalization of capital collateral representation serves three purposes: specialization, centralization, and continuity. It helps in training future death penalty qualified attorneys, in maintaining an "institutional memory" of the historical development of the law, in developing a central registry of postconviction capital cases, and in assuring whenever possible that the same lawyer is assigned to a case throughout the postconviction process. CCR thus appears to me to be a more efficient means of representing capital defendants than a private Bar model.

Although I briefly explored the long-term scenario of using CCR as a clearinghouse to support the privatization of capital collateral representation, for the reasons cited above, combined with the recommendation of the Cox Report that federal VLRC-type programs be reconfigured to provide CCR type direct representation, I have concluded that neither privatization nor a VLRC-type program are workable long-term solutions.

4. Clemency

CCR specifically brought to my attention two death penalty cases (Carlis Lindsey and Samuel Pettit) that raise the issue of the expanded use of the clemency process. CCR contends that Mr. Lindsey, who is 72 years old, likely will die of natural causes before the expiration of his collateral appeals. CCR contends that Mr. Pettit, who is suffering from a degenerative brain disease, also will likely die of natural causes before the expiration of his collateral appeals. CCR cites these two cases as examples of situations where the selective use of clemency might *slightly* ease the volume of death penalty cases while still serving the interests of justice.

Generally, the early initiation of clemency review may create the possibility that *some cases* can be removed from the system by imposing life imprisonment without the possibility of parole where there is an indication that the defendant is mentally ill, has received a life recommendation from the jury, or otherwise may deserve clemency. There is certainly merit in discussing this approach with the Governor, although I do *not* believe it will result in any significant reduction of CCR's cases.

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determine whether a death-sentenced defendant has received a fair trial and a constitutionally proportionate sentence.

Although I cannot provide a detailed formula for CCR to follow in deciding how to allocate its resources, I do believe that the United States Supreme Court's jurisprudence provides sufficient guidance by requiring that errors raised on collateral review must be substantial enough to have changed the outcome of the trial. *e.g.*, *United States v. Bagley*, 473 U.S. 667, 682 (1985) ("The evidence is material only if there is a reasonable probability that, had the evidence been disclosed to the defense, the result of the proceeding would have been different."); *Strickland v. Washington*, 466 U.S. 668, 687 (1984) ("[T]he defendant must show that the deficient performance prejudiced the defense."). CCR's attorneys do not have the luxury to pursue every lead *ad infinitum*. They must choose to pursue only those leads that have a reasonable probability of showing material prejudice to the defendant and to the outcome of the trial.

In light of this requirement that CCR must ration its funds within the bounds of finite resources, but also realizing that CCR has performed, in good faith, a vital service in assuring that the death penalty is effectuated consistent with the dictates of basic fairness and constitutional due process, I make the following 6 recommendations.

RECOMMENDATION #1

CCR should be required by Court order to designate counsel in all 40 undesignated cases on an incremental 3.850 schedule that allows the full 11 months for CCR to file 3.850 motions in each individual case. Assuming the Court agrees with this primary recommendation, CCR's pending motion for rehearing and clarification would presumably be denied.

It is recommended that CCR should designate counsel from its existing staff of lawyers to incorporate the oldest 20 of the 40 impasse cases. CCR should designate attorneys in these 20 cases over a several month period, to be set by the Court, with at least 4 cases designated each month. The remaining 20 cases should be incorporated as part of the 6 new lawyers that CCR will be authorized to hire pursuant to the Governor's recommended budget. Each of these lawyers should be qualified to initially handle at least 4 new cases. I recommend that CCR be required to designate counsel in these cases over a several month period beginning in September or October 1996.

This incremental schedule recognizes that CCR has already gained an approximate 10-month respite from accepting new cases

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and state and local law enforcement agencies. The new rule should contain expedited time schedules for requests, responses, objections, and for the resolution of disputes by the trial judges that eventually will rule on the 3.850 motions. The goal of the new rule should be to expedite CCR's access to Chapter 119 information so that it can be reviewed by CCR in time to be incorporated in the original 3.850 motion. This should eliminate a significant portion of the delay in ruling on 3.850 motions that has occurred because of tangential civil litigation and the apparent inability of CCR to file a *complete* 3.850 motion within the 1 year time period.

RECOMMENDATION #4

CCR should list, *without argument*, those issues that are clearly not dispositive but that CCR believes must be preserved as a matter of procedural formality. This perhaps could be facilitated by the Court's adoption of another new Rule.

The Supreme Court should place CCR staff attorneys on notice that it will no longer tolerate anything but complete candor before state trial courts and the Florida Supreme Court and total compliance with the Florida Rules of Professional Responsibility. In particular, the failure to advise all courts of known adverse precedents on particular issues should result in disciplinary investigation

and action by the Florida Bar.

RECOMMENDATION #5

Because part of the delay in prosecuting 3,850 motions occurs at the trial court level, the Florida Supreme Court should adopt a rule of judicial administration requiring expedited processing of 3,850 motions and hearings. The rule should also provide that the same judge who tried the case—if still available—should decide 3,850 motions in capital cases, even if the judge no longer sits in the circuit court's criminal division. In addition, the Court should follow through with the Overton Committee Report's recommendation of requesting circuit court clerks to assign one person the responsibility of administering 3,850 cases. Finally, the Judicial College should prepare a concise handbook for trial judges in capital collateral proceedings to assist them in sorting through the major jurisprudential issues.

