
In The
SUPREME COURT OF THE UNITED STATES
October Term 2025

ERNEST D. SUGGS,
Petitioner,
V.
FLORIDA,
Respondent.

*On Petition for Writ of Certiorari to the
Supreme Court, State of Florida*

DEATH PENALTY CASE

**APPENDIX TO CORRECTED
PETITION FOR WRIT OF CERTIORARI**

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May 12, 2026

INDEX OF APENDICES

- APPENDIX 1: Florida Supreme Court Decision in *Suggs v. Dept. of Corrections*, Mandate and decision of Florida Supreme Court issued September 24, 2025 a001
- APPENDIX 2: Circuit Court Decision in *Florida v. Suggs*, Denying Successive Motion to Vacate Judgment and Sentence under Florida Rule of Criminal Procedure 3.851 (Filed May 16, 2022) a021
- APPENDIX 3: Order Denying Motion for Rehearing dated October 20, 2025 a037
- APPENDIX 4 Petitioner's Successive Motion for Post-Conviction Relief filed May 16, 2022 (without attached exhibits) a039

MANDATE

SUPREME COURT OF FLORIDA

To the Honorable, the Judges of the:

Circuit Court for the First Judicial Circuit, Walton County

WHEREAS, in that certain cause filed in this Court styled:

**Ernest D. Suggs,
Appellant(s)
v.**

**State of Florida,
Appellee(s)**

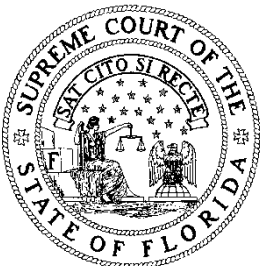
Case No.: **SC2024-0660 & SC2025-0702**

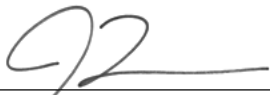
Your Case No.: **661990CF000338CFAXMX**

The attached opinion was rendered on: **September 4, 2025**

YOU ARE HEREBY COMMANDED that further proceedings be had in accordance with said opinion, the rule of this Court and the laws of the State of Florida.

WITNESS, The Honorable Chief Justice Carlos G. Muñoz, Chief Justice of the Supreme Court of Florida and the Seal of said Court at Tallahassee, the Capital, on November 5, 2025.





Clerk of the Supreme Court of Florida

Supreme Court of Florida

No. SC2024-0660

ERNEST D. SUGGS,
Appellant,

vs.

STATE OF FLORIDA,
Appellee.

No. SC2024-0702

ERNEST D. SUGGS,
Appellant,

vs.

STATE OF FLORIDA,
Appellee.

September 4, 2025

GROSSHANS, J.

Ernest D. Suggs, a prisoner under sentence of death, appeals the circuit court's orders summarily denying his third and fourth

successive motions for postconviction relief, filed under rule 3.851 of the Florida Rules of Criminal Procedure.¹ We affirm.

I

In 1990, Suggs kidnapped Pauline Casey from the Teddy Bear Bar, stabbed her repeatedly, and abandoned her body alongside a dirt road. *Suggs v. State (Suggs I)*, 644 So. 2d 64, 65-66 (Fla. 1994). He also robbed the bar. *Id.*

For these crimes, Suggs was charged with first-degree murder, kidnapping, and robbery. *Id.* at 66. After trial, the jury found him guilty of all three offenses. *Id.* At the penalty phase, the jury recommended a sentence of death by a seven-to-five vote. *Id.* The trial court imposed the death sentence, finding that seven aggravators outweighed three nonstatutory mitigators. *Id.* We affirmed Suggs' convictions and sentences. *Id.* at 70.

In the thirty years since, Suggs has brought numerous postconviction challenges and habeas petitions, all without success. *See Suggs v. State (Suggs II)*, 923 So. 2d 419 (Fla. 2005) (affirming denial of initial postconviction motion and denying habeas petition);

1. We have jurisdiction. *See* art. V, § 3(b)(1), Fla. Const.

Suggs v. Jones, No. SC16-1066, 2017 WL 1033680 (Fla. Mar. 17, 2017) (denying petition for writ of habeas corpus); *Suggs v. State* (*Suggs III*), 238 So. 3d 699 (Fla. 2017) (affirming denial of first successive postconviction motion), *cert. denied*, 586 U.S. 921 (2018); *Suggs v. State* (*Suggs IV*), 234 So. 3d 546 (Fla.), (affirming denial of second successive postconviction motion), *cert. denied*, 586 U.S. 846 (2018).

Suggs has now filed his third and fourth successive postconviction motions—the denial of which is at issue in this appeal. In these motions, Suggs raised claims under *Jones v. State*, 709 So. 2d 512 (Fla. 1998), *Brady v. Maryland*, 373 U.S. 83 (1963), *Giglio v. United States*, 405 U.S. 150 (1972), and *Massiah v. United States*, 377 U.S. 201 (1964), as well as a stand-alone due process claim. The majority of his claims center on six pieces of evidence he alleges are newly discovered, namely: declarations from three individuals that a serial killer confessed to Casey’s murder (or to the murder of a woman fitting her description); a trial witness’s alleged willingness to recant his testimony; deposition testimony from an unrelated murder case that purportedly demonstrates a pattern of prosecutorial misconduct; and statements from a law enforcement

officer that allegedly indicate the State persuaded witnesses into falsely testifying against Suggs.

In his stand-alone due process claim, Suggs argues that this Court violated his due process rights during an appeal of a prior successive postconviction motion.

The circuit court summarily denied all the claims, finding the confession-related *Jones* and *Brady* claims to be untimely under rule 3.851; the *Jones*, *Brady*, and *Giglio* claims regarding the witness's false testimony at trial were untimely under rule 3.851; and the *Massiah* claim stemming from the trial witness's false testimony was procedurally barred under rule 3.851. The circuit court also denied on the merits the confession-related *Jones* claim, both *Brady* claims, and the *Giglio* and *Massiah* claims. Finally, the circuit court denied the stand-alone due process claim, finding that a postconviction motion was an improper vehicle for challenging this Court's ruling. This appeal follows.

II

Suggs claims that the circuit court erred in denying his motions for postconviction relief without holding an evidentiary hearing.² We disagree.

A summary denial will be affirmed “if the motion is legally insufficient or procedurally barred, or if its allegations are conclusively refuted by the record.” *Sparre v. State*, 391 So. 3d 404, 405 (Fla. 2024). Similarly, we will affirm the denial of claims that fail to meet rule 3.851’s one-year time limitation. *Hutchinson v. State*, No. SC2025-0517, 50 Fla. L. Weekly S71, S72, 2025 WL 1198037, at *3 (Fla. Apr. 25, 2025), *cert. denied*, 145 S. Ct. 1980 (2025). We note that in some narrow circumstances, rule 3.851 excuses the failure to comply with the one-year limitation. One such circumstance applies when a claim is predicated on newly discovered evidence. *See* Fla. R. Crim. P. 3.851(d)(2)(A). However, “it is incumbent *on the defendant* to demonstrate that his claims could not have been raised in the initial postconviction motion

2. We review summary denials of successive postconviction claims de novo. *Owen v. State*, 364 So. 3d 1017, 1022-23 (Fla. 2023).

through the exercise of due diligence.” *Rivera v. State*, 187 So. 3d 822, 832 (Fla. 2015).

As we will explain, Suggs cannot show that his claims are based on newly discovered evidence and that his claims were raised within one year of when they could have been ascertained with due diligence.³ Fla. R. Crim. P. 3.851(d)(2), (e)(2); see *Jimenez v. State*, 997 So. 2d 1056, 1064 (Fla. 2008). Accordingly, Suggs’ claims are untimely and procedurally barred. We also reject several of Suggs’ claims on the merits.

III

We start with Suggs’ *Jones* claims. To receive an evidentiary hearing on newly discovered evidence claims like these, the defendant must allege facts that, if proven, would show two things:

First, the evidence must not have been known by the trial court, the party, or counsel at the time of trial, and it must appear that the defendant or defense counsel could not have known of it by the use of diligence. Second, the newly discovered evidence must be of such a nature that it would probably produce an acquittal on retrial.

3. Suggs’ judgment and sentence became final in 1995.

Rogers v. State, 327 So. 3d 784, 787 (Fla. 2021) (quoting *Long v. State*, 183 So. 3d 342, 345 (Fla. 2016)). We now turn to the specifics of his *Jones* claims.

A

In his motion below, Suggs proffered declarations from three individuals claiming that a serial killer, Mark Riebe, confessed to Casey's murder. Patsy Wells, Riebe's mother, claimed that Riebe confessed to her on two different occasions that he—and not Suggs—murdered Casey. Randy Sheheane claimed Riebe confessed to killing a woman from the Destin or Santa Rosa Beach area and dumping her body off a dirt road in Walton County. And Randy Ray Chapman declared that Riebe confessed to murdering a bartender in Walton County. None of these declarations indicate when Riebe allegedly confessed. We agree with the circuit court that Suggs cannot prevail on this newly discovered evidence claim.

First, Suggs argues that his *Jones* claim falls within the timeliness exception for newly discovered evidence. But Suggs is wrong.

Suggs could have interviewed Wells and Sheheane decades ago. Wells is the mother of Alex Wells, whom Suggs has accused of

murdering Casey since 1997. *See Suggs II*, 923 So. 2d at 437. And Sheheane testified against Riebe in the 1997 trial for the murder of Donna Callahan. Suggs has long alleged that Callahan's murderer also killed Casey. Suggs should have been aware that both Wells, as the mother of Alex Wells and Mark Riebe, and Sheheane, as a witness against Riebe in the Callahan case, may have had evidence connecting Riebe to the Casey murder. Suggs fails to explain why he waited nearly twenty years to interview them both.

Suggs also fails to provide any information regarding when he discovered, or could have discovered, Chapman's information. Nor does Chapman's statement indicate whether Riebe confessed directly to Chapman or if this is information obtained from another source.

Thus, as the circuit court properly found, Suggs failed to exercise due diligence in discovering each of these alleged admissions, and his *Jones* claim is untimely.⁴ *Jimenez*, 997 So. 2d

4. To the extent Suggs' *Jones* claim is based on Wells' and Sheheane's declarations, it is also procedurally barred under rule 3.851(e)(1)(E), as he should have been aware of their relevance years earlier and brought this claim in a prior proceeding. *Bogle v. State*, 322 So. 3d 44, 46 (Fla. 2021).

at 1064; *Stein v. State*, 406 So. 3d 171, 174-75 (Fla. 2024), *petition for cert. filed*, No. 25-5191 (U.S. July 24, 2025).

Moreover, even if we assumed Suggs’ claim was timely, we would still affirm, as the claim also fails on the merits. This evidence cannot satisfy the second *Jones* prong which requires that the newly discovered evidence be admissible. *See* 709 So. 2d at 521 (“In considering the second prong, the trial court should initially consider whether the evidence would have been admissible at trial” (citations omitted)). We have assessed all three declarations and conclude that each constitutes inadmissible hearsay. *See* § 90.802, Fla. Stat.⁵

5. Suggs claims that Riebe’s confessions could be admitted as an unavailable declarant’s statement against interest. *See* § 90.804, Fla. Stat. We reject this argument. First, Suggs has not shown that Riebe is unavailable. Second, Suggs offers no corroborating circumstances as required by section 90.804(2)(c).

Suggs also argues that the declarations are admissible pursuant to *Chambers v. Mississippi*, 410 U.S. 284 (1973). He is wrong. *Chambers* found the trial court’s application of Mississippi’s evidence rules denied the defendant due process. *Id.* at 302-03. But we have noted that *Chambers* only applies to trustworthy evidence. *Jones*, 709 So. 2d at 525. Riebe has confessed and recanted numerous times—his confessions lack any indicia of trustworthiness.

Furthermore, even if admissible, there is no reasonable probability that Riebe's alleged confession would produce an acquittal upon retrial. *Jones*, 709 So. 2d at 521. At trial, the State presented significant physical evidence connecting Suggs to the murder—including Casey's palmprints in Suggs' vehicle, Casey's fingerprints on the outside of Suggs' vehicle, Casey's blood on Suggs' shirt, and tire tracks on the dirt road where Casey's body was found that were consistent with those of Suggs' vehicle. *Suggs I*, 644 So. 2d at 65-66. Law enforcement found keys to the Teddy Bear Bar and a beer glass from that bar near Suggs' home. *Id.* The State also presented testimony that Casey was last seen alive with Suggs. *Id.* Based on our review of this evidence and other trial evidence, we conclude that the alleged confessions of a serial killer—two of which do not identify Casey as the victim—are not likely to produce an acquittal, especially when Riebe's confessions have been deemed unreliable. *See Jones*, 709 So. 2d at 526.

