

IN THE
SUPREME COURT OF THE UNITED STATES

ERNEST D. SUGGS,
Petitioner,

v.

STATE OF FLORIDA,
Respondent.

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

BRIEF IN OPPOSITION

JAMES UTHMEIER
ATTORNEY GENERAL OF FLORIDA

Office of the Attorney General
3507 E. Frontage Rd., Ste. 200
Tampa, Florida 33607
Telephone: (813) 287-7900
scott.browne@myfloridalegal.com
capapp@myfloridalegal.com

SCOTT A. BROWNE
Chief Assistant Attorney General
Counsel of Record

BENJAMIN L. HOFFMAN
SENIOR ASSISTANT ATTORNEY GENERAL

COUNSEL FOR RESPONDENT

CAPITAL CASE

QUESTION PRESENTED

Whether this Court should review the Florida Supreme Court's decision affirming the denial of a claim under *Brady v. Maryland*, 373 U.S. 83 (1963), based on an independent and adequate state procedural bar.

TABLE OF CONTENTS

QUESTION PRESENTED	i
TABLE OF CONTENTS.....	ii
TABLE OF AUTHORITIES	iii
OPINION BELOW.....	1
JURISDICTION.....	1
CONSTITUTIONAL PROVISIONS INVOLVED.....	2
STATEMENT OF THE CASE AND FACTS	3
REASONS FOR DENYING THE PETITION	7
I. The Florida Supreme Court’s Judgment Rests on an Independent and Adequate State Law.....	8
II. The Question Presented is Not Outcome Determinative Because Suggs’ <i>Brady</i> Claim Fails the Materiality Prong.....	10
III. The Florida Supreme Court’s use of a due diligence standard to enforce a time bar arising under state law, without addressing the merits of the underlying <i>Brady</i> claim, does not conflict with other lower courts	16
CONCLUSION.....	17

TABLE OF AUTHORITIES

	Page(s)
 Cases	
<i>Banks v. Dretke</i> , 540 U.S. 668 (2004).....	7
<i>Brady v. Maryland</i> , 373 U.S. 83 (1963).....	1, 5, 7
<i>Coleman v. Thompson</i> , 501 U.S. 722 (1991).....	9
<i>Durley v. Mayo</i> , 351 U.S. 277 (1956).....	1, 8
<i>Fox Film Corp. v. Muller</i> , 296 U.S. 207 (1935).....	9
<i>Giglio v. United States</i> , 405 U.S. 150 (1973).....	5
<i>Glossip v. Oklahoma</i> , 604 U.S. 226 (2025).....	1, 9
<i>Herb v. Pitcairn</i> , 324 U.S. 117 (1945).....	12
<i>Klein v. Martin</i> , 607 U.S. 213 (2026).....	11, 13, 14, 15, 16
<i>Kotteakos v. United States</i> , 328 U. S. 750 (1946).....	12
<i>Massiah v. United States</i> , 377 U.S. 201 (1964).....	5
<i>Med. Marijuana, Inc. v. Horn</i> , 604 U.S. 593 (2025).....	12
<i>Michigan v. Long</i> , 463 U.S. 1032 (1983).....	1, 9, 10
<i>Moore v. Illinois</i> , 408 U.S. 786 (1972).....	12
<i>Rice v. Sioux City Mem'l Park Cemetery</i> , 349 U.S. 70 (1955).....	12
<i>Sparre v. State</i> , 391 So. 3d 404 (Fla. 2024)	17