RECOMMENDATION #6

The Legislature should require CCR staff attorneys and investigators to keep contemporaneous time records that can be converted into computer-generated time reports. This will

* * *

Environmental law—Resource Conservation and Recovery Act—Hazardous waste—Owner of shopping center granted preliminary injunction requiring lessee/drycleaning company to cease discharging perchloroethylene and other hazardous wastes—Defendant ordered to assess groundwater contamination caused by its past disposal of dry cleaning chemicals at its facility and to propose remediation plan—Magistrate judge properly analyzed and applied RCRA to owner's action for injunctive relief compelling abatement of contamination created by improper handling, storage, transportation, or disposal of hazardous wastes

FAIRWAY SHOPPES JOINT VENTURE, a Texas Joint Venture, Plaintiff, v. DRYCLEAN U.S.A. OF FLORIDA, INC., a Florida corporation, Defendant. U.S. District Court, Southern District of Florida. Case No. 95-8521-CIV-HURLEY. July 31, 1996. Daniel T.K. Hurley, Judge. (Frank J. Lynch, Jr., U.S. Magistrate Judge.) Counsel: Douglas M. Halsey and Kirk L. Burns, Douglas M. Halsey, P.A., Miami, FL, for Plaintiff. John Barkett, Coll. Davidson, Carter, Smith, Salter & Barkett, P.A., Miami, FL; and Teresa Woody, Spencer, Fane, Britt & Brown, Kansas City, MO, for Defendant.

ORDER ADOPTING MARCH 7, 1996 REPORT AND RECOMMENDATION OF U.S. MAGISTRATE JUDGE GRANTING PRELIMINARY INJUNCTION, REFERRING REPORTING AND MONITORING TO U.S. MAGISTRATE JUDGE, AND RESOLVING VARIOUS MOTIONS

This matter comes before the court upon the Report and Recommendation of United States Magistrate Judge Frank J. Lynch Jr., entered March 7, 1996. The defendant filed timely objections, requiring this court to make a *de novo* review of the record pursuant to 28 U.S.C. § 636(b)(1)(C) and Rule 72(b) of the Federal Rules of Civil Procedure.

Having made a *de novo* review of the record, the court adopts the magistrate judge's findings. Defendant makes numerous attacks on the magistrate judge's analysis of the application of the Resource Conservation and Recovery Act (RCRA). However, the court concludes that the magistrate judge clearly understood and properly applied RCRA Section 7002 to the present case. Therefore, the Report and Recommendation of the magistrate judge is adopted. Accordingly, it is hereby

ORDERED and ADJUDGED as follows:

III. DECRETAL PROVISIONS

1. The Report and Recommendation of United States Magistrate Judge Frank J. Lynch Jr. is adopted.
2. Plaintiff Fairway Shoppes' [18-1] Motion for Preliminary Injunction is GRANTED as detailed below.
3. Defendant shall immediately cease discharging perchloroethylene and other hazardous wastes.
4. Pursuant to Federal Rule 65(c), Plaintiff shall post a bond in such sum as Magistrate Judge, shall deem proper. The court respectfully asks the Magistrate Judge to set the sum of the bond (if any) within 15 days from the entry of this order.
5. No later than 30 days from the entry of this order, Defendant shall submit a report detailing the feasibility of the following preventive measures (if such measures are not already in place):

- a) a secondary containment system; and
- b) an impermeable epoxy seal on the bare concrete floor.

6. Furthermore, as required by the Magistrate Judge, Defendant shall conduct a comprehensive and complete assessment of the contamination at the Shopping Center. This assessment shall be performed in accordance with the procedures detailed in the Florida Department of Environmental Protection guidance document, *Corrective Action for Contamination Site Cases*. The Defendant shall submit a copy of *Corrective Action for Contamination Site Cases* to the court for the record. The assessment shall be conducted as follows:

- a) no later than 30 days from the entry of this order, Defendant shall file a report detailing the steps taken by it to complete the environmental assessment,
- b) no later than 60 days from the entry of this order, Defendant shall file a final report which includes the lateral and vertical extent of the perc and its related degradation constituents. The report shall also include a proposed remediation plan designed to prevent further lateral and vertical migration of the contaminant plume.

7. The court respectfully requests that the Magistrate Judge monitor compliance with this order and consider all motions related thereto, including motions to adjust and amend these reporting requirements.

8. This order does not limit Plaintiff's right to move for additional relief should the assessment reveal a need for such. In accordance with the Magistrate Act, 28 U.S.C. § 63(b)(1)(A), and Federal Rules of Civil Procedure 72, all such motions, if any, are hereby REFERRED to Magistrate Judge Lynch for final disposition or report, as appropriate.

9. Plaintiff Fairway Shoppes' [13-1] Unopposed Motion for Enlargement of Time to Respond to Defendant Dryclean U.S.A. of Florida, Inc.'s Answer and Counterclaim is GRANTED.

10. Defendant Dryclean U.S.A.'s [46-1] Motion for Oral Argument with Respect to Objections to the March 7, 1996 Report and Recommendation of U.S. Magistrate Judge Regarding Motion for Preliminary Injunction is DENIED.

11. Defendant Dryclean U.S.A.'s [46-2] Motion to Extend Page Limit of Objections to the March 7, 1996 Report and Recommendation of U.S. Magistrate Judge is GRANTED.

12. Defendant Dryclean U.S.A.'s [7-1] Application for Limited Appearance is GRANTED. Teresa A. Woody, Esq. is recognized *pro hoc vice* for the Defendant.

13. Plaintiff's July 22, 1996 Motion to Expedite Resolution of Motion for Preliminary Injunction is mooted by this order.

REPORT AND RECOMMENDATION ON PLAINTIFF'S MOTION FOR PRELIMINARY INJUNCTION

THIS CAUSE came before the Court upon the motion of Plaintiff, Fairway Shoppes Joint Venture, for entry of a preliminary injunction requiring Defendant, Dryclean U.S.A. of Florida, Inc. ("Dryclean U.S.A."), to cease discharging hazardous wastes and to assess and remediate the groundwater contamination it caused by its past disposal of dry cleaning chemicals at its facility at 7100 Fairway Drive, Palm Beach Gardens, Florida. A day long evidentiary hearing was held on January 29, 1996. Having considered the evidence offered at hearing, reviewed the pleadings and affidavits filed by the parties, and being otherwise advised in the premises, the Court finds and rules as follows:

Findings of Fact

1. Fairway Shoppes Joint Venture ("Fairway Shoppes") is the owner of the Shoppes on the Green Shopping Center located at 7100 Fairway Drive, Palm Beach Gardens, Florida ("Shopping Center"). Since 1986, Dryclean U.S.A. has owned and operated a dry cleaning business at the Shopping Center. Dryclean U.S.A. has been the only operator of a dry cleaning facility at the Shopping Center since it was built in 1986. As part of its dry cleaning operation, Dryclean U.S.A. regularly uses the

No. _____

In the Supreme Court of the United States

CHADWICK WILLACY,
Petitioner,
v.
STATE OF FLORIDA,
Respondent.