B

In his second *Jones* claim, Suggs contends that new evidence from two former inmates and a law enforcement officer shows that

the State used false testimony against him at trial. This claim is untimely and procedurally barred.

First, Suggs fails to show that he exercised due diligence to discover this evidence. Suggs alleges that inmate James Taylor is willing to publicly recant his trial testimony. But Taylor's admission that he lied at trial is not new—Suggs has been aware of it since 1996.⁶ Taylor's alleged willingness to now publicly recant does not make the evidence of his false testimony "new." *See Dailey v. State*, 329 So. 3d 1280, 1287-88 (Fla. 2021) (previously known evidence does not become newly discovered every time a new detail emerges). Suggs fails to show that he exercised due diligence after discovering Taylor's earlier admissions.⁷ *Sparre*, 391 So. 3d at 406; *Jimenez*, 997 So. 2d at 1064.⁸

6. In 1996, Taylor informed an investigator that he and Wallace Byars lied during their testimony in Suggs' trial, but Taylor refused to publicly recant or sign an affidavit. *Suggs II*, 923 So. 2d at 426-27.

7. Suggs does not claim he has attempted to compel Taylor's testimony during the past twenty-five years. Moreover, Suggs does not proffer an affidavit or a declaration from Taylor stating that he is willing to publicly recant now.

8. This claim is also procedurally barred because this Court has previously considered and rejected Suggs' claims based on

Suggs next turns to the deposition of Jake Ozio to support his *Jones* claim. Suggs asserts that Ozio’s 2021 deposition in an unrelated case shows that the prosecutor and sheriff in the county where Suggs was held regularly pressured inmates into testifying falsely. Therefore, Suggs argues, they also compelled Suggs’ fellow inmates Taylor and Wallace Byars to falsely testify against Suggs. We agree with the circuit court that this argument is untimely and meritless.

Like Taylor’s alleged willingness to recant, this portion of Suggs’ *Jones* claim is untimely under rule 3.851. Rule 3.851’s time-limit exception applies to newly discovered “facts on which the claim is predicated.”⁹ Fla. R. Crim. P. 3.851(d)(2)(A). And there is an “important distinction between the facts on which . . . claims are predicated and the evidence used to prove those facts.” *Sliney v. State*, 362 So. 3d 186, 188-89 (Fla. 2023). The basis—or

Taylor’s alleged recantations. *Suggs II*, 923 So. 2d at 426-28; see *Bogle*, 322 So. 3d at 46 (appellant “cannot use a successive 3.851 motion to litigate issues that he could have raised in his initial postconviction motion”).

9. “Predicate” means to “found or base something on.” *Predicate*, *New Oxford American Dictionary* (2d ed. 2005).

predicate—of Suggs’ claim is that his fellow inmates Taylor and Byars gave false testimony at his trial. Suggs has previously raised—and we have rejected—this claim. *See Suggs II*, 923 So. 2d at 426-27. Here, in this *Jones* claim, Suggs attempts to bolster his previous claim by offering Ozio’s deposition as ancillary evidence that Suggs’ fellow inmates lied. However, Suggs cannot overcome a procedural bar by simply alleging new support for old claims.

Suggs’ claim regarding Ozio’s deposition also fails on the merits. Suggs struggles to explain how Ozio’s deposition would be relevant or admissible¹⁰ at a new trial. *See Jones*, 709 So. 2d at 521. Even if the deposition were admissible, Suggs’ argument that it shows Taylor and Byars testified falsely is speculative at best. Ozio’s deposition testimony would not overcome the significant evidence against Suggs or probably produce an acquittal on retrial. *See id.* Thus, this claim also fails on the merits.

Finally, Suggs claims he has new evidence from Deputy Timothy Crenshaw indicating that Taylor and Byars lied at trial.

10. Section 90.608, Florida Statutes, sets forth certain types of admissible impeachment evidence. Suggs does not argue that Ozio’s testimony falls within any of these categories.

But the evidence supporting this claim could have been discovered decades ago. Suggs has been aware that Crenshaw was a potentially relevant witness since 2003, when—during an evidentiary hearing—an inmate referenced Crenshaw’s behavior as evidence that Taylor was an informant. If he had exercised due diligence and interviewed Crenshaw about his testimony at the hearing, Suggs could have obtained Crenshaw’s information nearly twenty years earlier. *See Stein*, 406 So. 3d at 174-75. Suggs fails to justify the delay and, thus, fails to demonstrate why the one-year time limit does not preclude the relief he seeks. *See Mungin v. State*, 320 So. 3d 624, 626 (Fla. 2020) (“It is incumbent upon the defendant to establish the timeliness of a successive postconviction claim.”).¹¹

For these reasons, we affirm the circuit court’s denial of Suggs’ successive *Jones* claims.

11. Since Suggs should have been aware of Crenshaw’s information since 2003, he should have raised this evidence in one of his prior postconviction challenges. *See Bogle*, 322 So. 3d at 46.

IV

We next consider Suggs' *Brady* claims. In his first claim, he argues the State suppressed Riebe's alleged confessions, because the State was aware of each declarant's information but did not turn the information over to Suggs. But as with his *Jones* claim, Suggs's *Brady* claim is time-barred under rule 3.851. Suggs fails to show that he exercised due diligence in learning that Riebe had allegedly confessed to three people. See Fla. R. Crim. P. 3.851(d)(2); *Stein*, 406 So. 3d at 175. Suggs also fails to show he could not have brought this claim earlier. Fla. R. Crim. P. 3.851(e)(2); *Bogle*, 322 So. 3d at 46. This claim is barred.

This claim also fails on the merits since Suggs does not establish that Riebe made these alleged confessions before trial or that the State was aware of them at the time of trial. Thus, he fails to show that *Brady* applies. *In re Bolin*, 811 F.3d 403, 408-09 (11th Cir. 2016) (*Brady* does not apply to confessions that occurred after trial).

Suggs' second *Brady* claim—which is based on Taylor's, Ozio's, and Crenshaw's information—is also barred under rule 3.851 for the same reasons discussed above. Suggs should have

been aware of the alleged false inmate testimony since 1996 and 2003, respectively, and Suggs could have raised this claim in one of his prior postconviction challenges. *See Hutchinson*, 50 Fla. L. Weekly at S73, 2025 WL 1198037, at *6 (barring a claim that could have been raised in an earlier motion). The circuit court properly denied both *Brady* claims.

V

Suggs' *Giglio* and *Massiah* claims are untimely under rule 3.851 for the reasons discussed above. Suggs has accused Taylor and Byars of lying at trial for decades. Moreover, these claims are also barred because Suggs raised them in his initial postconviction proceeding—and we upheld the circuit court's rejection of them—nearly twenty years ago. *Suggs II*, 923 So. 2d at 427-28; *cf. Reynolds v. State*, 373 So. 3d 1124, 1126 (Fla. 2023) (claims that have been previously raised and rejected are procedurally barred). Specifically, in his initial postconviction motion, Suggs argued that the State violated *Giglio* by presenting the false testimony of Taylor and Byars. *Suggs II*, 923 So. 2d at 426-27. Accordingly, we find Suggs' *Giglio* claim to be procedurally barred and affirm the circuit court's denial.

We have also previously considered and rejected Suggs' *Massiah* claim that the State used Taylor and Byars to obtain his confession in violation of his right to counsel under the Sixth Amendment to the United States Constitution. *Id.* at 427-28. Because Suggs is raising the same *Massiah* claim here, we affirm the circuit court's denial of this claim as procedurally barred. *See Reynolds*, 373 So. 3d at 1126.

VI

Finally, Suggs asked the circuit court to grant him relief from our decision in his second successive postconviction appeal. *See Suggs III*, 238 So. 3d at 705. Suggs alleges that we violated his due process rights by considering evidence outside the record. Even though Suggs previously sought relief for this alleged due process violation via the proper vehicle—a motion for rehearing, *see Suggs v. State*, No. SC16-576, 2018 WL 1285546 (Fla. Mar. 13, 2018), he has resurrected this claim in circuit court.

In an argument that stretches the bounds of credulity, Suggs now asks us to find that the circuit court erred in determining that it lacked authority to grant relief from our prior decision. The circuit court is bound by decisions from this Court. *See State v.*

Lott, 286 So. 2d 565, 566 (Fla. 1973); *Reiter v. Gross*, 599 So. 2d 1275, 1275 (Fla. 1992); *State v. Dwyer*, 332 So. 2d 333, 335 (Fla. 1976). This claim is utterly meritless, and we affirm the circuit court's denial.¹²

VII

For the foregoing reasons, we affirm the circuit court's summary denials of Suggs' third and fourth successive motions for postconviction relief.

It is so ordered.

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

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING MOTION AND, IF FILED, DETERMINED.

An Appeal from the Circuit Court in and for Walton County,
Kelvin C. Wells, Judge
Case No. 661990CF000338CFAXMX

Dawn B. Macready, Capital Collateral Regional Counsel, Northern
Region, Tallahassee, Florida,

for Appellant

12. This claim is also procedurally barred under rule 3.851(e)(2) because Suggs cannot raise a claim that was already rejected in a prior postconviction motion. *Reynolds*, 373 So. 3d at 1126.

James Uthmeier, Attorney General, and Janine D. Robinson,
Assistant Attorney General, Tallahassee, Florida,

for Appellee

**IN THE CIRCUIT COURT OF THE FIRST JUDICIAL CIRCUIT
IN AND FOR WALTON COUNTY, FLORIDA**

STATE OF FLORIDA,

CASE NO.: 1990-CF-338

v.

ERNEST SUGGS,

Defendant.

**ORDER DENYING THE DEFENDANT'S SUCCESSIVE MOTION TO VACATE
JUDGMENT AND SENTENCE UNDER FLORIDA RULE OF CRIMINAL
PROCEDURE 3.851 (FILED MAY 16, 2022)**

THIS CAUSE comes before the court for review upon the defendant's Successive Motion to Vacate Judgment and Sentence Under Florida Rule of Criminal Procedure 3.851, electronically filed by counsel on May 16, 2022.¹ The state's response was filed on June 25, 2022.² A Case Management Conference was convened on February 2, 2023.³ Present before the court were Joshua Mitchell, Assistant State Attorney; Steven Woods, Assistant Attorney General; and Dawn Macready, Chief Assistant CCRC-North (by telephone). The court heard argument on the purely legal claims not based on disputed facts raised in the defendant's motion. After the Case Management Conference, the court determined that an evidentiary hearing was not necessary. Having reviewed the instant motion, record, and legal authority, the court determines that the motion should be denied without an evidentiary hearing.

¹ ("Motion")

² ("State's Answer")

³ The court includes a transcript of the February 2023 Case Management Conference as attachment one. Attach. 1, Tr., Feb. 2, 2023.

PROCEDURAL HISTORY

The defendant was found guilty by jury in 1992 and was sentenced to death for first-degree murder (count I). The defendant was also convicted of and sentenced for kidnapping (count II) and robbery with a deadly weapon (count III). The defendant's convictions and sentences were affirmed. A second amended motion to vacate the defendant's convictions and sentences was filed in August 2001. An evidentiary hearing was held in January 2003. The defendant's claims were denied after the evidentiary hearing. The defendant filed successive rule 3.851 motions in October 2015, January 2017, and November 2018. These motions were denied without evidentiary hearings.⁴ The instant motion follows.

ANALYSIS

A defendant must file his initial rule 3.851 motion within one year of his judgment and sentence becoming final. Fla. R. Crim. P. 3.851(d)(1). A defendant's successive rule 3.851 motion will not be considered on the merits unless his claims are based on an exception provided in the rule. See Fla. R. Crim. P. 3.851(d)(2); Byrd v. State, 14 So. 3d 921, 924 (Fla. 2009) ("For Byrd's successive motion for postconviction relief to be reviewed on the merits, his claims must meet the requirements of rule 3.851(d)."). These exceptions include newly discovered evidence; newly established fundamental constitutional right that applies retroactively; or postconviction

⁴ See Attach. 2, Verdict, June 8, 1992; Penalty Phase Jury Recommendation, June 9, 1992; Am. J. & Sentence, July 15, 1992; Sentencing Order, July 15, 1992; Order on Def's. Second Am. Mot. Postconviction Relief, Claims IV, V, VI, VII, VIII, IX & XI, June 12, 2003; Successive Mot. Vacate J. & Sentence with Special Req. Leave Amend Pursuant Rule 3.851, Oct. 27, 2015; Order Den. Def's. Successive Mot. Vacate J. & Sentence with Special Req. Leave Amend Pursuant Rule 3.851, Feb. 29, 2016; Def's. Mot. Post-Conviction Relief in Light of Hurst v. Florida, Jan. 11, 2017; Order After Case Management Conference & Order Den. Def's. Mot. Post-Conviction Relief in Light of Hurst v. Florida, May 31, 2017; Successive Mot. Vacate J. & Sentence with Special Req. Leave Amend, Nov. 2, 2018; Order Den. Def's. Successive Motion to Vacate Judgment and Sentence with Special Request for Leave to Amend (Filed November 2, 2018), Feb. 13, 2024 (original attachs. omitted). See also Suggs v. State, 644 So. 2d 64 (Fla. 1994); Suggs v. State, 923 So. 2d 419 (Fla. 2005); Suggs v. State, 234 So. 3d 546 (Fla. 2018); Suggs v. State, 238 So. 3d 699 (Fla. 2017).

counsel, through neglect, failed to file the motion. Fla. R. Crim. P. 3.851(d)(2)(A)-(C). A successive rule 3.851 motion may be denied without an evidentiary hearing “[i]f the motion, files, and records in the case conclusively show that the movant is entitled to no relief.” Fla. R. Crim. P. 3.851(f)(5)(B).