<i>Strickler v. Greene</i> , 527 U.S. 263 (1999)	11, 14, 15
<i>Suggs v. Jones</i> , 2017 WL 1033680 (Fla. Mar. 17, 2017)	4
<i>Suggs v. State</i> , 234 So. 3d 546 (Fla. 2018)	4
<i>Suggs v. State</i> , 238 So. 3d 699 (Fla. 2017)	4
<i>Suggs v. State</i> , 421 So. 3d 410 (Fla. 2025)	1, 2, 3, 6, 7, 8, 9, 10
<i>Suggs v. State</i> , 644 So. 2d 64 (Fla. 1994)	3, 4, 11, 16
<i>Suggs v. State</i> , 923 So. 2d 419 (Fla. 2005)	4, 5, 6
<i>Turner v. United States</i> , 582 U.S. 313 (2017)	13, 15, 16
<i>United States v. Agurs</i> , 427 U.S. 97 (1976)	10, 16
<i>United States v. Bagley</i> , 473 U.S. 667 (1985)	10, 11
<i>United States v. Lane</i> , 474 U. S. 438 (1986)	12
<i>Whitton v. Dixon</i> , 146 S. Ct. 1368 (2026)	11, 12

Statutes

28 U. S. C. § 2111	12
28 U. S.C. § 1257(a)	1
U.S. Const. amend. V	2
U.S. Const. amend. XIV, § 1	3

Rules

Fla. R. Crim. P. 3.851(d)(2)(A)	8, 17
Fla. R. Crim. P. 3.851(d)	2
Fla. R. Crim. P. 3.851(e)(2)	2

OPINION BELOW

Ernest Suggs seeks certiorari review of the Florida Supreme Court’s decision affirming the denial of his third and fourth successive postconviction motions. *See Suggs v. State*, 421 So. 3d 410 (Fla. 2025).

JURISDICTION

This Court has jurisdiction to review a “final” judgment issued by “the highest court of a State” under 28 U.S.C. § 1257(a). In this case, however, this Court lacks jurisdiction over the question presented because the Florida Supreme Court’s judgment rests on an independent and adequate state procedural bar. *See Glossip v. Oklahoma*, 604 U.S. 226, 242 (2025) (“In the context of direct review of a state court judgment, the independent and adequate state ground doctrine is jurisdictional.”); *Michigan v. Long*, 463 U.S. 1032, 1040 (1983) (“If the state court decision indicates clearly and expressly that it is alternatively based on bona fide separate, adequate, and independent grounds, we, of course, will not undertake to review the decision.”).

This Court has expressly recognized Florida’s bar on claims that were or could have been raised in prior proceedings as an adequate state law ground that deprives this Court of jurisdiction. *Durley v. Mayo*, 351 U.S. 277, 281, 283–85 (1956) (dismissing for lack of jurisdiction where the Florida Supreme Court’s decision below “might have rested”¹ on the grounds that the federal issues presented either were or

¹ This Court’s jurisdictional test has changed since *Durley*. *See Long*, 463 U.S. at 1042. But that makes no difference here because this Court need not guess whether the Florida Supreme Court relied on a re-litigation bar. It explicitly did so.

could have been raised in prior proceedings and therefore could not be raised under state law).

In this case, the Florida Supreme Court applied two procedural bars under Florida Rule of Criminal Procedure 3.851(d) and (e)(2) to reject Suggs' *Brady* claim without reaching the merits of the underlying claim. The first was a time bar. *Suggs*, 421 So. 3d at 418–19. The second was a procedural bar on raising claims that could have been raised in a prior postconviction motion. *Id.* Suggs seeks review of the time-bar because it includes a due diligence requirement that he contends is repugnant to *Brady*. But Suggs ignores the separate procedural bar that has no due diligence component. *Id.* at 419 (“Suggs could have raised this claim in one of his prior postconviction challenges.”).

This procedural bar is indisputably an independent and adequate state law ground that the Florida Supreme Court expressly relied on to reject the *Brady* claim. It is hard to envision a more explicit reliance on independent state law that deprives this Court of jurisdiction than what the Florida Supreme Court provided below.

CONSTITUTIONAL PROVISIONS INVOLVED

The Fifth Amendment to the United States Constitution, which provides that no person shall “be deprived of life, liberty, or property, without due process of law.” U.S. Const. amend. V.