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

APPENDIX TO PETITION FOR A WRIT OF CERTIORARI

CAPITAL CASE
DEATH WARRANT SIGNED
Execution Scheduled: April 21, 2026, at 6:00 PM ET

Appendix P

“Execution by Lethal Injection Procedures,” Florida Department of Corrections,
signed and certified by Sec’y Ricky Dixon, Feb. 18, 2025.



FLORIDA DEPARTMENT OF CORRECTIONS

GOVERNOR
RON DESANTIS

SECRETARY
RICKY DIXON

February 18, 2025

The Honorable Ron DeSantis
Executive Office of Governor Ron DeSantis
The Capitol
400 S. Monroe St.
Tallahassee, FL 32399-0001

Dear Governor DeSantis:

I have carefully reviewed the Execution by Lethal Injection Procedures issued by my Department. Pursuant to these procedures, I represent the following:

As Secretary of the Florida Department of Corrections, I have reviewed the Department's Execution by Lethal Injection Procedures to ensure proper implementation of the Department's statutory duties under Chapter 922, Florida Statutes. The procedure has been reviewed and is compatible with evolving standards of decency that mark the progress of a maturing society, the concepts of the dignity of man, and advances in science, research, pharmacology, and technology. The process will not involve unnecessary lingering or the unnecessary or wanton infliction of pain and suffering. The foremost objective of the lethal injection process is a humane and dignified death. Additional guiding principles of the lethal injection process are that it should not be of long duration, and that while the entire process of execution should be transparent, the concerns and emotions of all those involved must be addressed.

I hereby certify that the Department is prepared to administer an execution by lethal injection and has the necessary procedures, equipment, facilities, and personnel in place to do so. The Department has available the appropriate persons who meet the minimum qualifications under Florida Statutes and in addition have the education, training, or experience, including the necessary licensure or certification, required to perform the responsibilities or duties specified and to anticipate contingencies that might arise during the execution procedure.

Sincerely,

Ricky D. Dixon
Secretary



FLORIDA DEPARTMENT OF CORRECTIONS

GOVERNOR
RON DESANTIS

SECRETARY
RICKY DIXON

EXECUTION BY LETHAL INJECTION PROCEDURES

PURPOSE: To establish the procedures for the execution by lethal injection of inmates sentenced to death, pursuant to the dictates of Chapter 922, Florida Statutes and adhering to the requirements imposed under the Constitution of the State of Florida and the United States Constitution. The foremost objective of the lethal injection process is a humane and dignified death.

APPLICATION: This procedure applies to any execution by lethal injection conducted pursuant to Chapter 922, Florida Statutes. This procedure supersedes the Florida Department of Corrections *Execution by Lethal Injection Procedures* dated March 10, 2023.

DEFINITIONS:

- (1) **Execution team**, where used herein, refers to correctional staff and other persons who are selected by the team warden designated by the Secretary to assist in the administration of an execution by lethal injection, and who have the training and qualifications, including the necessary licensure or certification, required to perform the responsibilities or duties specified. Individuals on the execution team will be referred to as “execution team member” or “team member” in these procedures.
- (2) **Executioner**, where used herein, refers to an individual selected by the team warden to initiate the flow of lethal chemicals into the inmate. The executioner’s sole function is to inject the chemicals into the IV access port by physically pushing the chemicals from the syringe. The executioner is only authorized to carry out this specific function under the direction of the team warden. An executioner shall be an adult, undergo a criminal background check and be sufficiently trained to administer the flow of lethal chemicals. The executioner must demonstrate to the satisfaction of the team warden that s/he is competent, trained, and of sufficient character to carry out the required function under the team warden’s direction.
- (3) **Institutional warden**, where used herein, refers to the warden of Florida State Prison, who shall be responsible for handling support functions necessary to carry out the lethal injection process.
- (4) **Minister of religion**, where used herein, refers to a spiritual advisor requested by an inmate to attend an execution as permitted by section 922.11, Florida Statutes. The name of the requested minister of religion must be provided by the inmate to the institutional warden in writing on FDC Form DC6-236 within five days of the issuance of the Governor’s Warrant of Execution. A minister of religion shall be an adult and shall undergo a criminal background check. The institutional warden shall also conduct a review process of the individual as described in Florida Department of Corrections rules and policies applicable to visitor approvals and to spiritual advisor visits. Such a

review will be performed even if the requested minister of religion has been previously approved for regular visitation purposes. Prior to final approval, the institutional warden may also conduct interviews of the requested minister of religion or their associates. The institutional warden may undertake any investigation necessary to verify that the minister of religion is recognized by their organized religious body as qualified to perform religious functions as a representative of the religious organization or group. The institutional warden may waive any component of the review process if the requested minister of religion is a chaplain currently employed by the Florida Department of Corrections. Candidates not employed by the Florida Department of Corrections must also execute a Spiritual Advisor Execution Agreement. The agreement is attached hereto as Appendix A.

- (5) **Team warden**, where used herein, refers to the warden designated by the Secretary. The team warden shall be a person who has demonstrated through experience, training, and good moral character the ability to perform an execution by lethal injection. The team warden has the final and ultimate decision making authority in every aspect of the lethal injection process. No deviation from any part of this procedure is authorized unless approved and directed by the team warden.