Newly discovered evidence claims must be raised within one year of the date the evidence was or could have been discovered through due diligence. Byrd, 14 So. 3d at 924; see also Mungin v. State, 320 So. 3d 624, 625-26 (Fla. 2020) (“For an otherwise untimely claim to be considered timely as newly discovered evidence, it must be filed within a year of the date the claim became discoverable through due diligence.”) (citation omitted). “In a successive postconviction motion, it is incumbent *on the defendant* to demonstrate that his claims could not have been raised in the initial motion through the exercise of due diligence.” Rivera v. State, 187 So. 3d 822, 832 (Fla. 2015) (emphasis in original). A defendant must establish the timeliness of his successive postconviction claim. Mungin, 320 So. 3d at 626. Evidence will not qualify as newly discovered if the basis for it was available for longer than one year before the motion was filed. Jimenez v. State, 997 So. 2d 1056, 1068 (Fla. 2008).

For a defendant to be entitled to relief based on newly discovered evidence, his claim(s) must satisfy a two-prong test. Long v. State, 183 So. 3d 342, 345 (Fla. 2016) (citations omitted).

First, in order to be considered newly discovered, the evidence must have been unknown by the trial court, by the party, or by counsel at the time of trial, and it must appear that defendant or his counsel could not have known of it by the use of diligence. Second, the newly discovered evidence must be of such nature that it would probably produce an acquittal on retrial.

Jones v. State, 709 So. 2d 512, 521 (Fla. 1998). “Under the second prong, the reviewing court must evaluate the weight of both the newly discovered evidence and the evidence which was

introduced at trial.” Morris v. State, 317 So. 3d 1054, 1063 (Fla. 2021) (citation omitted).

“[T]he trial court should initially consider whether the evidence would have been admissible at trial or whether there would have been any evidentiary bars to its admissibility.” Jones, 709 So. 2d at 521 (citation omitted). “The trial court should further consider the materiality and relevance of the evidence and any inconsistencies in the newly discovered evidence.” Id. “A postconviction court must even consider testimony that was previously excluded as procedurally barred or in another postconviction proceeding in determining if there is a probability of an acquittal.” Hildwin v. State, 141 So. 3d 1178, 1184 (Fla. 2014) (citations omitted). The second requirement is satisfied if the evidence “weakens the case against the defendant so as to give rise to a reasonable doubt as to his culpability.” Marek v. State, 14 So. 3d 985, 990 (Fla. 2009) (internal quotations and citation omitted).

(I) Newly Discovered Evidence Claims

In his first claim,⁵ the defendant alleges that he is entitled to relief based on newly discovered evidence consisting of (1) Jake Ozio’s 2021 deposition testimony, (2) James Taylor’s 2022 statement, and (3) Timothy Crenshaw’s 2022 statement.⁶ In a deposition taken on May 17, 2021, “in the Whitton case,” Jake Ozio “admitted to testifying falsely at the State’s behest about overhearing Whitton confess to murder and lying to the jury at his trial about the favorable treatment he received in exchange.”⁷ James Taylor spoke with a federal investigator, who was working on Ernest Suggs’s case, in 2022.⁸ During this conversation, James Taylor “confirmed that he was in fact a state agent.”⁹ A federal investigator also spoke with Timothy Crenshaw,

⁵ The court references the defendant’s claims in order of appearance.

⁶ Mot. 13-16. The court references the motion’s page number as labeled by the defendant.

⁷ Mot. 13.

⁸ Mot. 15.

⁹ Mot. 15.

who is a retired Walton County Sheriff's Office employee, in 2022.¹⁰ Timothy Crenshaw "was personally aware of the misconduct going on in WCJ and would be able to bolster the accounts of Ozio and Taylor at an evidentiary hearing."¹¹

However, the instant claim is facially and/or legally insufficient. The defendant does not establish the timeliness of his newly discovered evidence claims. In particular, the instant claims were not filed within one year of the date the evidence was or could have been discovered through due diligence. For example, James Taylor's alleged testimony was known or discoverable before 2005.¹² Jake Ozio's alleged testimony was known or discoverable in 2000.¹³ Timothy Crenshaw's alleged testimony was known or discoverable in 2003.¹⁴ Timothy Crenshaw's testimony also could have been discovered decades earlier through diligence, especially considering the defendant acknowledges Timothy Crenshaw was a Walton County Sheriff's Office employee assigned to the Walton County Jail at the time the defendant was incarcerated.¹⁵ The above authority is clear that the burden is on the defendant to establish the timeliness of his newly discovered evidence claims. Considering this information, the defendant does not demonstrate that he filed the instant motion within one year of when the evidence was known or became discoverable through due diligence. The defendant's newly discovered evidence claims are untimely.

¹⁰ Mot. 16.

¹¹ Mot. 16.

¹² Mot. 26; Suggs v. State, 923 So. 2d 419, 427-28 (Fla. 2005).

¹³ Attach. 3, Aff. Jake Ozio, Nov. 19, 2000; Oral Deposition Jake Ozio 5-6, May 17, 2021.

¹⁴ Mot. 16; Attach. 4, Evidentiary Hr'g Tr. 45, Jan. 23, 2003 ("From Mr. Crenshaw, Mr. Tim Crenshaw, who would give him anything he wanted. And Crenshaw was who? One of the jailers. A deputy sheriff? Yes, sir.") (excerpt of George Broxson's testimony included as attachment four).

¹⁵ Mot. 16.

(II) Brady Claim

In his second claim, the defendant alleges that the information provided by James Taylor,¹⁶ Jake Ozio,¹⁷ and Timothy Crenshaw¹⁸ was not disclosed by the state in violation of Brady.¹⁹ The defendant also alleges that the information provided by these individuals was not disclosed to his trial counsel.²⁰ The defendant alleges that the information is favorable to the defendant as impeachment evidence because it “. . . shine[s] a light on the State’s use of false testimony and state agents to convict Suggs.”²¹ The defendant alleges the information is material because it discredits the State’s case against Ernest Suggs that was “. . . built on the jury crediting jailhouse snitch testimony.”²²

A defendant’s successive motion for postconviction relief will not be considered timely unless “the facts on which the claim is predicated were unknown to the movant or the movant’s attorney and could not have been ascertained by the exercise of due diligence.” Fla. R. Crim. P. 3.851(d)(2)(A). A defendant also may not use a successive rule 3.851 motion to raise issues that he could have raised in his initial postconviction motion. See Bogle v. State, 288 So. 3d 1065, 1068 (Fla. 2019); Fla. R. Crim. P. 3.851(e)(2). A Brady claim requires a defendant to prove that (1) “the evidence is favorable to him either because it is exculpatory or because it is impeaching,” (2) “the state willfully or inadvertently suppressed it,” and (3) “that the suppression resulted in prejudice.” Jones v. State, 998 So. 2d 573, 579 (Fla. 2008). “The burden is on the defendant to demonstrate that the evidence he claims as *Brady* material satisfies each of these

¹⁶ James Taylor spoke with a federal investigator in 2022 and stated “that he was in fact a state agent.” Mot. 15.

¹⁷ Jake Ozio provided a deposition in 2021 admitting to testifying falsely at Gary Whitton’s trial. Mot. 13.

¹⁸ Timothy Crenshaw spoke with a federal investigator in 2022 and stated that he was aware of misconduct occurring in the Walton County Jail. Mot. 16.

¹⁹ Mot. 17.

²⁰ Mot. 17.

²¹ Mot. 17.

²² Mot. 17.

elements.” Duckett v. State, 918 So. 2d 224, 235 (Fla. 2005) (citation omitted). Evidence is material, or prejudicial, “. . . 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. A reasonable probability is a probability sufficient to undermine confidence in the outcome.” U.S. v. Bagley, 473 U.S. 667, 682 (1985); see also Jones, 998 So. 2d at 579 (citation omitted).

However, the defendant is not entitled to relief. First, the defendant does not demonstrate that the instant claim is timely. For example, Timothy Crenshaw’s testimony could have been discovered at the time of the defendant’s trial through counsel’s use of diligence.²³ The individuals’ testimony also was known or discoverable through diligence more than one year before the instant motion was filed. Timothy Crenshaw’s testimony was known in 2003.²⁴ The defendant’s allegations reflect that he knew of James Taylor’s testimony many years before the instant motion was filed.²⁵ Jake Ozio’s alleged testimony was known or discoverable in 2000.²⁶ As a result, the instant Brady claim does not qualify under an exception to rule 3.851’s filing deadline and is untimely.

Second, even if the instant claim is timely, the defendant does not show that Jake Ozio’s testimony is favorable. Jake Ozio’s alleged testimony regards a defendant in an unrelated murder case from Walton County, Florida. Jake Ozio’s testimony does not regard the defendant in the instant case. Jake Ozio’s testimony also does not regard allegations of prosecutor or law enforcement misconduct as to the instant defendant and case. Jake Ozio’s testimony regarding

²³ Tr. 11-12, Feb. 2, 2023 (Attach. 1); Evidentiary Hr’g Tr. 44, Jan. 23, 2003 (“Well, there were a lot of things about Mr. Taylor that, you know, it was obvious. He was labeled as a confidential informant He was afforded special privileges that no other inmate in that jail was allowed to have.”) (Attach. 4).

²⁴ Mot. 16; Evidentiary Hr’g Tr. 45, Jan. 23, 2003 (Attach. 4).

²⁵ Mot. 24; Tr. 10, Feb. 2, 2023 (Attach. 1); Order on Def’s. Second Am. Mot. Postconviction Relief, Claims IV, V, VI, VII, VIII, IX & XI, 2-3, June 12, 2003 (Attach. 2); Attach. 5, Evidentiary Hr’g Vol I, 102-12 (Jan. 23, 2003) (excerpt of the defendant’s postconviction evidentiary hearing transcript as attachment five).

²⁶ Aff. Jake Ozio, Nov. 19, 2000 (Attach. 3); Oral Deposition Jake Ozio 5-8, May 17, 2021 (Attach. 3).

alleged misconduct in a different case does not automatically prove that misconduct occurred in the instant case. Considering this information, the defendant does not show that Jake Ozio's testimony is relevant to the instant case. Therefore, the defendant does not establish that Jake Ozio's testimony is favorable.

Third, even if the instant claim is timely, and the evidence is favorable, the defendant does not establish materiality. As explained in the previous paragraph, Jake Ozio's testimony is not relevant to the instant case. Evidence that is not relevant would have no effect on the outcome of the proceeding. As to James Taylor's and Timothy Crenshaw's testimony, the defendant does not show any reasonable probability that the result of the proceeding would have been different. Timothy Crenshaw's testimony merely consists of the general premise that informants were used in the jail. Timothy Crenshaw's testimony does not provide any information directly related to the instant case. James Taylor's testimony also would not be reliable, in light of the general unreliability of recantations and the extent of the witness's criminal history.²⁷

Furthermore, the defendant does not establish the testimony is sufficient to undermine confidence in the jury's verdict. This is especially true in light of evidence of the defendant's guilt, including (1) the victim's palm print found inside the defendant's vehicle, (2) the victim's fingerprints discovered on the outside of the defendant's vehicle, (3) human blood found on the defendant's shirt was consistent with the victim's blood, (4) tire tracks consistent with tracks similar to ones made by the defendant's vehicle were located mere feet from the victim's body, (5) the defendant was the last person to be seen with the victim before she went missing, and (6)

²⁷ R. 3559, 3584, 3588, 3578-79, 3580-81, 3885.

the victim was discovered in bloody clothing only hours after she disappeared.²⁸ Considering this information, the witnesses' statements do not create a reasonable probability of a different outcome. Therefore, the instant claim is denied.