The Fourteenth Amendment to the United States Constitution, which provides that no state shall “deprive any person of life, liberty, or property, without due process of law.” U.S. Const. amend. XIV, § 1.

STATEMENT OF THE CASE AND FACTS

The litigation in this case spans three-and-a-half decades.

Facts of the Crime

“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*, 421 So. 3d 410, 414 (Fla. 2025) (*Suggs V*). Suggs also robbed the bar. *Id.* For these crimes, the State of Florida charged Suggs with first-degree murder, kidnapping, and robbery. *Suggs v. State*, 644 So. 2d 64, 66 (Fla. 1994) (*Suggs I*), *cert. denied*, 514 U.S. 1083 (1995) (No. 94-1421).

The Florida Supreme Court summarized some of the evidence linking Suggs to Casey’s murder:

One of the three known keys to the bar and a beer glass similar to those used at the bar were found in the bay behind Suggs’ home; the victim’s palm and fingerprints were found in Suggs’ vehicle; and a serologist found a bloodstain on Suggs’ shirt that matched the victim’s blood. Additionally, after his arrest, Suggs told two cellmates that he killed the victim.^[2]

Suggs I, 644 So. 2d at 66. In addition to that evidence, police found tire tracks on a dirt road near Casey’s body that were similar to the imprint of the tires on Suggs’ vehicle. *Id.* And a witness told police he had last seen Casey with Suggs on the evening in question. *Id.* at 65, 69.

Procedural History

² Suggs’ present Petition concerns the testimony of those cellmates.

The jury found Suggs guilty of first-degree murder, kidnapping, and robbery, and recommended death by a seven-to-five vote. *Suggs I*, 644 So. 2d at 66. The trial court imposed the death penalty, finding seven aggravating circumstances and three non-statutory mitigating circumstances. *Id.* The Florida Supreme Court affirmed Suggs' convictions and death sentence on direct appeal. *Id.* at 70.

Over the past three decades, Suggs has unsuccessfully litigated his murder conviction and death sentence through multiple postconviction motions and habeas petitions. *See Suggs v. State*, 923 So. 2d 419 (Fla. 2005) (*Suggs II*) (initial postconviction motion and state habeas petition); *Suggs v. Jones*, No. SC2016-1066, 2017 WL 1033680 (Fla. Mar. 17, 2017) (second state habeas petition); *Suggs v. State*, 238 So. 3d 699 (Fla. 2017) (*Suggs III*) (first successive postconviction motion), *cert. denied*, 586 U.S. 921 (2018) (No. 18-5359); *Suggs v. State*, 234 So. 3d 546 (Fla. 2018) (*Suggs IV*) (second successive postconviction motion), *cert. denied*, 586 U.S. 846 (2018) (No. 17-9173).

Suggs' initial postconviction proceeding is pertinent to this proceeding because he raised the same claims in that motion as those at issue here. For decades, Suggs has maintained that his two cellmates, James Taylor and Wallace Byars, fabricated Suggs' confession to the murder. For instance, in his initial postconviction motion, Suggs alleged that Taylor admitted to a state postconviction investigator that he and Byars fabricated Suggs' confession and that the Sheriff placed them in a cell with Suggs "for the express purpose of obtaining an admission" to the murder. (Initial PCR Vol. 1 at 24). However, Taylor refused to publicly recant. *Suggs II*, 923 So. 2d at 427

(quoting Postconviction Order at 2–3). Additionally, Suggs alleged that Taylor and Byars were state agents planted as Suggs’ cellmates to extract a confession. (Initial PCR Vol. 1 at 27–33). More to the point of the present, Petition, however, Suggs alleged that the State violated *Brady v. Maryland*, 373 U.S. 83 (1963), by using and concealing Taylor and Byars as jailhouse informants.³ Specifically, Suggs argued:

In the case at bar, the prosecutor failed to furnish Petitioner with evidence that was clearly required by *Brady* and the Florida Rules of Criminal Procedure. For example, the state suppressed evidence as to its use of confidential jailhouse informants for approximately six months while denying the existence of informants in the discovery responses being provided to the defense (See Claim VI).