SPECIFIC PROCEDURES:

- (1) **Receipt of Warrant:** These execution procedures will commence upon receipt of the Governor's Warrant of Execution. The institutional warden will schedule the execution for a date and time certain that is within the period of time designated in the warrant. The institutional warden will provide a copy of the Warrant of Execution to the Department's Secretary and General Counsel, deliver a copy to the named inmate and the team warden, and notify the Florida Department of Law Enforcement (FDLE), any state correctional institutions, and any local agencies that may be affected by the issuance of the warrant and of the date and time selected for the execution.
- (2) **Selection of the Executioners:**
- (a) The team warden will select two (2) executioners who are fully capable of performing the designated functions to carry out the execution. The team warden will provide each executioner with a copy of this procedure and will explain fully their respective duties and responsibilities and assure that each executioner is trained for the function assigned. The identities of the executioners will be kept strictly confidential as provided by statute.
- (b) The team warden will designate one (1) of the selected executioners as the primary executioner and the other as the secondary executioner. The primary executioner will be solely responsible for administering the flow of lethal chemicals into the inmate during the execution. The secondary executioner will be present and available during the execution to assume the role of the primary executioner if the primary executioner becomes unable for any reason, as determined by the team warden, to carry out his/her functions.
- (3) **Selection of the Execution Team:** The team warden will designate the execution team members and verify that each team member has the training and qualifications, and possesses current, necessary licensure or certification, required to perform the responsibilities or duties specified. The team warden will ensure that all execution team members and other involved

staff have been adequately trained to perform their requisite functions in the execution process. The team warden shall select personnel with sufficient training and experience to perform the technical procedures needed to carry out an execution by lethal injection, including the mixing of the chemicals and placement of the venous access lines. The identities of any team members with medical qualifications shall be strictly confidential.

- (a) The team warden shall select the team member(s) responsible for achieving and monitoring peripheral venous access from the following classes of trained professionals: a phlebotomist currently certified by the American Society for Clinical Pathology (ASCP), American Society of Phlebotomy Technicians (ASPT) or American Medical Technologists (AMT); a paramedic or emergency medical technician, certified under Chapter 401, Florida Statutes; a licensed practical nurse, a registered nurse, or an advanced practice registered nurse licensed under Chapter 464, Florida Statutes; or, a physician or physician's assistant licensed under Chapter 458 or Chapter 459, Florida Statutes.
- (b) The team warden shall select the team member(s) responsible for achieving and monitoring central venous access, if necessary, from the following classes of trained professionals: an advanced practice registered nurse licensed under Chapter 464, Florida Statutes; or, a physician or physician's assistant licensed under Chapter 458 or Chapter 459, Florida Statutes.
- (c) The team warden shall select the team member(s) responsible for examining the inmate prior to execution to determine health issues from the following classes of trained professionals: a paramedic or emergency medical technician, certified under Chapter 401, Florida Statutes; a licensed practical nurse, a registered nurse, or an advanced practice registered nurse licensed under Chapter 464, Florida Statutes; or, a physician or physician's assistant licensed under Chapter 458 or Chapter 459, Florida Statutes.
- (d) The team warden shall select the team member(s) responsible for attaching the leads to the heart monitors and observing the monitors during the administration of execution from the following classes of trained professionals: a paramedic or emergency medical technician, certified under Chapter 401, Florida Statutes; a licensed practical nurse, a registered nurse, or an advanced practice registered nurse licensed under Chapter 464, Florida Statutes; or, a physician or physician's assistant licensed under Chapter 458 or Chapter 459, Florida Statutes.
- (e) The team warden shall select the team member(s) responsible for purchasing, maintaining and mixing the lethal chemicals from the following classes of trained professionals: a physician, licensed under Chapter 458 or Chapter 459, Florida Statutes; or, a pharmacist licensed under Chapter 465, Florida Statutes.
- (f) The team warden shall select other execution team members to carry out the following tasks:
 1. Showering and preparation of the inmate.
 2. Ensuring that the equipment necessary for an execution is in proper working order.
 3. Escorting the inmate from his/her cell to the execution chamber.
 4. Applying restraints to the inmate prior to applying the heart monitor leads and acquiring venous access.

5. Maintaining the open telephone line with the Office of the Governor.
6. Reporting the actions inside the executioner's room to the team warden.
7. Maintaining the checklists that detail the events surrounding the execution.
8. Escorting the minister of religion.
9. Opening and closing the window covering to the witness gallery and turning on and off the public address (PA) system.

This list is not intended to be exhaustive. There may be other necessary tasks to carry out an execution and such tasks will be assigned by the team warden.

Each execution team member is responsible and authorized to raise concerns that become apparent during the execution and bring them to the attention of the team warden.

- (4) **Training of the Execution Team and Executioners:** There shall be sufficient training to ensure that all personnel involved in the execution process are prepared to carry out their distinct roles for an execution. All team members shall be instructed on the effects of each lethal chemical. All simulations or reviews of the process shall be considered training exercises. The team warden, or his/her designee, will conduct simulations of the execution process on a quarterly basis at a minimum or more often as needed as determined by the team warden. Additionally, a simulation shall be conducted prior to the scheduled execution. All persons involved with the execution should participate in the simulations. If a person cannot attend the simulation, the team warden shall provide for an additional training opportunity or otherwise ensure that the person is adequately trained to complete his or her assigned task. There shall be a written record of any training activities. The simulations should anticipate various contingencies. Examples of possible contingencies shall include:

- (a) Issues related to problems with equipment needed to carry out an execution.
- (b) Problems related to venous access of the inmate, including the necessity to obtain an alternate venous access site during the execution process.
- (c) The inmate is not rendered unconscious after the administration of the etomidate injection.
- (d) Combative inmate.
- (e) Incapacity of any execution team member or executioner.
- (f) Unanticipated medical emergency concerning the inmate, an execution team member or executioner.
- (g) Problems related to the order and security at the Florida State Prison, including but not limited to disturbances, unrest or resistance.
- (h) Power failure or other facility problems.

This list is not meant to be exhaustive and only provides examples of the types of contingencies that could arise during the course of an execution. The team warden is responsible for ensuring that training addresses, at a minimum, the above situations.