(III) Giglio Claim

In his third claim, the defendant alleges that the state presented false testimony of Wallace Byars and James Taylor at the defendant's trial.²⁹ First, the defendant alleges that Wallace Byars and James Taylor testified falsely because "both testified that there was no deal between them and the State or connection between their testimony and any benefits they received."³⁰ Additionally, the defendant alleges former Sheriff Quinn McMillian's testimony "that they did not use informants in WCJ and Byars and Taylor were not used as agents in this case" was false.³¹ The defendant also alleges that James Taylor's and Timothy Crenshaw's newly discovered statements refute this previous testimony.³² Second, the defendant alleges that James Taylor testified falsely when he stated "that Suggs told him that he threw a knife into a canal."³³ The defendant alleges that the deposition of Jake Ozio demonstrates that this testimony was false.³⁴ The defendant alleges that the state knew or should have known that the witnesses' testimony was false.³⁵ The defendant also alleges that the state did not correct the false testimony during the defendant's trial.³⁶

²⁸ Mot. 3-8; State's Answer 2-6.

²⁹ Mot. 19.

³⁰ Mot. 19.

³¹ Mot. 19. The court notes this testimony occurred at the defendant's postconviction evidentiary hearing in January 2003.

³² Mot. 19.

³³ Mot. 19.

³⁴ Mot. 19.

³⁵ Mot. 20.

³⁶ Mot. 20.

“[T]o establish a *Giglio* violation, it must be shown that: (1) the testimony given was false; (2) the prosecutor knew the testimony was false; and (3) the statement was material.” Guzman v. State, 941 So. 2d 1045, 1050 (Fla. 2006) (citation omitted). “False testimony presented in violation of *Giglio* is material if there is any reasonable likelihood that the false testimony could have affected the judgment of the jury.” Merck v. State, 260 So. 3d 184, 192 (Fla. 2018) (internal citation and punctuation omitted).

We also made it clear that the State bears the burden of proof on this [materiality] prong. We stated that it must prove that the presentation of the false testimony was harmless beyond a reasonable doubt. To meet the harmless error standard, the State must establish that there is no reasonable possibility that the error contributed to the conviction.

Guzman, 941 So. 2d at 1050 (internal punctuation and citations omitted). In other words, “. . . the dispositive question is whether the State has established beyond a reasonable doubt that the knowing use of perjured testimony, or failure to disclose the perjury once it was discovered, did not affect the verdict.” Id. at 1050-51.

However, the defendant is not entitled to relief. First, the defendant does not demonstrate that the instant claim is timely. Jake Ozio’s alleged testimony was known or discoverable in 2000.³⁷ James Taylor’s alleged testimony was known or discoverable before 2005.³⁸ Timothy Crenshaw’s alleged testimony was known or discoverable in 2003.³⁹ The instant claim was not filed within one year of the date the evidence was or could have been discovered through due diligence. As a result, the instant claim does not qualify under an exception to rule 3.851’s filing deadline and is untimely.

³⁷ Aff. Jake Ozio, Nov. 19, 2000 (Attach. 3).

³⁸ Mot. 26; Suggs, 923 So. 2d at 427-28; Evidentiary Hr’g Tr. 44, Jan. 23, 2003 (Attach. 4).

³⁹ Evidentiary Hr’g Tr. 45, Jan. 23, 2003 (Attach. 4).

Second, even if the instant claim was timely, the defendant is still not entitled to relief. The defendant does not establish the elements required by Giglio. For example, the defendant does not show that the evidence is false. Timothy Crenshaw's testimony does not reflect that he has any personal knowledge to refute Wallace Byars' and James Taylor's testimony that they did not receive a benefit in exchange for testifying. In a previous postconviction proceeding, the Court determined that former Sheriff Quinn McMillian was credible.⁴⁰ The Court also determined that there was no credible evidence that Wallace Byars and James Taylor were used as agents for the State.⁴¹ Jake Ozio's testimony does not show that he has any personal knowledge of the instant case, and, accordingly, his testimony cannot establish that James Taylor's testimony regarding the knife was false.

Additionally, the defendant does not establish that the prosecutor knew the testimony was false. Jake Ozio's testimony does not show that the prosecutor in this case was aware of any false testimony. Instead, the defendant's use of Jake Ozio's testimony is too speculative to prove that the prosecutor was aware of false testimony in this case. The defendant cannot demonstrate that the prosecutor knew, or even that the prosecutor should have known, any testimony was false.

Furthermore, the statements were not material. There is no reasonable likelihood that the witnesses' testimony affected the judgment of the jury. The jury likely concluded that Wallace Byars and James Taylor were merely attempting to obtain more favorable sentences for their own unrelated offenses, and, therefore, they lacked any credibility. This outcome is especially likely considering Wallace Byars and James Taylor had existing criminal histories with multiple

⁴⁰ See Suggs, 923 So. 2d at 427.

⁴¹ See Suggs, 923 So. 2d at 427.

convictions.⁴² After police met with Wallace Byars and James Taylor regarding their knowledge in this case in August 1990, both witnesses received favorable sentences in their respective criminal cases.⁴³ Wallace Byars received a three-year county jail sentence, even though he was facing the likelihood of a substantial prison term.⁴⁴ James Taylor's term of probation was extended, even though he was not a model probationer who followed the terms of his probation without any violations or issues.⁴⁵ Wallace Byars also had mental health issues, including hallucinations, and substance abuse issues.⁴⁶ Therefore, the instant claim is denied.

(IV) Massiah Claim

In his fourth claim, the defendant alleges that the state violated the defendant's Sixth and Fourteenth Amendment right to counsel by using state agents (Wallace Byars and James Taylor) to elicit incriminating statements from the defendant.⁴⁷ However, the record is clear that the defendant raised this Massiah claim in a previous postconviction motion.⁴⁸ After an evidentiary hearing was held in January 2003, the trial court determined that the defendant failed to establish that Wallace Byars and James Taylor were used as state agents to obtain incriminating statements from the defendant.⁴⁹ The defendant's Massiah claim was denied by order rendered on June 12, 2003, and affirmed on appeal.⁵⁰ The defendant may not use a successive rule 3.851

⁴² R. 3405, 3408-11, 3409-12, 3450-51, 3578-79, 3580-81, 3584, 3588, 3885.

⁴³ Mot. Attachs. J-L; R. 3405, 3408-11, 3409-12, 3450-51, 3559, 3578-79, 3580-81, 3584, 3588, 3885.

⁴⁴ R. 3405, 3409-12, 3450-51.

⁴⁵ R. 3559, 3578-79, 3580-81, 3584, 3588, 3885.

⁴⁶ Tr. 18-19, Feb. 2, 2023 (Attach. 1); R. 3409-12.

⁴⁷ Mot. 21-23.

⁴⁸ Attach. 6, Post-Evidentiary Hearing Memorandum 28, Apr. 16, 2003; Def's. Written Closing Arguments 15-20, Mar. 24, 2003; Florida Supreme Court Op., Nov. 17, 2005; Florida Supreme Court Mandate, Mar. 17, 2006; Suggs, 923 So. 2d 419 (Fla. 2005); Order on Def's. Second Am. Mot. Postconviction Relief, Claims IV, V, VI, VII, VIII, IX, and X, June 12, 2003 (Attach. 2).

⁴⁹ See Suggs, 923 So. 2d at 427.

⁵⁰ Order on Def's. Second Am. Mot. Postconviction Relief, Claims IV, V, VI, VII, VIII, IX & XI, June 12, 2003 (Attach. 2); Suggs, 923 So. 2d 419 (Fla. 2005).

motion to raise an issue that has already been litigated in a previous rule 3.851 motion.

Therefore, the instant claim is procedurally barred and denied.

Even if the instant claim was timely⁵¹ and was not procedurally barred, the defendant is not entitled to relief. A harmless error analysis applies to Massiah violation claims. See Milton v. Wainwright, 407 U.S. 371, 372 (1972) (“Assuming, arguendo, that the challenged testimony should have been excluded, the record clearly reveals that any error in its admission was harmless beyond a reasonable doubt.”).

The harmless error test . . . places the burden on the state, as the beneficiary of the error, to prove beyond a reasonable doubt that the error complained of did not contribute to the verdict or, alternatively stated, that there is no reasonable possibility that the error contributed to the conviction.

State v. DiGuillio, 491 So. 2d 1129, 1138 (Fla. 1986). In other words, “[t]he focus is on the effect of the error on the trier-of-fact. The question is whether there is a reasonable possibility that the error affected the verdict.” Id. at 1139.

There is not a reasonable possibility that the testimony of Wallace Byars and James Taylor contributed to the verdict. First, evidence of the defendant’s guilt is substantial and overwhelming.⁵² For example, the victim’s palm print was found inside the defendant’s vehicle, and the victim’s fingerprints were discovered on the outside of the defendant’s vehicle.⁵³ Human blood was found on the defendant’s shirt that was consistent with the victim’s blood.⁵⁴ Tire tracks consistent with tracks similar to ones made by the defendant’s vehicle were located mere feet from the victim’s body.⁵⁵ The defendant was the last person to be seen with the victim

⁵¹ The court notes the instant claim is also untimely for the reasons explained in section I above.

⁵² Mot. 3-8; State’s Answer 2-6.

⁵³ R. 3359-60.

⁵⁴ Suggs, 644 So. 2d at 65; R. 4294.

⁵⁵ Suggs, 923 So. 2d at 430.

before she went missing, and the victim was discovered in bloody clothing only hours after she disappeared.⁵⁶ The victim's key to the Teddy Bear Bar was found in the water behind the defendant's home.⁵⁷ Cash in the approximate amount taken from the Teddy Bear Bar was found in a sink at the defendant's home.⁵⁸

Second, the jury may have determined that Wallace Byars and James Taylor lacked any credibility, and, therefore, their testimony had no effect on the jury's verdict. This outcome is especially likely considering Wallace Byars and James Taylor had existing criminal histories with multiple convictions.⁵⁹ Wallace Byars also had mental health issues, including hallucinations, and substance abuse issues.⁶⁰ After police met with Wallace Byars and James Taylor regarding their knowledge in this case in August 1990, both witnesses received favorable sentences in their respective criminal cases.⁶¹ Wallace Byars received a three-year county jail sentence, even though he was facing the likelihood of a substantial prison term.⁶² James Taylor's term of probation was extended, even though he was not a model probationer who followed the terms of his probation without any violations or issues.⁶³ The jury likely concluded that Wallace Byars and James Taylor were not credible because they were merely attempting to obtain more favorable sentences for their own unrelated offenses. Therefore, the instant claim is denied.

⁵⁶ Suggs, 644 So. 2d at 65.

⁵⁷ Suggs, 644 So. 2d at 65-66.

⁵⁸ Suggs, 923 So. 2d at 426; R. 2245, 2336, 2740, 2768.

⁵⁹ R. 3405, 3408-11, 3409-12, 3450-51, 3559, 3578-79, 3580-81, 3584, 3588, 3885.

⁶⁰ Tr. 18-19, Feb. 2, 2023 (Attach. 1).

⁶¹ Mot. Attachs. J-L; R. 3405, 3408-11, 3409-12, 3450-51, 3559, 3578-79, 3580-81, 3584, 3588, 3885.

⁶² R. 3405, 3409-12, 3450-51.

⁶³ R. 3559, 3578-79, 3580-81, 3584, 3588, 3885.

(V) Successive Rule 3.851 Motion

Rule 3.851 allows a court to deny a successive motion if the motion (1) raises new and different grounds but no good cause exists for failing to assert those grounds in a prior motion or (2) fails to abide by the rule’s time limits, such as newly discovered evidence claims. As described above, the defendant’s claims are untimely and fail to satisfy an exception to the rule’s filing deadline. Additionally, the defendant’s Massiah claim is not properly raised in the instant motion and is procedurally barred. Therefore, the court finds that the instant motion is untimely, successive, procedurally barred, and unauthorized under rule 3.851(d)(1)-(2), (e)(2).

Accordingly, it is hereby **ORDERED** that the defendant’s Successive Motion to Vacate Judgment and Sentence Under Florida Rule of Criminal Procedure 3.851, electronically filed by counsel on May 16, 2022, is **DENIED with prejudice**. The defendant has thirty days to file his notice of appeal.

DONE AND ORDERED in Chambers in DeFuniak Springs, Walton County, Florida.



signed by KELVIN WELLS
on 04/03/2024 10:36:51 spa8dchr

**KELVIN C. WELLS
CIRCUIT JUDGE**

KCW/elk

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and accurate copy of the foregoing Order has been furnish by regular U.S. mail or electronic delivery (as indicated below) to:

DAWN MACREADY, Chief Assistant CCRC-North
by *electronic delivery* to: Dawn.Macready@ccrc-north.org and support@ccmr.state.fl.us

Certificate of Service Continued on the Next Page

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JOSHUA MITCHELL, Assistant State Attorney, First Judicial Circuit

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ERNEST SUGGS, DC# 220267

Union Correctional Institution, P.O. Box 1000, Raiford, Florida 32083

ALEX ALFORD

Clerk of Court

Chelsea Beltran 

eSigned by CHELSEA BELTRAN
on 04/03/2024 14:09:23 QjB5E4Pp

BY: _____

Deputy Clerk

Supreme Court of Florida

MONDAY, OCTOBER 20, 2025

Ernest D. Suggs,
Appellant(s)

v.