(Initial PCR. Vol. 1 at 107).

As part of the factual basis for that claim, Suggs alleged that law enforcement booked Taylor into the jail under an alias to conceal his identity from Suggs and others Taylor questioned. (Initial PCR. Vol. 1 at 28). Suggs further alleged that the State “withheld information that would chronicle exactly what sort of relationship existed between the state and Mr. Byars.” (Initial PCR. Vol. 1 at 29). Finally, Suggs accused the prosecutor of filing “false and misleading” discovery responses for months that omitted Taylor and Byars, denied the use of confidential informants, and denied that Suggs made any statements in the case. (Initial PCR. Vol. 1 at 30).

³ Suggs also raised claims under *Giglio v. United States*, 405 U.S. 150 (1973), alleging that the State used false testimony to obtain a conviction, and *Massiah v. United States*, 377 U.S. 201 (1964), alleging that the State used Taylor and Byars as agents to violate Suggs’ right to counsel.

The Florida Supreme Court affirmed the denial of the *Giglio*, *Massiah*, and *Brady* claims, though the written opinion addressed a different *Brady* sub-claim. *Suggs II*, 923 So. 2d at 426–29.

Current Postconviction Proceeding

In his current postconviction litigation, Suggs re-raised his *Giglio* and *Massiah* claims, alleging that Taylor and Byars were state agents who falsely testified at trial. *See Suggs V*, 421 So. 3d at 417. This time, however, Suggs pointed to a 2022 statement Taylor gave to an investigator with the Federal Public Defender’s Office Capital Habeas Unit, the 2021 deposition of a different inmate, who said that the Walton County Sheriff’s Office regularly pressured inmates into testifying falsely, and evidence from a retired deputy who worked as a guard at the jail, claiming that Taylor and Byars lied. *Id.* at 417–18. The Florida Supreme Court rejected these claims as untimely and procedurally barred. *Id.* at 419. Regarding Taylor’s 2022 statement, the Florida Supreme Court observed that “Suggs does not proffer an affidavit or a declaration from Taylor stating that he is willing to publicly recant now.” *Id.* at 417 n.7.

Suggs also raised two *Brady* claims. *Id.* at 418–19. The second of those *Brady* claims was that the State suppressed evidence that it used state agents and false testimony to convict Suggs. (4th Successive PCR at 129–30). The Florida Supreme Court affirmed the denial of this claim based on two procedural bars. The first was timeliness. *Suggs V*, 421 So. 3d at 418–19. The second was because Suggs could have

raised it in a prior postconviction motion. *Id.* But not only could Suggs have raised this claim before, but he did. (Initial PCR. Vol. 1 at 107).

Suggs has now filed a petition for writ of certiorari in this Court raising one question.

REASONS FOR DENYING THE PETITION

Suggs seeks review of whether a criminal defendant must show diligence to establish a claim under *Brady v. Maryland*, 373 U.S. 83, 87 (1963). Pet. at i, 5. He relies on a passage from *Banks v. Dretke*, 540 U.S. 668, 695 (2004), to argue that a diligence requirement is repugnant to *Brady*. Pet. at 7–8. But this Court lacks jurisdiction over the question presented because the Florida Supreme Court’s decision rests on an independent and adequate state procedural bar. The Florida Supreme Court never addressed the merits of Suggs’ *Brady* claim, finding the claim to be procedurally barred because Suggs could have raised the same *Brady* claim years ago. In fact, Suggs raised the same claim two decades ago.