- (5) **Use of Checklists:** Compliance with this procedure will be documented on appropriate checklists. Upon completion of each step in the process, an execution team member will indicate when the step has been completed. Prior to the administration of the lethal chemicals, the team warden will consult with the designated team member and verify that all steps in the process have been performed properly. At the conclusion of the process, the team warden will again consult with the designated team member and verify that the remaining steps in the process were performed properly. The team warden will then sign the forms, attesting that all steps were performed properly.
- (6) **Purchase and Maintenance of Lethal Chemicals:** A designated execution team member will purchase, and at all times ensure a sufficient supply of, the chemicals to be used in the lethal injection process. The designated team member will ensure that the lethal chemicals have not reached or surpassed their expiration dates. The lethal chemicals will be stored securely at all times as required by state and federal law. The FDLE agent in charge of monitoring the preparation of the chemicals shall confirm that all lethal chemicals are correct and current.
- (7) **FDLE Monitors:**
- (a) Two (2) FDLE agents shall serve as monitors and shall be responsible for observing the actions of the execution team and the condition of the condemned inmate at all times during the execution process.
 - (b) The first FDLE agent shall be located in the executioner's room and is responsible for observing the preparation of the lethal chemicals and documenting and keeping a detailed log as to what occurs in the executioner's room at a minimum of two (2) minute intervals. A copy of the log shall be provided to the team warden and shall be available at the post execution debriefings.
 - (c) The second FDLE agent shall be located in the execution chamber and will be responsible for keeping a detailed log of what is occurring in the execution chamber at a minimum of two (2) minute intervals. A copy of the log shall be provided the team warden and shall be available for the post execution debriefings.
- (8) **Approximately One (1) Week Prior to Execution:**
- (a) The team warden will designate one or more execution team members to review the inmate's medical file and to make a limited physical examination of the inmate to determine whether there are any medical issues that could potentially interfere with the proper administration of the lethal injection process. The team member(s) will verbally report his/her findings to the team warden as soon as is practicable following the file review and physical examination. The results of this examination shall be documented in the inmate's file. After reviewing the results of the examination which should include a determination of the best access site and conferring with the team member(s) that performed the examination, the team warden shall conclude what is the more suitable method of venous access (peripheral or femoral) for the lethal injection process given the individual circumstances of the condemned inmate based on all information provided.

- (b) If a team member reports any issue that could potentially interfere with the proper administration of the lethal injection process, the team warden will consult with any or all of the members of the execution team and resolve the issue.

(9) **On the Day of Execution:**

- (a) A food service director, or his/her designee, will personally prepare and serve the inmate's last meal. The inmate will be allowed to request specific food and non-alcoholic drink to the extent such food and drink costs forty dollars (\$40) or less, is available at the institution, and is approved by the food service director.
- (b) The inmate will be escorted by one (1) or more team members to the shower area where a team member of the same sex will supervise the showering of the inmate. Immediately thereafter, the inmate will be returned to his/her assigned cell and issued appropriate clothing. A designated member of the execution team will obtain and deliver the clothing to the inmate.
- (c) A designated execution team member will ensure that the telephone in the execution chamber is fully functional and that there is a fully-charged, fully-functional cellular telephone in the execution chamber. Telephone calls will be placed from the telephone to ensure proper operation. Additionally, a member of the team shall ensure that the two-way audio communication system and the visual monitoring equipment are fully functional.
- (d) A designated execution team member will ensure that the PA system is fully functional.
- (e) The only staff authorized to be in the execution chamber area are members of the execution team and others as approved by the team warden, including two monitors from FDLE.
- (f) A designated execution team member, in the presence of one or more additional team members and an independent observer from FDLE, will prepare the lethal injection chemicals as follows, ensuring that each syringe used in the lethal injection process is appropriately labeled, including the name of the chemical contained therein:
 - (1) Etomidate injection: A sterile, disposable sixty cubic centimeter (60cc) syringe and needle will be used to draw fifty milliliters (50mls) of etomidate injection 2mg/ml from one or more vials containing same, for a total of one hundred milligrams (100mg) of etomidate injection. The syringe will then be fitted with an eighteen (18) gauge, one (1) inch, blunt cannula (tube), clearly labeled with the number one (1), and placed in the first slot on a stand designed to hold eight (8) such syringes in separate slots. The stand will be clearly labeled with the letter "A." This process will be repeated with a second syringe, which will be clearly labeled with a number two (2) and placed in the second slot on stand "A." Two additional syringes will be drawn in the same manner, fitted with the blunt cannula, and clearly labeled with the numbers one (1) and two (2), respectively. These two syringes will be placed in the first two slots on a second stand that has been clearly labeled with the letter "B." All materials used to prepare these syringes will be removed from the work area and discarded pursuant to state and federal law.