State of Florida,
Appellee(s)

SC2024-0660

Lower Tribunal No(s).:
661990CF000338CFAXMX

Ernest D. Suggs,
Appellant(s)

v.

State of Florida,
Appellee(s)

SC2024-0702

Lower Tribunal No(s).:
661990CF000338CFAXMX

Appellant's Motion for Rehearing is hereby denied.

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

A True Copy

Test:

 SC2024-0660 & SC2024-0702 10/20/2025

John A. Tomasino

Clerk, Supreme Court

SC2024-0660 & SC2024-0702 10/20/2025



KC

CASE NO.: SC2024-0660 & SC2025-0702

Page Two

Served:

CAPAPPEALS TLH ATTORNEY GENERAL

WALTON CLERK

DAWN BRANDI MACREADY

JOSHUA ALLAN MITCHELL

JANINE D. ROBINSON

HON. JOHN F. SIMON, JR.

HON. KELVIN C. WELLS

IN THE CIRCUIT COURT OF THE FIRST JUDICIAL CIRCUIT,
IN AND FOR WALTON COUNTY, FLORIDA

STATE OF FLORIDA,

Case No. 1990-CF-000338

v.

ERNEST D. SUGGS,
Defendant.

**SUCCESSIVE MOTION TO VACATE JUDGMENT AND SENTENCE UNDER
FLORIDA RULE OF CRIMINAL PROCEDURE 3.851**

Ernest Donald Suggs respectfully moves for an order, pursuant to Florida Rule of Criminal Procedure 3.851, vacating and setting aside his conviction and death sentence.

PROCEDURAL HISTORY

Suggs was indicted on August 22, 1990, by a Walton County grand jury for (1) the first-degree murder of Pauline Denise Casey; (2) robbery; and (3) kidnapping. (R.11).¹ Suggs was found guilty on all three counts on June 8, 1992. (R. 1719-20). After the penalty phase, the jury recommended a death sentence by a 7-5 vote. (R. 1756). On July 15, 1992, the trial court imposed a death sentence. (R. 1844-51). *See* Attachment M. The Florida Supreme Court affirmed his conviction and sentence on direct appeal. *Suggs v. State*, 644 So. 2d 64 (Fla. 1994).² The United States Supreme Court thereafter denied certiorari. *Suggs v. Florida*, 514 U.S. 1083 (1995).

On January 24, 1997, Suggs filed a Rule 3.850 Motion. The motion was amended twice. Following the evidentiary hearing on January 23 and 24, 2003, the postconviction court denied all

¹ Citations are as follows: references to the record on direct appeal are “R. ___”. References to the record on appeal from state postconviction are “PC-R. ___”. References to the postconviction evidentiary hearing are designated as “PC. Ev. ___”.

² Suggs raised the following issues: 1) denial a *Richardson* hearing; 2) denial of a motion to suppress; 3) denial of a motion for mistrial; 4) the cumulative effect of the State’s improper arguments and tactics; 5) insufficient evidence; 6) denial of motion to preclude in-court identification; 7) erroneously admitted evidence; 8) the jury considered non-statutory aggravating circumstances and was instructed on aggravating circumstances that were not established.

relief on all claims. (PC-R. 334-347). Suggs appealed the postconviction court's order denying relief and filed a Petition for Writ of Habeas Corpus in the Florida Supreme Court. The Florida Supreme Court affirmed the circuit court's denial of postconviction relief under Rule 3.850 and denied Suggs' petition for habeas corpus relief in the same opinion on November 17, 2005. *Suggs v. Florida*, 923 So. 2d 419 (Fla. 2005).³

On October 27, 2015, Suggs filed a Successive Motion to Vacate Judgement and Sentence with Special Request for Leave to Amend Pursuant to Rule 3.851.⁴ On February 29, 2016, this Court entered an order summarily denying Suggs' motion. The Florida Supreme Court affirmed the denial of this motion. *Suggs v. Florida*, 238 So. 3d 699 (Fla. 2017).

Following *Hurst v. Florida*, 136 S. Ct. 616 (2016) and *Hurst v. State*, 202 So. 3d 40 (Fla. 2016), Suggs filed a Petition for Writ of Habeas Corpus in the Florida Supreme Court and a successive Rule 3.851 Motion. The motion was denied by this Court. The Florida Supreme Court affirmed and denied the petition. *Suggs v. State*, 234 So. 3d 546 (Fla. 2018).

On November 2, 2018, Suggs filed a successive Rule 3.851 Motion that is currently pending before this Court.⁵

³ Suggs raised the following issues: 1) Rule 3.851 is unconstitutional; 2) Records had been improperly withheld; 3) the time limitation of Rule 3.851 is unconstitutional; 4) Newly discovered evidence that Alex Wells murdered Pauline Casey; 5) The State presented perjured testimony; 6) The State violated *Massiah*; 7) Suggs was denied effective assistance of counsel; 8) Suggs was denied his rights under *Ake*; 9) The State withheld material evidence; 10) Suggs was not present during all of trial; 11) Suggs is innocent of the death penalty; 12) Invalid search warrants; 13) Suggs' right to conflict-free representation was violated; 14) Trial counsel waived Suggs' rights; 15) Suggs' counsel could not interview jurors; 16) Suggs' death sentence is unconstitutional; 17) Florida's capital sentencing statute is unconstitutional; 18) Suggs is insane to be executed; 19) Electrocution and/or lethal injection is cruel and unusual; 20) Lethal injection is unconstitutional; 21) cumulative error. Suggs raised the following issues in the habeas petition: 1) Florida's capital sentencing scheme is unconstitutional; 2) the instructions read at Suggs' trial were unconstitutional 3) The elements of the aggravating factors were not charged in the indictment.

⁴ Suggs raised the following newly discovered evidence: 1) the victim's daughter was molested, raped and impregnated by Steve Casey; 2) Capt. Brad Trusty told the dive team where to find crucial evidence; 3) the trial court violated *Caldwell v. Mississippi*; 4) exculpatory evidence was destroyed by FBI analyst Michael Malone; and 5) WCSO was being investigated by the FDLE for misconduct.

⁵ Suggs raised the following claims: (1) Newly discovered evidence of Mark Riebe's confession to the crime for which Suggs has been sentenced to death; (2) the State's suppression of statements made by Mark Riebe violated *Brady v. Maryland*; and (3) The Florida Supreme Court considered evidence outside the record in denying Suggs relief.

SUMMARY OF FACTS RELEVANT TO THIS MOTION

A. The case against Suggs was weak and has eroded over time

The State's case at trial against Suggs relied entirely on circumstantial evidence. The victim, Pauline Casey, went missing on the evening of August 6, 1990. According to State witness Ray Hamilton, Suggs was the last person at the Teddy Bear Bar with her before it was discovered after 11:00 p.m. that she was missing. (R. 2223). Based on Hamilton's statements, police put out a BOLO for Suggs and arrested him at about 4:50 a.m. on August 7, 1990. (R. 2684-85). Pauline Casey's body was found several hours later off a dirt road on U.S. Highway 98. (R. 2332-35). Despite the brutality of the murder, in which the victim's body was violently stabbed and dragged, (R. 3374-76), and the thick, nearly impenetrable brush that the body was found in, (R. 3005), Suggs had no scratches or injuries, and no blood was found on or in his vehicle, (R. 3010, 3331).

The State's case at trial was not particularly strong. Only minimal physical evidence connected Suggs to Pauline Casey: one single "stain" on the shirt Suggs was wearing when arrested that contained an enzyme type that was consistent with the victim and 90% of the Caucasian population, but was the basis of an extensive dispute at trial as to whether the source of the stain was human blood or other bodily fluid, (R. 3164-67, 3189, 4012-13);⁶ and two of her fingerprints found on the exterior of Suggs' vehicle and a partial palm print of hers that was found on the interior passenger door handle of his jeep, (R. 3360).⁷ Law enforcement did not find any evidence that tied Suggs to the scene of the crime except a tire track which had "similar" characteristics to

⁶ In addition to the fact that the State could not prove that the stain belonged to the victim and the extensive dispute regarding whether the stain was even blood, the integrity of the State's testing was heavily impeached at trial, given that Suggs was still wearing the shirt for several hours after he was arrested, (R. 874, 2830), it was improperly stored for over a week, (R. 3083-84, 3106-07), and there were several "red flags" in the test results that "should [not] have happened," according to the defense expert who previously worked for FDLE, (R. 4012-13, 4030, 4032-33, 4058).

⁷ Suggs was a friend of Ms. Casey, who referred to him as her "friend from Alabama." (R. 3672-73). She had been helping him find a job and had been seen out with him at a different bar previously, likely explaining why her prints were on the car in a place consistent with someone opening and shutting the passenger door. (R. 2816-17, 3360, 3366).

the tires on Suggs' jeep but could have been made by another vehicle. (R. 3283, 3288, 3302, 3305-06).⁸ Investigators conducted a search of Suggs' parents' house and found \$176 in wet bills in a sink. However, Suggs' mother testified that his parents had given him \$250 for painting the roof and two \$50 checks for his birthday, one of which Suggs had cashed. (R. 3914-16). Suggs explained to investigators that the money got wet when he fell into the bay working on the dock. (R. 2756). A dive team conducted a search of the bay behind Suggs' parents' home in the days after his arrest and recovered a beer glass similar to those used at the Teddy Bear Bar, and a key that fit into one of the locks at the bar. (R. 2872, 2999). This evidence was bolstered by the jailhouse snitch testimony, which will be discussed in more detail below.

Law enforcement immediately homed in on Suggs as their only suspect to the exclusion of two other obvious suspects: Steve Casey and Ray Hamilton. Both Casey and Hamilton were prime suspects, but once the victim's body was found the investigation into those two stopped. (R. 2765). The officers candidly testified that seeking evidence that someone else may have had a motive or opportunity, or otherwise might have committed this crime was "not real high on the list of priorities of the department." (R. 2727-28). There were no attempts made to search Casey or Hamilton, their homes, seize their clothing, check their vehicles for evidence, or to check for unexplained bank deposits or sudden income even though both had personal relationships with the victim and there were no signs of a struggle inside the bar. (R. 2759, 2761, 3008).

Steve Casey, the victim's husband, gave the alibi that he was alone home the night of the murder after selling his truck earlier in the evening; but Casey insisted he could neither remember

⁸ Whether the tire track could have even come from Suggs' jeep was heavily disputed at trial, given that there were no "individual" characteristics found in the tracks that matched the tires on his jeep, (R. 3288), only the back two tires matched the tracks at the scene and there was no overlap in the tracks which should have been present because the frame of the truck was "warped," (R. 4111-26). Additionally, law enforcement collected blue paint scrapings from branches at the scene, which could not have come from Suggs' green jeep, (R. 4101), vegetation caught in the undercarriage of his jeep could not be matched to the vegetation at the scene, (R. 3133-34), and investigators did not find any blood in or on his jeep despite the substantial amount of blood at the scene, (R. 3010, 3331).

to whom he sold the truck nor how much money he received for it. (R. 3682-83). The State produced his telephone records at the trial, which showed that he received a phone call around 9:30 p.m. from the victim and Hamilton that lasted around 10 minutes. (R. 2684). Casey testified that he went to sleep after the call. (R. 3686). There was no one to verify his activities from then until midnight when Casey stated that he told Hamilton that he was going to the bar because he had gotten a call that his wife was missing. (R. 3686). After trial, it came to light that Casey had actually sold the car previous day. (PC. Ev. 140-42).⁹ At the time of the murder, Pauline was working two jobs while Steve was out of work. (R. 3669-72). A few days after the murder, Casey requested the victim's certified military records to file for life insurance. Casey collected \$50,000 from the army and bought a Harley Davidson, traded the victim's car in for a truck for himself and made a down payment on a lot on the bay. (R. 3692-93). Casey never told law enforcement about the life insurance policy. (R. 3693-94).