Nor is the question about diligence outcome determinative. Regardless of whether *Brady* requires diligence, Suggs’ claim fails *Brady*’s materiality prong. This Court typically does not grant review of questions that are not outcome determinative. And the opinion below did not weigh in on whether *Brady* has a due diligence requirement. Rather, it applied the due diligence requirement to determine whether the newly discovered evidence exception applied to an otherwise untimely claim. That due diligence requirement applies to all claims that seek to invoke the newly discovered evidence exception to the one-year deadline. *See* Fla. R. Crim. P.

3.851(d)(2)(A) (prohibiting the filing of postconviction motions beyond the one-year time limitation unless it alleges that “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.”).

I. The Florida Supreme Court’s Judgment Rests on an Independent and Adequate State Law

Whether a *Brady* claim or any other postconviction claim, for that matter, filed in state court pursuant to state rules is procedurally barred is solely a matter of state law. The Florida Supreme Court enforced two procedural bars to Suggs’ *Brady* claim: a timeliness bar, which involves a due diligence analysis, and a previously raised bar, which involves no due diligence analysis. *Suggs V*, 421 So. 3d at 418–19. Both bars are adequate and independent to preclude this Court’s review. But the previously raised bar does not involve any due diligence analysis and thus completely avoids the question presented by Suggs. *See Durley*, 351 U.S. at 281, 283–85 (dismissing for lack of jurisdiction based on Florida’s procedural bar on claims that were or could have been raised in a prior proceeding).

This Court has explained that it “will not review a question of federal law decided by a state court if the decision of that court rests on a state law ground that is independent of the federal question and adequate to support the judgment.” *Coleman v. Thompson*, 501 U.S. 722, 729 (1991). Additionally, “if the state court decision indicates clearly and expressly that it is alternatively based on bona fide separate, adequate, and independent grounds, we, of course, will not undertake review of the decision.” *Michigan v. Long*, 463 U.S. 1032, 1041 (1983). This Court’s

jurisdiction “fails” if the non-federal ground is independent and adequate to support the judgment. *Id.* at 1038 n.4 (quoting *Fox Film Corp. v. Muller*, 296 U.S. 207, 210 (1935)). To be independent, the state law ground must not depend on a federal holding and must not be “intertwined” with a federal question. *Glossip v. Oklahoma*, 604 U.S. 226, 242 (2025). By contrast, if the state law ground is not clear from the face of the state court’s opinion, this Court will assume that the state court decided the question based on federal law. *Id.* at 242–43.

In this case, the procedural bar arising under state law is clear from the face of the Florida Supreme Court’s opinion. That court expressly found, as an alternative procedural bar, that Suggs could have raised this *Brady* claim in a prior postconviction proceeding. *Suggs V*, 421 So. 3d at 419 (“Suggs could have raised this claim in one of his prior postconviction challenges.”). In fact, Suggs did just that. (Initial PCR Vol. 1 at 107). Suggs previously raised a *Brady* claim, alleging that the State “suppressed evidence as to its use of confidential jailhouse informants for approximately six months while denying the existence of informants in the discovery responses being provided to the defense (See Claim VI).” (Initial PCR Vol. 1 at 107). Additionally, Suggs alleged a *Massiah* claim, accusing the State of booking Taylor into the jail under an alias to conceal his identity as a known jailhouse informant, concealing information about the relationship between the State and Byars, and filing “false and misleading” discovery responses that omitted Taylor and Byars, denied the use of confidential informants, and denied that Suggs had made any statements.

(Initial PCR Vol. 1 at 28–30). Suggs also previously accused the State of using false testimony to obtain a conviction. (Initial PCR Vol. 1 at 237).

The procedural bar on raising claims that could have been raised in a prior proceeding is apparent from the Florida Supreme Court’s opinion. *Suggs V*, 421 So. 3d at 419. That bar arises under state law and is independent and adequate to support the judgment. And that bar is completely detached from the diligence requirement Suggs attacks. Therefore, this Court’s jurisdiction “fails,” and it should deny the Petition. *Long*, 463 U.S. at 1038 n.4.