- (2) Rocuronium bromide injection: A sterile, disposable sixty cubic centimeter (60cc) syringe will be used to draw five hundred milligrams (500mg) of rocuronium bromide injection from one or more vials containing same. The syringe will then be fitted with an eighteen (18) gauge, one (1) inch, blunt cannula (tube). This procedure will be repeated until there are four (4) syringes, each containing five hundred milligrams (500mg) of rocuronium bromide injection, for a total of two thousand milligrams (2000mg). Two syringes will be clearly labeled with the numbers four (4) and five (5), respectively, and placed into slots four (4) and five (5) on stand "A." This procedure will be repeated with the other two syringes, each of which will be fitted with a blunt cannula, labeled appropriately and placed in slots four (4) and five (5), respectively, on stand "B." All materials used to prepare these syringes will be removed from the work area and discarded pursuant to state and federal law.
 - (3) Potassium acetate injection: A sterile, disposable sixty cubic centimeter (60cc) syringe will be used to draw one hundred twenty milliequivalents (120mEq) of potassium acetate injection from one or more vials containing same. The syringe will then be fitted with an eighteen (18) gauge, one (1) inch blunt cannula (tube). This procedure will be repeated until there are four (4) syringes, each containing one hundred twenty milliequivalents (120mEq) of potassium acetate injection, for a total of four hundred eighty (480) milliequivalents. Two syringes will be clearly labeled with the numbers seven (7) and eight (8), respectively, and placed into slots seven (7) and eight (8) on stand "A." This procedure will be repeated with the other two syringes, each of which will be fitted with a blunt cannula, labeled appropriately, and placed in slots seven (7) and eight (8), respectively, on stand "B." All materials used to prepare these syringes will be removed from the work area and discarded pursuant to state and federal law.
 - (4) Saline solution: A sterile, disposable twenty cubic centimeter (20cc) syringe will be used to draw twenty milliliters (20ml) of sterile saline solution from one or more vials containing same. This procedure will be repeated until there are four (4) syringes, each containing twenty milliliters (20ml) of sterile saline solution, for a total of eighty (80) milliliters. Each syringe will then be fitted with an eighteen (18) gauge, one (1) inch, blunt cannula (tube). Two syringes will be clearly labeled with the numbers three (3) and six (6), respectively, and placed into slots three (3) and six (6) on stand "A." This procedure will be repeated with the other two syringes, each of which will be placed in slots three (3) and six (6), respectively, on stand "B." All materials used to prepare these syringes will be removed from the work area and discarded pursuant to state and federal law.
- (g) The execution team member who has prepared the lethal chemicals will transport them personally, in the presence of one or more additional members of the execution team, to the executioner's room. Stand "A" will be placed on the worktop for use by the primary executioner, to be used during the execution by lethal injection. Stand "B" will be placed on a shelf underneath the worktop within easy reach of the executioners should they be needed during the execution. Stand "B" will not be used unless expressly ordered to be used by the team warden. The lethal chemicals will remain secure until the executioners arrive. No one other than the executioners will have access to the lethal chemicals, unless a stay is granted, in which case the execution team member who

prepared the lethal chemicals will retrieve them from the locked room and dispose of them according to state and federal law.

- (h) A designated execution team member will prepare, using an aseptic technique, two (2) standard intravenous (IV) infusion sets, each consisting of a pre-filled, sterile plastic bag of normal saline for IV use (a solution of sodium chloride at 0.9% concentration) with an attached drip chamber, a long sterile tube fitted with a back check valve and a clamp to regulate the flow, a connector to attach to the access device, and an extension set fitted with a luer lock tip for a blood cannula to allow for the infusion of the lethal chemicals into the line. The extension set that will be used to infuse the lethal chemicals into the primary injection line will be clearly marked with a "1," and the additional extension set that will be attached to the secondary injection line will be clearly marked with a "2."
- (i) The team warden will explain the lethal injection preparation procedure to the inmate and ensure the provision of any medical assistance or care deemed appropriate. The inmate will be offered and, if accepted, will be administered intramuscular injections of hydroxyzine, in appropriate dosages relative to weight, to ease anxiety.
- (j) Authorized media witnesses will be picked up at the designated media on-looker area located at New River Correctional Institution by two (2) designated Department of Corrections escort staff, transported to the main entrance of Florida State Prison as a group, cleared by security, and escorted to the population visiting park, where they will remain until being escorted to the witness room of the execution chamber by the designated escort staff.
- (k) The team warden will administer both a presumptive drug test (oral swab method) and a presumptive alcohol test (breath analyzer) to each execution team member. A positive indication for the presence of alcohol or any chemical substance that may impair their normal faculties will disqualify that person from participating in the execution process. Upon the arrival of the executioners to perform their duties, the team warden will administer both a presumptive drug test (oral swab method) and a presumptive alcohol test (breath analyzer) to each executioner. A positive indication for the presence of alcohol or any chemical substance that may impair their normal faculties will disqualify that person from participating in the execution process. If one or both of the executioners is disqualified, the team warden will continue to select and test as many additional executioners as is necessary to ensure the presence of two qualified executioners at the execution.

(10) **Approximately Thirty (30) Minutes Prior to Execution:**

- (a) A designated execution team member will establish telephone communication with the Office of the Governor on behalf of the team warden. The team warden will communicate with the Office of the Governor to determine whether any cause for delay exists. The phone line will remain open to the Office of the Governor during the entire execution procedure. The team member will use this open line to report the ongoing activities of the execution team and other personnel to the Office of the Governor.
- (b) When the team warden determines that no cause for delay remains, a designated member of the execution team will escort the two (2) executioners into the executioner's room, where they will remain until the execution process is complete.

- (c) The team warden will read the Warrant of Execution to the inmate. The inmate may waive the reading of the warrant.
 - (d) Designated members of the execution team will apply wrist restraints to the inmate and escort him/her from his cell to the execution chamber.
 - (e) Designated members of the execution team will assist the inmate, if necessary, in positioning himself/herself onto the execution gurney in the execution chamber.
 - (f) Designated members of the execution team will secure the restraining straps.
 - (g) One or more designated members of the execution team will attach the leads to two (2) heart monitors to the inmate's chest, ensuring that the monitors are operational both before and after the chest restraints are secured.
 - (h) Unless the team warden has previously determined to gain venous access through a central line, a designated team member will insert one intravenous (IV) line into each arm at the medial aspect of the antecubital fossa of the inmate and ensure that the saline drip is flowing freely. The team member will designate one IV line as the primary line and clearly identify it with the number "1." The team member will designate the other line as the secondary line and clearly identify it with the number "2." If venous access cannot be achieved in either or both of the arms, access will be secured at other appropriate sites until peripheral venous access is achieved at two separate locations, one identified as the primary injection site and the other identified as the secondary injection site.
 - (i) If peripheral venous access cannot be achieved, a designated team member will perform a central venous line placement, with or without a venous cut-down (wherein a vein is exposed surgically and a cannula is inserted), at one or more sites deemed appropriate by that team member. If two sites are accessed, each line will be identified with a "1" or a "2," depending on their identification as the primary and secondary lines.
 - (j) One or more designated members of the execution team will remove, one at a time, from the pole attached to the gurney, the two (2) saline bags and pass the bags, along with the extension sets attached to lines labeled "1" and "2," through a small opening into the executioner's room, where a team member will hang the bags on separate hooks inside the room. The designated team member(s) will ensure that the tubing from the IV insertion points to the bags has not been compromised and that the saline drip is flowing freely. The team member will be responsible for continuously monitoring the viability of the IV lines prior to and during the administration of the execution.
- (11) **Approximately Fifteen (15) Minutes Prior to Execution:**
- (a) Official witnesses will be secured in the witness room of the execution chamber by two designated Department of Corrections escort staff.
 - (b) Authorized media witnesses will be secured in the witness room of the execution chamber.