Ray Hamilton, who previously dated the victim, lived in a mobile home on the property behind their home. (R. 2790). He testified at trial that he arrived at the Teddy Bear Bar around 8:30 or 9:00 p.m., (R. 2788), talked on the phone with Steve Casey around 9:45 p.m., and left the bar ten minutes after the call. Suggs and the victim were the only two remaining in the bar. Hamilton testified that he left to go to Winn Dixie before it closed at 10:00 p.m., but he did not make it on time. (R. 2798). Instead, he went to a Dominos and got a pizza, which he ate at home alone before falling asleep. In an ostensible attempt to support his alibi, he gave the detectives working the case a "portion" of a pizza box, which did not have a date or time stamp or any other

⁹ Trial counsel testified during postconviction that the investigator who discovered this hole in Casey's alibi was not hired until after the jury returned the guilty verdict. (PC. Ev. 142).

confirmation of his alibi. (R. 2800, 3070). Detectives accepted the partial pizza box without independently verifying Hamilton's alibi. (R. 3072).¹⁰

Evidence presented both at and after trial has raised serious questions about the search of the bay. Suggs was arrested early on August 7, 1990. (R. 2718). The next day, the law enforcement called the dive team to search the water behind his parents' house. (R. 2861-62). Late in the day on August 8, a diver found the beer glass in two feet of water. (R. 2872, 2886). The next day, the key was found in four feet of water. (R. 2874-75, 2979). Prior to the search, Suggs' arrest had received substantial publicity and the Sheriff held a press conference early on August 7. The press was being kept advised of the progress of the investigation. (R. 3100-03). There was no security posted at the home before the search began. (R. 2701). The house and the location of the dive were clearly visible from the bridge causeway. (R. 2711, 2978). The house was easily identifiable as the Suggs' residence given that the name 'Suggs' was visible in two different locations. (R. 2700).¹¹

Additionally, Suggs raised a postconviction claim in 2015 based on statements by Wyatt Henderson, the lead dive team member. Henderson disclosed, for the first time, that on the second day of the search, Captain Brad Trusty directed the dive team to search a different area based on a "visible waterline" on Suggs' pants, indicating that the dive team should search further out in the bay than they otherwise would have. It was during this search that the key to the bar was discovered. No law enforcement report, statement, or testimony has ever mentioned this "waterline" in Suggs' shorts. Nor did law enforcement ever produce a photograph of the shorts Suggs was wearing the night of the murder indicating a "visible waterline." Further, investigator

¹⁰ During the jury's guilt phase deliberation, the jury requested the transcripts of the depositions and trial testimonies of Casey and Hamilton. (R. 4536). However, the jury was not provided with the depositions because they were not in evidence and their trial testimonies were not provided due to a logistical issue. (R. 4548).

¹¹ By the morning after the crime, Steve Casey knew that Suggs had been arrested and that he had been working on his parents' home on the bay. (R. 3687). At trial, investigators acknowledged that if someone wanted to try to tie Suggs to the crime, they could have left a key in the water behind Suggs' house. (R. 2714).

Steve Sunday included in a report that he received a key from the owner of the Teddy Bear Bar on August 8 for the purpose of showing it to the dive team. However, Henderson stated that the dive team was never shown a key before recovering one the next day from the bay.¹²

In the years after Suggs' trial, FDLE initiated a large-scale investigation of suspected Walton County serial killers Alex Wells and Mark Riebe. While both men, who are brothers, were convicted for their roles in the murder of Donna Callahan, Mr. Riebe continued to be of interest to FDLE. After Pauline Casey was found murdered, law enforcement immediately suspected that she was the victim of a serial killer. In particular, law enforcement looked at the similarities between the Casey murder and the murders of Callahan and Rhonda Taylor, which had both occurred within the previous year. In fact, following Suggs' arrest in connection with this case, he was a suspect in the Callahan and Taylor cases.¹³ However, after it became clear that Suggs could not have committed those murders, he was dropped as a suspect. Wells and Riebe were both convicted of the murder of Callahan and remain suspects in the Taylor murder as well as the disappearances of several other women in the Florida panhandle.

Mark Riebe has since confessed to murdering Pauline Casey. In 2017, Mark Riebe's own mother, Patsy Wells, executed an affidavit stating that Riebe had confessed to her on at least two occasions that he murdered Pauline Casey. Riebe told to his mother he took Pauline Casey to a dirt road and killed her there. Additionally, Riebe confessed to a fellow inmate, Randy Sheheane, that

¹² The Florida Supreme Court denied relief, finding that this evidence was not material. *Suggs*, 238 So. 3d at 706. However, this Court is still required to consider this evidence when conducting cumulative materiality analysis of the claims raised in this motion. *See Swafford v. State*, 125 So. 3d 760, 776 (Fla. 2013).

¹³ Callahan disappeared a year before Casey on August 6, 1989. Like Casey, Callahan disappeared from the place she worked alone around 11 p.m. No sign of a struggle was present in either case. Both businesses were found open and unlocked after the victims disappeared and each victim's car was left in the parking lot.

Exactly one month before on July 6, 1990, Taylor disappeared. She was found dead the next day inside a car parked in Fort Walton Beach. Like Casey, she had been cut and stabbed. Dr. Edmund Kielman, the deputy medical examiner who examined both bodies, indicated that the killings looked similar enough to be related. Neither body bore any sign of a struggle. The stab wounds were above the breast line and below the chin. There were no signs of a sexual assault on either body. However, the stabbings were both "mad-dog affairs."

he killed a woman and had an argument with Wells about where to dump her body. Riebe told Sheheane that they dumped the woman's body off a dirt road off Highway 98 in Walton County, where Pauline Casey's body was discovered.¹⁴ Riebe confessed to Randy Chapman that he killed a female bartender in Walton County, Florida. These confessions formed the basis of claims raised in the successive 3.851 motion that is currently pending in this Court.

B. The intertwined use of jailhouse snitches at the trials of Suggs and Gary Whitton

The claims in this motion are based on the recent statement of James Taylor, who confirmed that he was a state agent who was put in Suggs' cell to gather information to be used against him, and the deposition testimony of Jake Ozio, who was a jailhouse snitch at the capital murder trial of Gary Whitton. During a 2021 deposition, Ozio explained that he was told by Walton County officials what to say—and what not to say—at the Whitton trial. In particular, he was told not to mention details that had been testified to by Taylor at Suggs' trial the previous month.

i. The use of jailhouse snitches at Suggs' trial

Suggs went to trial on May 28, 1992. The case was prosecuted by Assistant State Attorney Clayton Adkinson. The State's theory was that Suggs used a knife, but it was unable to recover the murder weapon. The State had evidence that Suggs' was in the Teddy Bear Bar with the victim the night she died, but lacked evidence that Suggs committed the crime. To shore up its case, the State presented the testimony of two jailhouse snitches: Wallace Byars and James Taylor.

According to police reports, Byars and Taylor each came forward to law enforcement with knowledge of Suggs' confessions one day before the State brought the case to a grand jury. Byars was facing 15-17 years in prison after shooting at a sheriff substation and holding the substation under siege for four hours. Byars was then found incompetent by a judge in July. While awaiting

¹⁴ Wells called his probation officer on August 5, 1990 to report that he was in Walton County.

transport to the state hospital, Byars gave the statement claiming that Suggs had confessed. Byars testified that he was not promised anything in exchange for his testimony. (R. 3404-05). *See* Attachment K. However, on March 6, 1991, Byars entered into a plea agreement with the State that called for a three-year sentence to be served in Walton County Jail, “if sheriff agrees.” (R. 3490). Sheriff Quinn McMillian wrote a letter to the judge asking that Byars be allowed to serve a sentence of three years in WCJ and agreeing there would be no probation after incarceration. McMillian wrote the letter knowing that Byars had made a statement. (R. 3751-52, 3754).

Taylor was a “professional jailhouse informant” who was being held in WCJ in August 1990 because he was a witness for the prosecution in an unrelated case. (R. 4780). Taylor worked as an informant for DEA, Customs, FDLE, and the Walton County Sheriff’s Office. (R. 3576, 3602). Taylor admitted he was an “informant” for the government and worked drug cases while he was in prison. (R. 3604). Taylor was scheduled for a violation of probation proceeding for August 24, 1990, before coming forward to law enforcement officers with Suggs’ alleged statement. (R. 3434, 3539, 3580). *See* Attachment J. Following his statement to law enforcement officers, Taylor’s probation was extended three years. (R. 3580, 3609). At the August 24 hearing in Taylor’s case, the prosecutor stated that, at the request of the Sheriff’s Department, Taylor was “restored to probation.” Attachment L.

Suggs had been placed in a cell with Byars and Taylor. According to Byars, Suggs told him that he had killed Pauline Casey and it was “over a robbery, and -- there was another intention there that he was going to rape her.” (R. 1270, 1272, 1276, 3399, 3407). Byars also claimed that Suggs said that he stabbed her and “damn near cut her head off” and drug her body off to the side of a dirt road. (R. 3400). According to Taylor, Suggs said that he felt law enforcement was bluffing about finding a key and a glass in the bay behind his house because the key would have been

aluminum or brass and a magnet would not pick it up or the glass. (R. 3537). Suggs also allegedly said that because Pauline Casey was dead there was no one to testify against him. Suggs allegedly said that because there was no witness or weapon he felt he could beat this case. (R. 3538). Suggs also allegedly told him that he had “damn near taken her head off.” (R. 3539).

Additionally, at Suggs’ trial, Taylor testified to an entirely new detail about the murder weapon that he had not previously mentioned:

ADKINSON: At that point, what did he say to you about whether or not they would find a weapon here in this case?
TAYLOR: He said they did not have a weapon and would not find one.
ADKINSON: Okay. Did he ever make a statement to you concerning what he did with the weapon that he used in this case?
TAYLOR: Yes, sir.
ADKINSON: What did he say he did with it?
TAYLOR: He said he threw it in, in the canal while he was crossing the bridge.
ADKINSON: Okay. Did you ever have an occasion to discuss with the defendant any other physical evidence that they might have on him in this case?
TAYLOR: Yes, sir.
ADKINSON: What items were those that you discussed?
TAYLOR: We discussed the items of the key and the glass that was found behind his parents' home, or cabin.

(R. 3536-37) (emphasis added). On cross, Taylor was then impeached for not having previously disclosed this alleged detail regarding throwing the knife in a “canal:”

KIMMEL: Okay. And lastly, isn't it accurate to say that in the statement you made August 21st to the police officers that you made no reference, with regard to Suggs and Mrs. Casey, to him throwing the knife in the canal while crossing the bridge?
TAYLOR: I don't think I made that statement at that time. We had not had that conversation.
KIMMEL: Okay. But it's your testimony today that that's what he said.
TAYLOR: Yes, sir.

(R. 3588-89). Taylor also never mentioned that detail in either of the two pretrial depositions he gave. (R. 723-766, 1680-1718). Taylor was also impeached for not including the “taken her head

off” line in his original statement. (R. 3588). The State relied heavily upon the snitches in their closing argument, including the fact that Suggs had apparently thrown the murder weapon in a “canal.” (R. 4374, 4388, 4407-11, 4501-02, 4504, 4507-08).

Taylor testified during the penalty phase. (R. 4624). The trial court relied upon the snitch testimony in sentencing Suggs to death. (R. 1846-47) (“[T]he Court agrees with the Defendant’s

lacked evidence that Whitton committed the crime. Thus, to shore up its case, the State presented the testimony of two jailhouse snitches: Jake Ozio and Kenneth ‘Satan’ McCollough.

According to the taped statements disclosed to Whitton’s trial counsel, Ozio came forward on April 17, 1992 with a confession allegedly made by Whitton that Ozio overheard Whitton made to Satan. *See* Attachment B. Ozio had been arrested in March in Walton County while on a Spring break trip and placed in WCJ. Ozio then came forward with Whitton’s alleged confession while on a trip with Walton County Sheriff deputies to locate items stolen by Ozio. The next day, Adkinson and McMillian then took a helicopter to the prison where Satan was being housed and met with Satan for approximately four to five hours between lunch and 4:45 p.m., before turning the tape recorder on and having Satan make a taped statement implicating Whitton for the first time. *See* Attachments E & F. During his pretrial deposition, Satan confirmed that he had previously been an informant for law enforcement in Walton County multiple times before. *See* Attachment G, at 16-17. Satan also disclosed that he had a personal relationship with the mother of Adkinson and she frequently visited Satan in the jail with the permission of Sheriff McMillian. *Id.* at 10.

Neither snitch mentioned anything about a murder weapon in their original taped statements. However, during a May 5, 1992 pretrial deposition, Ozio stated, for the first and only time, that Whitton mentioned the murder weapon in his confessional conversation with Satan:

BISHOP: Were you ever able to understand anything else that was said after that?

OZIO: I caught bits and pieces of the conversation after that, about where the clothes were located, about **something about where the knife was--there was a knife involved--about where the knife was.**

BISHOP: Do you remember where that was?

OZIO: **Pensacola. There's supposed to be some kind of ravine or canal not too far from his parents' house.**

BISHOP: From his parents' home?

OZIO: If I'm not mistaken. Like I said, the conversation was muffled. I really didn't get any detail on that, so I couldn't swear to any of that. Like I said, what I heard, I heard, but that was, more or less, kind of muffled.

Attachment C, at 16-17 (emphasis added). At trial, Ozio was not asked about Whitton's apparent statement regarding the murder weapon, despite the fact that the State had been unable to locate a knife in the Whitton case. *See* Attachment D. Likewise, Satan made no mention of a murder weapon at trial. *See* Attachment H.