II. The Question Presented is Not Outcome Determinative Because Suggs’ *Brady* Claim Fails the Materiality Prong

Another reason this Court should deny the Petition is Suggs’ inability to satisfy *Brady*’s materiality prong.

Brady held that “suppression by the prosecution of evidence favorable to an accused upon request violates due process where the evidence is *material* to either guilt or punishment, irrespective of the good faith or bad faith of the prosecution.” 527 U.S. at 87 (emphasis added). That holding applies even when the defendant has not made a request. *United States v. Agurs*, 427 U.S. 97, 107 (1976). Evidence is material “only if there is a reasonable probability that, had the evidence been disclosed to the defense, the result of the proceeding would have been different.” *United States v. Bagley*, 473 U.S. 667, 682 (1985). A reasonable probability is “a probability sufficient to undermine confidence in the outcome.” *Id.* To satisfy that standard, the undisclosed evidence must “put the whole case in such a different light

as to undermine confidence in the verdict.” *Klein v. Martin*, 607 U.S. 213, 221 (2026) (quoting *Strickler v. Greene*, 527 U.S. 263, 290 (1999)).

Under the above standard, “even if undisclosed evidence ‘entirely discredit[s]’ a prosecution witness, the failure to turn over the evidence is not material if ‘considerable’ other evidence ‘link[s]’ the defendant to the crime and the record provides ‘strong support’ that the defendant would have been convicted anyway.” *Klein*, 607 U.S. at 222 (alterations in original) (quoting *Strickler*, 527 U.S. at 292–94).

Suggs fails the materiality prong because there is considerable other evidence linking him to the murder, and the record provides strong support that he would have been convicted anyway. Physical evidence connected Suggs to the murder. “A bloodstain on Suggs’ shirt matched the victim’s blood.” *Suggs I*, 644 So. 2d at 66. Additionally, the victim’s palm and fingerprints were inside Suggs’ vehicle. *Id.* One of three keys to the bar and a beer glass resembling those used at the bar were found in the bay behind Suggs’ home. *Id.* Tire impressions from Suggs’ vehicle were similar to tire tracks found on the dirt road near the victim’s body. *Id.* at 65. And a witness told police he had last seen Casey with Suggs on the evening in question. *Id.* at 65, 69.

This Court normally does not grant review of questions that are not outcome determinative. *Whitton v. Dixon*, 146 S. Ct. 1368, 1375 (2026) (Thomas, J., dissenting) (observing this Court does not “intervene based on technicalities that do not really affect the outcome of a case”) (quoting *Kotteakos v. United States*, 328 U. S. 750, 759, 761 (1946)); *Med. Marijuana, Inc. v. Horn*, 604 U.S. 593, 622 (2025) (Thomas, J.,

dissenting) (stating that the writ of certiorari was improvidently granted because the majority opinion left “the most critical and outcome-determinative issues for another day”). When deciding whether to grant review of a question, “this Court must ignore errors or defects which do not affect the substantial rights of the parties.” *Whitton*, 146 S. Ct. at 1375 (Thomas, J., dissenting) (citing 28 U. S. C. § 2111, and *United States v. Lane*, 474 U. S. 438, 444 (1986)). In most cases, this Court “declines to exercise its certiorari authority when it is ‘evident that the resolution of the conflict could not change the result reached below.’” *Whitton*, 146 S. Ct. at 1375 (Thomas, J., dissenting).

Nor does this Court grant review of questions that are theoretical or academic in the sense that the question does not affect the outcome of the case. *Rice v. Sioux City Mem'l Park Cemetery*, 349 U.S. 70, 74 (1955) (stating that “this Court does not sit to satisfy a scholarly interest” and that certiorari should not be granted when the question is only academic); *Herb v. Pitcairn*, 324 U.S. 117, 125-26 (1945) (stating this Court’s power is the power is “to correct wrong judgments, not to revise opinions” and explaining that “if the same judgment would be rendered by the state court after we corrected its views of federal laws, our review would be nothing more than an advisory opinion.”).