- (c) The only persons authorized in the witness room are: twelve (12) official witnesses, including family members of the victim, four (4) alternate official witnesses, one (1) nurse or medical technician, twelve (12) authorized media representatives, one (1) representative from the Department's public affairs office, one (1) designated staff escort, and one (1) designated team member. Counsel for the convicted person and a minister of religion requested by the convicted person may also be present. Any exception must be approved by the institutional warden.
- (d) The institutional warden may deny access to the institution to any visitor, official witness or other person he or she deems a risk to the security of the institution. In the event there is reasonable suspicion that an individual may initiate or attempt to initiate a violent or disruptive act prior to, during, or following an execution, that person will not be permitted to witness the execution and will be escorted off the prison grounds immediately.
- (e) The execution chamber will be secured. Only the team warden, one (1) additional execution team member and one (1) FDLE monitor shall be allowed in the chamber during the administration of the execution. Any exceptions or contingencies must be approved by the team warden.
- (f) The executioner's room will be secured. Only the executioners, the team member reporting actions in the executioner's room to the warden, the team member reporting actions to the Office of the Governor, the team member observing the heart monitors, the team member maintaining the checklists, and the FDLE agent assigned to the executioner's room shall be allowed in the executioner's room. Any exception must be approved by the team warden.

(12) **Administration of Execution:**

- (a) An execution team member will open the covering to the witness gallery window. The team warden will use the open telephone line to determine from the Governor whether there has been a stay of execution. If the team warden receives a negative response, s/he will then proceed with the execution.
- (b) An execution team member will turn on the PA system. The team warden will permit the inmate to make an oral statement, which will be broadcast into the witness gallery over the PA system. At the conclusion of the inmate's statement, or if the inmate declines to make a statement, the team warden will announce that the execution process has begun. A designated member of the execution team will turn off the PA system.
- (c) In the presence of the secondary executioner and within sight of one (1) or more execution team members and one (1) of the FDLE monitors, the primary executioner will administer the lethal chemicals in the following manner:
 - (1) The executioner will remove from the stand on the worktop the syringe labeled number one (1), which contains one hundred milligrams (100mg) of etomidate injection, place the blunt cannula into the open port of the IV extension set connected to the primary line and push the entire contents of that syringe into the IV port at a rate that meets the injection resistance of the cannula. When the syringe is depleted, s/he will hand the empty syringe to the secondary executioner for safe disposal.

- (2) The executioner will remove from the stand on the worktop the syringe labeled number two (2), which contains one hundred milligrams (100mg) of etomidate injection, place the blunt cannula into the open port of the IV extension set connected to the primary line and push the entire contents of that syringe into the IV port at a rate that meets the injection resistance of the cannula. When the syringe is depleted, s/he will hand the empty syringe to the secondary executioner for safe disposal.
- (3) The executioner will remove from the stand on the worktop the syringe labeled number three (3), which contains twenty milliliters (20ml) of saline solution, place the blunt cannula into the open port of the IV extension set connected to the primary line, and push the entire contents of that syringe into the IV port at a rate that meets the injection resistance of the cannula. When the syringe is depleted, s/he will hand the empty syringe to the secondary executioner for safe disposal.
- (4) At this point, the team warden will assess whether the inmate is unconscious. The team warden must determine, after consultation, that the inmate is indeed unconscious. If the inmate is unconscious and the team warden orders the executioners to continue, the executioners shall proceed to step (12)(c)(6).
- (5) In the event that the inmate is not unconscious, the team warden shall signal that the execution process is suspended and note the time and order the window covering to the witness gallery to be closed. The execution team shall assess the viability of the secondary access site. If the secondary access site is deemed viable, then the team member shall designate this site as the new primary access site. If the secondary access site is compromised, a designated execution team member will secure peripheral venous access at another appropriate site or will perform a central venous line placement, with or without a venous cut-down, at one or more sites deemed appropriate by that team member. Once the team warden is assured that the team has secured a viable access site, the team warden shall order the drapes to be opened and signal that the execution process will resume. The executioners will then be directed to initiate the administration of lethal chemicals from stand "B" into the newly established primary line, starting with the syringes of etomidate injection, labeled one (1) and two (2) and the first syringe of saline. The executioners will continue to use the remaining chemicals from stand "B" throughout the execution at the direction of team warden. The team warden will then again proceed to step (12)(c)(4) and assess whether the inmate is unconscious.
- (6) The executioner will remove from the stand on the worktop the syringe labeled number four (4), which contains five hundred milligrams (500mg) of rocuronium bromide injection, place the blunt cannula into the open port of the IV extension set connected to the primary line, and push the entire contents of that syringe into the IV port at a rate that meets the injection resistance of the cannula. When the syringe is depleted, s/he will hand the empty syringe to the secondary executioner for safe disposal.
- (7) The executioner will remove from the stand on the worktop the syringe labeled number five (5), which contains five hundred milligrams (500mg) of rocuronium bromide injection, place the blunt cannula into the open port of the IV extension

set connected to the primary line, and push the entire contents of that syringe into the IV port at a rate that meets the injection resistance of the cannula. When the syringe is depleted, s/he will hand the empty syringe to the secondary executioner for safe disposal.