During postconviction, Whitton presented the testimony of Billy Key. *See* Attachment I. Key was an inmate in WCJ during the time of Suggs' trial. After Whitton's trial, Satan attempted to come clean that he lied at Whitton's trial.¹⁵ Satan received help in reaching out to Whitton's attorneys from Key, who worked as a clerk in the prison law library. Satan told Key that he had made a deal with the State in exchange for his testimony. Because Satan had not actually known anything about the Whitton case, Adkinson "told him everything to say." *Id.* at 3761.

C. The newly discovered evidence of Jake Ozio's 2021 deposition testimony

On May 17, 2021, Jake Ozio testified during a deposition in the Whitton case. *See* Attachment A. A key witness against Whitton, Ozio, admitted to testifying falsely at the State's behest about overhearing Whitton confess to murder and lying to the jury at his trial about the favorable treatment he received in exchange. After agreeing to testify against Whitton, Ozio's favorable treatment included reduced charges and prompt release from jail.

Ozio stated during the deposition that in 1992, he was arrested in Walton County while on a Spring break trip and placed in WCJ. *Id.* at 8-9. Walton County Sheriff deputies took Ozio out of the jail several times. *Id.* at 12-13. During the first trip, officers brought up Whitton's case and led Ozio to believe that the only way he could avoid a prison sentence was to become a witness

¹⁵ Satan was unable to do so under oath as he died in 2000 while Whitton's direct appeal was still pending.

against Whitton. *Id.* at 14-15. They suggested what Ozio could say he “overheard” Whitton confess. *Id.* at 15. They “were very good as far as leading . . . anyone with half a brain could follow what they were laying down.” *Id.* at 16. One of the two officers involved was Deputy Brad Trusty, who was featured heavily in Suggs’ case. *Id.* at 13, 15, 70. After agreeing to testify, Ozio was released from jail and allowed to return home to Texas. *Id.* at 26-27.

Ozio returned to Walton County to testify at the Whitton trial in July 1992. The night before his testimony, a representative of the State who Ozio did not know prepared him in his hotel room. *Id.* at 34-36. Although Ozio did not recall their name while testifying during the deposition, in the hallway after the deposition, Ozio was shown a portrait the Walton County Sheriff maintains of Quinn McMillian on its website.¹⁶ Ozio unequivocally confirmed that Sheriff McMillian was the person who coached his testimony the night before the Whitton trial.

In the hotel room that night, McMillian told Ozio “specifically you need to say this, say it this way, you need to use this word, this date.” *Id.* at 34. In particular, McMillian did not want Ozio to repeat the line from his deposition about overhearing Whitton discuss “a knife that was located in a ravine or a canal behind his parents’ house in Pensacola.” *Id.* at 35-36, 128. Although McMillian told him not to lie about the knife, he should not mention it unless specifically asked:

GUNN: In your deposition, you stated that you overheard Mr. Whitton discussing something about a knife that was located in a ravine or a canal behind his parents' house in Pensacola. Do you remember prosecutors discussing with you whether to repeat that testimony at trial?

OZIO: They weren't wanting me to bring that up. It wasn't a situation where it was relevant. Initially it was, but when I got back to Florida, that was off the table. They didn't want that discussed or brought up.

* * *

OZIO: . . . There was a lot of talk on -- on a lot of technical stuff. The main thing was trying to get the dates right. There were

¹⁶ Available at: <https://waltonso.org/history/>.

certain dates that I needed to remember and then it was just a grilling on the dates. And then, like I said, the situation taking out the knife and then not bringing that up unless I was asked about it, but not to lie about it if I was asked about it. So it was a -- it was a weird situation.

* * *

KENNETT: Okay. He told you don't lie about the knife. Well, if they ask about the knife, you have to testify truthfully about it, don't lie about it; is that what he said?

OZIO: Downplay it, more or less. He didn't want me alluding to it at all unless I was backed into a corner behind it, because it was already on my original paperwork, I believe, so it wasn't a situation where I could take back the fact that I said it, but it wasn't an avenue that they wanted to proceed with as far as how they were going to go with their testimony.

KENNETT: Okay. But whoever that was told you not to lie about it?

OZIO: Told me not to lie about the knife situation. Now, as far as the rest of the things he told me, they were all lies.

Id. at 34-36, 53-54. Ozio was unaware that Whitton's parents lived in New York, not Florida. *Id.* at 36. Ozio also stated that Satan had been the one who had mentioned "a knife and about where it was located behind someone's mother's house in a ravine or a canal," not Whitton. *Id.* at 63.¹⁷

D. The newly discovered evidence of James Taylor's 2022 statement

In 2022, a federal investigator working on Suggs' case spoke with James Taylor. Taylor confirmed that he was in fact a state agent. Taylor knew, given his extensive work as an informant for both federal and Walton County officials, that when he was housed in a cell with other inmates, he knew that he was to gather information from these inmates to report back to the deputies or agents. He was housed in a cell with Suggs for exactly this purpose. While in a cell with Suggs, Taylor was pulled out of the cell that he shared with Ernest Suggs two or three times over a period of a few weeks to report back to the deputies what Ernest Suggs told him about his case. He was pulled out by Deputy Rick Sutton and Sheriff McMillian and his federal handlers were also present.

¹⁷ Ozio was arrested and placed in WCJ on April 4, 1992, and Satan was transferred out of WCJ to NFRC on April 6, 1992. *See* Attachment F, at 24. Satan then made this statement during this three-day window when Suggs was housed elsewhere in WCJ.

The Sheriff and his deputies would tell Taylor what they knew or suspected happened with the Ernest Suggs case, like certain case facts and Taylor would attempt to use that information to get statements out of Suggs. Taylor would also report statements to Clayton Adkinson. Adkinson also had Suggs' cell raided multiple times to find potential incriminating statements Suggs had written. Taylor also disclosed information about Byars: During one of the pretrial preparation sessions, Adkinson told Byars, "I don't give a shit what he [Ernest Suggs] said. You are going to say this."

E. The newly discovered evidence of Deputy Timothy Crenshaw's 2022 statement

In 2022, a federal investigator working on Suggs' case spoke with Timothy Crenshaw. Crenshaw, who is now retired, worked for WCSO in WCJ during the time Suggs was held there before been transferred to the role of courtroom deputy. Crenshaw was personally aware of the misconduct going on in WCJ and would be able to bolster the accounts of Ozio and Taylor at an evidentiary hearing. Crenshaw was aware that Hayward Thomas, a lieutenant in WCJ, and Tommy Mitchell, a jail administrator, would put inmates into jail cells for the purpose of getting information in exchange for lighter sentences. WCJ administrators did this at the direction of Sheriff McMillian and prosecutor Adkinson. Crenshaw was also personally aware of jail inmate logs being falsified. Additionally, Crenshaw personally witnessed Taylor and Byars being taken from their cells multiple times into an administrative building of the jail. These meetings would not have been for legal visits, because those took place in another area of the jail.

GROUNDS FOR POSTCONVICTION RELIEF

For the reasons below, Suggs' convictions and death sentence are in violation of the Sixth and Fourteenth Amendments to the United States Constitution and corresponding provisions of the Florida Constitution.¹⁸

¹⁸ Pursuant to Fla. R. Crim. P. 3.851(e)(2)(C), the witnesses who will testify under oath in support of the claims raised in this motion are: (1) Jake Ozio, 2-415 Ann, New Caney, TX, (253) 765-3135; (2) James Taylor, 4163 County Road

Claim 1: The State violated Suggs' rights under the Fourteenth Amendment by suppressing favorable, material evidence

The State is obligated to disclose evidence or information in its possession that is favorable to the defense. *Brady v. Maryland*, 373 U.S. 83 (1963). This requirement applies to both exculpatory and impeachment evidence. *United States v. Bagley*, 473 U.S. 667 (1985). Relief is warranted if the undisclosed information creates a reasonable probability of a different result. *Id.* at 680. "The question is not whether the defendant would more likely than not have received a different verdict with the evidence, but whether in its absence he received a fair trial, understood as a trial resulting in a verdict worthy of confidence." *Kyles v. Whitley*, 514 U.S. 419, 434 (1995).

First, the information revealed by Ozio, Taylor, and Crenshaw was never disclosed to trial counsel and therefore was suppressed by the State. When police or prosecutors conceal exculpatory or impeaching material in the State's possession, it is "incumbent on the State to set the record straight." *Banks v. Dretke*, 540 U.S. 668, 676 (2004). With respect to any information only known by investigators, it is imputed to the State. *See Kyles*, 514 U.S. at 437.

Second, the suppressed information was favorable. The statements from Ozio, Taylor, and Crenshaw shine a light on the State's use of false testimony and state agents to convict Suggs. This is quintessential impeachment evidence. *See Davis v. Alaska*, 415 U.S. 308, 316 (1974).

Lastly, the information is material. The materiality of suppressed evidence must be considered "collectively, not item-by item." *Kyles*, 514 U.S. at 436. As shown above, the State's case against Suggs "resemble[d] a house of cards, built on the jury crediting" jailhouse snitch testimony. *Wearry v. Cain*, 577 U.S. 385, 392 (2016). However, the newly discovered evidence

5, Kingston, AL, (334) 565-9080); (3) Timothy Crenshaw, 61 N 18th St, Defuniak Springs, FL, (850) 612-3543; (3) Larry Simpson, 3792 Longfellow Road, Tallahassee, FL, (850) 508-8818; (4) Hillard Moldof, 1311 SE 2nd Ave, Fort Lauderdale, FL, (954) 462-1005; (5) Holly Ayers, 227 North Bronough Street, Suite 4200, Tallahassee, FL, 32301, (850) 942-8818; and, (6) Daniel Lawless, 227 North Bronough Street, Suite 4200, Tallahassee, FL, 32301, (850) 942-8818.

demonstrates that Taylor and Byars were state agents; Taylor’s trial testimony, particularly as it relates to the “knife in the canal,” was false; and the prosecutor told Byars to lie. Armed with the new evidence, Suggs would have been able to impeach both the snitches and the prosecution and investigation of this case as a whole. *See Kyles*, 514 U.S. at 445 (evidence can be material for impeaching a witness and attacking the “thoroughness and . . . good faith” of the investigation).

Moreover, the newly discovered evidence is entirely consonant with Suggs’ trial strategy of attacking the investigation and prosecution of this case. Besides the snitches, the State produced minimal evidence tying Suggs to the crime. Most of the evidence they did produce—the “stain,” the tire tracks, and the key and glass in the bay—does not withstand scrutiny. Other evidence—the victim’s fingerprints on Suggs’ car, the money in the sink—is easily explained. Indeed, the State recognized that without the aid of jailhouse snitch testimony, the other evidence was not enough to take to the grand jury. There are large gaps in the State’s case, including the dearth of evidence tying Suggs or his jeep to the bloody crime scene and law enforcement’s failure to investigate two obvious alternative suspects—Casey and Hamilton—with flimsy alibis and clear motives and the serial killer who has confessed to murdering Pauline Casey. Finally, given the bare minimum jury recommendation of 7-5, there is a reasonable probability that the suppressed evidence would tip the scale towards life in light of the reliance upon snitch testimony during the penalty phase. Therefore, Suggs is entitled to a new trial.

Claim 2: The State violated Suggs’ rights under the Fourteenth Amendment by presenting, and/or failing to correct, false testimony

The State violates the Fourteenth Amendment when it presents false or misleading evidence to a trial court. *Giglio v. United States*, 405 U.S. 150 (1972); *Napue v. Illinois*, 360 U.S. 264 (1959). Implied misrepresentations, even if “technically correct,” state the same due process violation. *See Alcorta v. Texas*, 355 U.S. 28, 31 (1957). Even if the State does not solicit false

testimony, the State cannot “allow[] it to go uncorrected when it appears.” *Napue*, 360 U.S. at 269. It is a violation if the prosecutor knew or should have known the testimony was false or misleading. *United States v. Agurs*, 427 U.S. 97, 103 (1976). The State must show that the violation was harmless beyond a reasonable doubt. *Guzman v. State*, 941 So. 2d 1045, 1050-51 (Fla. 2006).

Two key witnesses against Suggs—Byars and Taylor—testified falsely at his trial. First, both testified that there was no deal between them and the State or connection between their testimony and any benefits they received. (R. 3404-05, 3539, 3575-76, 3585). Additionally, in postconviction, Sheriff McMillian falsely testified that they did not use informants in WCJ and Byars and Taylor were not used as agents in this case. Taylor and Crenshaw have now come forward refuting the prior testimony of all three. In fact, not only were they state agents, but they were given facts about the case by the State. It is irrelevant that the State did not make an explicit deal with Taylor before turning him into a state agent, particularly because he was an experienced jailhouse informant, and thus knew exactly what investigators wanted from him—confessions from Suggs—and that he could expect a benefit in return for those confessions. *Cf. Wearry*, 577 U.S. at 385 (“[E]ven though the State had made no binding promises, a witness’ attempt to obtain a deal before testifying was material because the jury ‘might well have concluded that [the witness] had fabricated testimony in order to curry the [prosecution’s] favor’”). He did receive a benefit in the form of a probation recommendation from the Sheriff. Moreover, Taylor’s 2022 statement is bolstered by Crenshaw’s statement and previous testimony presented by Suggs.