Suggs questions whether *Brady* has a diligence requirement, but *Brady* has three prongs. See *Moore v. Illinois*, 408 U.S. 786, 794–95 (1972) (observing that a *Brady* claim has the following three components: “(a) suppression by the prosecution after a request by the defense, (b) the evidence’s favorable character for the defense,

and (c) the materiality of the evidence”). Suggs fails the critical materiality prong of *Brady*, regardless of any diligence requirement. *See Turner v. United States*, 582 U.S. 313, 324 (2017) (observing that the “overriding concern” of this Court’s *Brady* jurisprudence is “the justice of the finding of guilt”). Contrary to Suggs’ contention, this case is not the “perfect vehicle” because the question presented is not outcome determinative of the *Brady* claim. Pet. at 5. Materiality is paramount and that prong is outcome determinative in this case.

This Court has repeatedly concluded that withheld evidence was not material under *Brady* when other strong evidence connected the defendant to the crime. The most recent example from earlier this year is *Klein v. Martin*, which involved an attempted murder conviction. 607 U.S. 213, 214 (2026). The victim was one of Martin’s many girlfriends. After the victim became pregnant, she refused Martin’s demands to get an abortion, threatened to take Martin to court to provide child support, and threatened to tell Martin’s wife. *Id.* at 215. A few weeks later, Martin sent the victim a text message to find out when she would be home. *Id.* While the victim was home alone, a man posing as a salesman knocked on her door. *Id.* When the victim answered, the man shot her in the head. *Id.* The victim survived, but her unborn child did not. *Id.*

At the crime scene, police found a shell casing, a .380 caliber cartridge, and a Gatorade bottle that had been modified with white medical tape and duct tape, which the state argued was a home-made silencer. *Id.* at 216. Strong circumstantial evidence linked Martin to the crime, including his ownership of a .380 caliber

semiautomatic handgun, *id.* at 216, DNA evidence linking Martin to the home-made silencer, *id.* at 217, witness testimony that shortly before the shooting, Martin and another man handled a Gatorade bottle and white medical tape similar to the tape found on the home-made silencer, *id.* at 217–18, testimony that Martin returned shortly after the shooting and handed a brown paper bag to a friend and said, “get rid of this,” *id.* at 218, and a different girlfriend’s testimony that Martin had used a laptop to look up “gun silencer” before the shooting. *Id.*

The undisclosed evidence at issue was a forensic report of the analysis of five computers recovered from Martin’s home, which included the laptop that the witness had said Martin used to research silencers. *Id.* at 219. That report impeached the witness’s testimony because it showed that the laptop had not been used in a long time and it showed the absence of various search terms, including “silencer.” *Id.* Nonetheless, this Court concluded that the report was not material because “the record contains ‘strong support’ for the state court’s conclusion that Martin ‘would have been convicted’ even if the forensic report ‘severely impeached’ [the witness].” *Id.* at 223. (quoting *Strickler*, 527 U.S. at 294).

That “strong support” included the DNA evidence linking Martin to the home-made silencer, a witness placing Martin in the same room with a Gatorade bottle and medical tape shortly before the shooting, Martin’s motive for aiding the attempted murder, and Martin’s ownership of a .380 caliber handgun that could have fired the bullet at issue, coupled with his suspicious behavior after the shooting. *Id.* at 223. *See also Strickler*, 527 U.S. at 273–75, 292–94 (holding that undisclosed documents that

“cast serious doubt” on eyewitness’s confident assertion of her “exceptionally good memory” were not material under *Brady* because even if the witness’s testimony had been severely impeached or entirely excluded, there was strong independent evidence of defendant’s guilt, including “forensic and physical evidence linking” the defendant to the crime).