- (8) The executioner will remove from the stand on the worktop the syringe labeled number six (6), which contains twenty milliliters (20ml) of saline solution, place the blunt cannula into the open port of the IV extension set connected to the primary line, and push the entire contents of that syringe into the IV port at a rate that meets the injection resistance of the cannula. When the syringe is depleted, s/he will hand the empty syringe to the secondary executioner for safe disposal.
 - (9) The executioner will remove from the stand on the worktop the syringe labeled number seven (7), which contains one hundred twenty milliequivalents (120mEq) of potassium acetate injection, place the blunt cannula into the open port of the IV extension set connected to the primary line, and push the entire contents of that syringe into the IV port at a rate that meets the injection resistance of the cannula. When the syringe is depleted, s/he will hand the empty syringe to the secondary executioner for safe disposal.
 - (10) The executioner will remove from the stand on the worktop the syringe labeled number eight (8), which contains one hundred twenty milliequivalents (120mEq) of potassium acetate injection, place the blunt cannula into the open port of the IV extension set connected to the primary line, and push the entire contents of that syringe into the IV port at a rate that meets the injection resistance of the cannula. When the syringe is depleted, s/he will hand the empty syringe to the secondary executioner for safe disposal.
 - (11) The primary executioner shall at all times administer the lethal injection chemicals. Only if the primary executioner becomes incapacitated shall the secondary executioner administer the lethal chemicals. At no time shall more than one (1) executioner inject any lethal chemicals to complete the execution.
- (d) If at any time during the administration of the lethal chemicals the primary venous access becomes compromised, the team warden shall order the execution process stopped and order the window covering to the witness gallery to be closed. The execution team shall assess the primary access site and assess the viability of the secondary access site and take appropriate remedial action at the access site, if necessary. If neither access site is viable, a designated execution team member will secure peripheral venous access at another appropriate site or will perform a central venous line placement, with or without a venous cut-down, at one or more sites deemed appropriate by that team member. Once the team warden is assured that the execution team has secured a viable access site, the warden shall order the drapes to be opened and direct that the execution process will resume using the newly established primary line. The executioners will be directed to initiate the administration of lethal chemicals from stand "B" into the IV set attached to the newly established primary line, starting with the syringes of etomidate injection, labeled one (1) and two (2) and the first syringe of saline, labeled number three (3). The team warden will then proceed to step (12)(c)(4), as described above.

- (e) Throughout the execution process, one (1) or more designated execution team members will observe the heart monitors. If the heart monitors reflect a flat line reading during or following the complete administration of the lethal chemicals, a physician will examine the inmate to determine whether there is complete cessation of respiration and heartbeat.
- (f) Once the inmate is pronounced dead by the physician, a designated member of the execution team will record the time of death on the appropriate lethal injection procedures checklist.
- (g) The team warden will notify the Governor via the open phone line that the sentence has been carried out and the time of death.
- (h) A designated execution team member will turn on the PA system. The team warden shall make the following announcement to the witnesses in the gallery: "The sentence of the State of Florida vs. [Inmate Name] has been carried out at [time of day]."
- (i) The designated team member will close the window covering to the witness gallery.
- (j) The designated Department of Corrections escort staff will escort all witnesses, all of the media pool and any other individuals who are not members of the execution team from the witness room and the execution chamber.

(13) **Immediate Post-Execution Procedures:**

- (a) Designated execution team members will dispose of the equipment and any remaining chemicals as required by state and federal law.
- (b) The institutional warden will coordinate the entry of hearse attendants for recovery of the inmate's body.
- (c) The inmate's body will be removed from the execution table by hearse attendants under the supervision of the designated team member.
- (d) The institutional warden, or his/her designee, will obtain a certification of death from the physician and will deliver the certification to the hearse attendants prior to their departure.
- (e) The inmate's body will be transported by the hearse attendants to the medical examiner's office in Alachua County for an autopsy.
- (f) The team warden shall conduct a brief debriefing interview with every execution team member and the executioners, documenting any exceptional circumstances that arose during the execution. Subsequent debriefings will take place, as appropriate.

(14) **Follow-Up Procedures:**

- (a) The institutional warden will forward the Warrant of Execution and a signed statement of the execution to the Secretary of State.
- (b) The institutional warden will file an attested copy of the Warrant of Execution and a signed statement of the execution with the clerk of the court that imposed the sentence.

- (c) The institutional warden, or his/her designee, will advise central office records by e-mail of the inmate's name and the date and time of death by execution.
- (15) **Periodic Review and Certificate from Secretary:** There will be a review of the lethal injection procedure by the Secretary of the Florida Department of Corrections, at a minimum of once every two years, or more frequently as needed. The review will take into consideration the available medical literature, legal jurisprudence, and the protocols and experience from other jurisdictions. The Secretary of the Department of Corrections shall, upon completion of this review, certify to the Governor of the State of Florida confirming that the Department is adequately prepared to carry out executions by lethal injection. The Secretary will confirm with the team warden that the execution team satisfies current licensure and certification and all team members and executioners meet all training and qualifications requirements as detailed in these procedures. A copy of the certification shall be provided to the Attorney General and the institutional warden shall provide a copy to a condemned inmate and counsel for the inmate after a warrant is signed.

The certification shall read:

As Secretary of the Florida Department of Corrections, I have reviewed the Department's Execution by Lethal Injection Procedures to ensure proper implementation of the Department's statutory duties under Chapter 922, Florida Statutes. The procedure has been reviewed and is compatible with evolving standards of decency that mark the progress of a maturing society, the concepts of the dignity of man, and advances in science, research, pharmacology, and technology. The process will not involve unnecessary lingering or the unnecessary or wanton infliction of pain and suffering. The foremost objective of the lethal injection process is a humane and dignified death. Additional guiding principles of the lethal injection process are that it should not be of long duration, and that while the entire process of execution should be transparent, the concerns and emotions of all those involved must be addressed.

I hereby certify that the Department is prepared to administer an execution by lethal injection and has the necessary procedures, equipment, facilities, and personnel in place to do so. The Department has available the appropriate persons who meet the minimum qualifications under Florida Statutes and in addition have the education, training, or experience, including the necessary licensure or certification, required to perform the responsibilities or duties specified and to anticipate contingencies that might arise during the execution procedure.


RICKY D. DIXON
SECRETARY

2/18/2025
DATE