Second, Taylor testified that Suggs told him that he threw a knife into a “canal.” Ozio’s deposition testimony now shows that this testimony was false. Even before Ozio came forward the testimony was suspect, given that Taylor never disclosed it before trial. Ozio, meanwhile, used a nearly identical sentence less than a month before Suggs’ trial. When Ozio returned to testify at

the Whitton trial, he was explicitly told not to mention it. Curiously, Ozio stated in 2021 that the statement was actually originally made by Satan—another frequent informant in Walton County who Adkinson “told . . . everything to say.” Attachment I, at 3761. This false testimony casts supreme doubt on the rest of the testimony given by Byars and Taylor. Indeed, it casts doubt on the entirety of the State’s case given that it was used to plug a major gap: the inability to recover the murder weapon.

Adkinson knew, or should have known, that the testimony was false. “[W]hether the nondisclosure was the result of negligence or design, it is the responsibility of the prosecutor.” *Giglio*, 405 U.S. at 154. As an initial matter, because law enforcement knew or should have known the testimony was false, that knowledge is imputed to the State. *See Guzman v. Sec’y, Dep’t of Corr.*, 663 F.3d 1336, 1349 (11th Cir. 2011). Separately, Adkinson knew or should have known. Taylor has made clear that Adkinson was involved in the law enforcement-state agent relationship and even directed raids of Suggs’ cell based off information gleaned from Taylor. Adkinson told Byars during pretrial preparation “I don’t give a shit what he [Ernest Suggs] said. You are going to say this.” Moreover, Adkinson prosecuted the cases against both Suggs and Whitton. Therefore, he had at the very least constructive knowledge of the falsity of the “knife in the canal” testimony. *See Agurs*, 427 U.S. at 103 (“If evidence highly probative of innocence is in [the prosecutor’s] file, he should be presumed to recognize its significance even if he has actually overlooked it.”).

In fairness, the State did exercise its duty to correct false testimony—but only before the Whitton trial, in secret, and unconstitutionally. *Alcorta*, 355 U.S. at 31-32 (misrepresentation by State’s witness at trial violated due process when “the prosecutor had told him he should not volunteer [the] information . . . but if specifically asked about it to answer truthfully”). During preparation the night before Whitton’s trial, Ozio was explicitly told by Sheriff McMillian not to

mention “the knife in the canal,” which, by that point, Taylor had mentioned at Suggs’ trial. Although the corrupt origins of this statement are not exactly clear, both Taylor and Satan (who Ozio testified he overheard making the comment) were being fed information by law enforcement officers, including McMillian and Adkinson. Notably, no jailhouse snitch, including Ozio or Taylor, came forward with the statement until May 1992.

As shown above the false testimony in this case was material and the State cannot prove it was harmless beyond a reasonable doubt. The State, in making its case during both the guilt and penalty phases, relied upon this false testimony. Therefore, Suggs is entitled to a new trial.

Claim 3: The State violated Suggs’ rights under the Sixth and Fourteenth Amendments by eliciting statements through state agents

The State violates a defendant’s Sixth Amendment right to counsel “by intentionally creating a situation likely to induce [a defendant] to make incriminating statements without the assistance of counsel.” *United States v. Henry*, 447 U.S. 264, 274-75 (1980); *Massiah v. United States*, 377 U.S. 201 (1964). “Accordingly, the Sixth Amendment is violated when the State obtains incriminating statements by knowingly circumventing the accused's right to have counsel present in a confrontation between the accused and a state agent.” *Maine v. Moulton*, 474 U.S. 159, 176 (1985). This occurs when the State uses a jailhouse informant as a state agent to deliberately elicit information from a defendant. *Johnson v. State*, 135 So. 3d 1002, 1026 (Fla. 2014). “Statements deliberately elicited [in violation of this right] . . . are rendered inadmissible and cannot be used against the defendant at trial.” *Rolling v. State*, 695 So. 2d 278, 290 (Fla. 1997). The State has the burden to prove beyond a reasonable doubt that the inadmissible testimony did not contribute to the verdict. *State v. DiGuilio*, 491 So. 2d 1129, 1135 (Fla. 1986).¹⁹

¹⁹ As Suggs’ trial counsel previously testified, no motion to suppress the jailhouse snitch testimony based on *Messiah/Henry* was filed before trial because it was never disclosed that Taylor or Byars were state agents. (PC. Ev. 138-39). When Suggs raised this claim in his initial 3.850 Motion, the FSC found that Suggs was not entitled to relief

Suggs was arrested and placed in custody in WCJ on August 7, 1990. The very next day, Suggs exercised his right to counsel and the trial court entered an order appointing an attorney to represent him. (R. 1, 4). Adversarial judicial criminal proceedings had thus been initiated. *See United States v. Gouveia*, 467 U.S. 180, 188 (1984). As investigators testified, law enforcement had by then entirely stopped investigating any other suspects, (R. 2727-28, 2765), and had “committed itself to prosecute” Suggs, who found “himself faced with the prosecutorial forces of organized society, and immersed in the intricacies of substantive and procedural criminal law.” *Gouveia*, 467 U.S. at 189. Therefore, by this point the right to counsel had “attached and been asserted” and the State was obligated to honor it. *Moulton*, 474 U.S. at 170.

As Suggs can now demonstrate through the statements of Taylor and Crenshaw, the State violated Suggs’ right to counsel and used Taylor and Byars as state agents to deliberately elicit information from him. Taylor, a “professional jailhouse snitch,” knew that he was expected to elicit information from Suggs once he was housed in a cell with him. Over the period they were housed together, Taylor repeatedly met with law enforcement officers investigating the case to brief them on any Suggs’ statements and so they could direct his questioning to Suggs based on facts they knew or suspected about the case. Of course, Taylor was rewarded for his work. Taylor’s taped statement—made one day before Suggs’ case went to a grand jury—came just a few days before Taylor received a favorable recommendation from the Sheriff’s department at his probation hearing. (R. 3434, 3539, 3580). Taylor’s 2022 statement is corroborated by Crenshaw, who had knowledge of the WCJ practice of using informants as state agents and witnessed Taylor and Byars meeting with law enforcement in the jail.

because Taylor refused to testify, without ruling on the merits of the claim. *Suggs*, 923 So. 2d at 428 (“There was no testimony by either Byars or Taylor, or factual evidence in support of [this claim]”). Taylor has now come forward and confirmed that he was in fact a state agent put in Suggs’ cell to gather information and repeatedly taken out from the cell and given information about Suggs’ case in order to conduct a months-long surreptitious interrogation.

While Taylor and Byars were acting as state agents, the State endeavored to hide their identities from Suggs and Suggs' counsel. Even though they were housed in Suggs' cell and recorded taped statements on August 21, the State did not disclose their identities as witnesses until January of the next year. In fact, the State went so far to conceal their identities that Taylor was kept in jail under the alias 'Loxley.' (PC-Ev. 179-80). After the August 21 statements to law enforcement, Byars and Taylor were returned to Suggs' cell in order to obtain additional statements. (R. 3586). Taylor testified at trial to multiple alleged statements from Suggs that were not contained in the August 21 taped statement because Suggs apparently made them while they were still housed together over the next several months. *Id.* In the State's Answer to Demand for Discovery filed on September 18, 1990, neither were listed as witnesses. The defense was advised that there were no confidential informants and the existence of alleged statements from Suggs was kept hidden. It was not until January 17, 1991, that the State listed Byars and Taylor as witnesses.

It is not Suggs' burden to show direct proof of the State's knowledge or intentional disregard of his right to counsel. "Direct proof of the State's knowledge [that it is circumventing the Sixth Amendment] will seldom be available to the accused." *Moulton*, 474 U.S. at 176. Thus, a defendant need only show that the State "must have known" that the state agent would "likely" secure incriminating information. *Id.* at 176 (citing *Henry*, 447 U.S. at 271). Here, it is clear that the State "must have known"—law enforcement put a known CI into his cell pursuant to WCJ officials' practice of doing so; repeatedly extracted Taylor and, according to Crenshaw, Byars, to brief them on Suggs' statements; fed Taylor information about Suggs' case to garner more information; and, raided Suggs' cell to find legal documents based on tips from Taylor, all the while hiding the identity of their state agents for months.

The testimony of Taylor and Byars should have been suppressed because they were state agents and Suggs is entitled to a new trial because the State cannot prove the violation was harmless beyond a reasonable doubt in either the guilt or penalty phase. As shown above, the State's case was a house of cards that could not stand without the inadmissible testimony.

Claim 4: Suggs is entitled to a new trial based on the newly discovered evidence

Even if this Court does not find that the statements of Ozio, Taylor, and Crenshaw establish a violation of Suggs' constitutional rights, this Court must separately analyze the newly discovered evidence under the *Jones* test. See *Lightbourne v. State*, 742 So. 2d 238, 247 (Fla. 1999). To obtain relief based on new evidence, Suggs must show that, "the evidence must not have been known by the trial court, the party, or counsel at the time of trial, and it must appear that the defendant or defense counsel could not have known of it by the use of diligence." *Walton v. State*, 246 So. 3d 246, 249 (Fla. 2018). Suggs must also show the evidence to be material, which requires that "the newly discovered evidence must be of such nature that it would probably produce an acquittal on retrial." *Jones*, 591 So. 2d at 915. Evidence satisfies the second prong if it "weakens the case against [the defendant] so as to give rise to a reasonable doubt as to his culpability." *Jones*, 709 So. 2d at 526. A defendant is entitled to a new sentencing proceeding if "evidence would probably yield a less severe sentence" at a new penalty phase trial. *Walton*, 246 So. 3d at 249.

First, this claim is timely. Recanted testimony cannot be "discovered" until the witness chooses to recant, regardless of the time span. *Davis v. State*, 26 So. 3d 519, 528 (Fla. 2009). As to Ozio's deposition testimony, Suggs' obviously could not discover that testimony until Ozio made it. Moreover, there has never been any previous indication that the jailhouse snitch testimony at the Suggs and Whitton trials was intertwined until Ozio came forward in 2021. As to Taylor, Suggs has diligently attempted to present his testimony previously, but Taylor refused. *Suggs*, 923 So.

2d at 428. However, Taylor has now come forward and confirmed that at an evidentiary hearing he would testify to the statements contained in this motion. The same is true of the statement from Crenshaw who only came forward within the last year. Therefore, the first step of the *Jones* test is satisfied.²⁰

Second, the newly discovered evidence gives rise to a reasonable doubt as to Suggs' culpability with respect to both his conviction and his sentence. When considering the materiality of the statements, this Court must conduct a cumulative analysis of the case that includes the "total picture" of all evidence in the case that Suggs could present at a new trial, including anything previously presented regardless of whether that evidence was procedurally defaulted or otherwise barred. *Swafford*, 125 So. 3d at 776. As demonstrated above, the State's case against Suggs was a house of cards which relied extensively upon jailhouse snitch testimony. The State never recovered a murder weapon; almost all of the bare minimal evidence linking Suggs to the victim or the crime scene was either heavily disputed at trial or in previous postconviction proceedings; the investigation in this case was either grossly negligent or done in bad faith, including the failure to investigate obvious suspects like Casey and Hamilton, who had flimsy alibis and obvious motives, or Riebe, who has now confessed to murdering Pauline Casey. Ozio, Taylor, and Crenshaw have now come forward establishing how the State's use of state agents and false testimony to shore up the case against Suggs in light of the lack of evidence that he committed the crime for which he has been sentenced to death. There is reasonable doubt and Suggs is entitled to a new trial.

CONCLUSION AND RELIEF SOUGHT

For the foregoing reasons, this Court should vacate Mr. Suggs' convictions and death sentence and order a new trial.

²⁰ This timeliness analysis also applies to claims 1-3.

CERTIFICATION PURSUANT TO FLA. R. CRIM. P. 3.851 (e)

Pursuant to Fla. R. Crim P. 3.851(e)(2)(A) and (e)(1)(F), undersigned counsel hereby certifies that counsel has endeavored to fully discuss and explain the contents of this motion with Suggs and that counsel to the best of her ability has complied with Rule 4-1.4 of the Rules of Professional Conduct, and that this motion is filed in good faith.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served upon all counsel of record via the e-filing portal on this 16th day of May, 2022.

Respectfully submitted,

/s/ Dawn B. Macready

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