Moreover, this Court found the materiality prong lacking in a case with no physical evidence linking any of the defendants to the crime. *Turner v. United States*, 582 U.S. 313, 326–28 (2017). In that case, the victim was kidnapped, robbed, and murdered after leaving her home to go shopping, and her body was found in an alley garage. *Id.* at 316. The theory of prosecution at trial was that the victim was attacked by a large group of individuals who decided to rob her, shoved her into an alley, and collectively beat her before dragging her into the garage. *Id.* at 317–18. Following the defendants’ convictions, they learned that the prosecution had withheld several pieces of exculpatory and impeachment evidence. *Id.* at 320.

Among other things, the withheld evidence included the identities of the two men a witness saw running into the alley and stopping near the garage shortly before the police arrived. *Id.* at 321. One of those two men subsequently assaulted a woman, and years later, murdered another woman in an alley. *Id.* Another piece of withheld evidence showed that someone previously identified a different individual as the person who beat the victim to death in the alley. *Id.* at 322. And yet another piece of withheld evidence included impeachment evidence against prosecution witnesses, including that one witness had asked another witness to lie for her. *Id.* at 323. Even

without any physical evidence linking any of the defendants to the crime, this Court concluded that the undisclosed documents were not material, largely because the evidence of a group attack was overwhelming and much of the impeachment evidence was cumulative of other impeachment offered at trial. *Id.* at 326–28.

The case against Suggs, which included Casey’s blood on Suggs’ shirt and Casey’s palm and fingerprints inside Suggs’ vehicle, *Suggs I*, 644 So. 2d at 66, is considerably stronger than the evidence in *Turner*. The physical evidence linking Suggs to the murder is at least as strong as the evidence in *Klein*. Considering the withheld evidence “in the context of the entire record,” *Agurs*, 427 U.S. at 112, which includes the other considerable evidence linking Suggs to the murder, Suggs would not prevail under *Brady*’s materiality prong because the record provides “strong support” that Suggs “would have been convicted anyway.” *Klein*, 607 U.S. at 222. Therefore, this Court should deny the Petition.

III. The Florida Supreme Court’s use of a due diligence standard to enforce a time bar arising under state law, without addressing the merits of the underlying *Brady* claim, does not conflict with other lower courts

Finally, this case is a poor vehicle to address the question presented because the Florida Supreme Court did not reach the merits of Suggs’ *Brady* claim. The decision below did not weigh in on the debate among lower courts concerning whether there is a diligence requirement for *Brady* claims. Instead, the Florida Supreme Court used diligence to determine whether Suggs met the newly discovered evidence exception to the one-year deadline for filing postconviction claims. *See* Fla. R. Crim. P. 3.851(d)(2)(A) (prohibiting the filing of postconviction motions beyond the one-year

time limitation unless it alleges that “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”). That diligence requirement is not specific to *Brady* claims. It applies to all postconviction claims of newly discovered evidence. *See, e.g., Sparre v. State*, 391 So. 3d 404, 406 (Fla. 2024) (applying the due diligence requirement to a successive postconviction claim of newly discovered evidence that defendant’s Presentence Investigation Report was inaccurate or incomplete).

The Florida Supreme Court’s use of a due diligence standard to enforce a time bar arising under state law, without addressing the merits of the underlying *Brady* claim, does not conflict with other lower courts. Therefore, this Court should deny the Petition.

CONCLUSION

The Petition for a Writ of Certiorari should be denied.

Respectfully submitted,

JAMES UTHMEIER
ATTORNEY GENERAL OF FLORIDA

/s/ SCOTT A. BROWNE
SCOTT A. BROWNE
Chief Assistant Attorney General
Counsel of Record

Office of the Attorney General
3507 E. Frontage Rd., Ste. 200
Tampa, Florida 33607
Telephone: (813) 287-7900
scott.browne@myfloridalegal.com
capapp@myfloridalegal.com

BENJAMIN L. HOFFMAN
SENIOR ASSISTANT ATTORNEY GENERAL

COUNSEL FOR RESPONDENT