

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

DENNIS SOCHOR,
Petitioner,

v.

STATE OF FLORIDA,
Respondent.

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

CAPITAL CASE

DEATH WARRANT SIGNED
Execution Set: July 14, 2026, at 6:00 p.m.

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Decision Entered by Florida Supreme Court in Conjunction with the
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- B. *Sochor v. State*, No. 86-15270CF10A (Fla. 17th Cir. Ct. June 23, 2026).
Decision of State Lower Court Affirmed by Florida Supreme Court in
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APPENDIX A

Sochor v. State, No. SC2026-0971, 2026 WL 1970441 (Fla. July 8, 2026).

Decision Entered by Florida Supreme Court in Conjunction with the Judgement
Sought to be Reviewed.

IN THE CIRCUIT COURT OF THE SEVENTEENTH JUDICIAL CIRCUIT
IN AND FOR BROWARD COUNTY, FLORIDA
CASE NO.: **86-15270CF10A** DIVISION: **FT** JUDGE: **MARTIN S. FEIN**

STATE OF FLORIDA,
Plaintiff

vs.

DENNIS SOCHOR,
Defendant

_____/

**ORDER DENYING DEFENDANT'S SUCCESSIVE MOTION TO VACATE JUDGMENTS OF
CONVICTION AND SENTENCE WITH SPECIAL REQUEST FOR LEAVE TO AMEND AND
ORDER DENYING DEFENDANT'S MOTION FOR STAY OF EXECUTION AND ORDER
DENYING DEFENDANT'S MOTION FOR REHEARING AND ORDER DENYING
DEFENDANT'S MOTION FOR LEAVE TO DEPOSE DETECTVIE JOHN CURCIO**

The Court having heard Defendant's successive motion to vacate judgments of conviction and sentence with special request for leave to amend and Defendant's motion for stay of execution and Defendant's motion for rehearing and Defendant's motion for leave to depose Detective John Curcio makes the following findings of fact and conclusions of law:

1. On July 8, 2004, the Florida Supreme Court affirmed the denial of the Defendant's initial motion for postconviction relief. See Sochor vs. State, 883 So.2d 766 (Fla. 2004).
2. The Florida Supreme Court subsequently affirmed the denial of the Defendant's successive motions for postconviction relief on October 30, 2009, February 8, 2012, July 12, 2012, January 30, 2018 and March 1, 2018. See Sochor vs. State, 22 So.3d 68 (Fla. 2009), Sochor vs. State, 83 So.3d 709 (Fla. 2012), Sochor vs. State, 95 So.3d 210 (Fla. 2012), Sochor vs. State, 235 So.3d 304 (Fla. 2018) and Sochor vs. State, 246 So.3d 195 (Fla. 2018).
3. On June 10, 2026, Governor Ron DeSantis signed a death warrant scheduling the execution of the Defendant on July 14, 2026.
4. On June 10, 2026, Chief Judge Carol-Lisa Phillips entered an order pursuant to Rule 3.851(h)(1) assigning the undersigned to preside over all death warrant proceedings in the 17th Judicial

Circuit Court in the present case.

5. On June 10, 2026, the Florida Supreme Court entered an order requiring that all death warrant proceedings in the 17th Judicial Circuit Court in the present case be concluded no later than June 26, 2026, at 11:00 AM. A copy of the Florida Supreme Court's order dated June 10, 2026, is attached to and incorporated as part of this order.
6. On June 20, 2026, the Defendant filed a successive motion to vacate judgments of conviction and sentence with special request for leave to amend pursuant to Rule 3.851.
7. On June 20, 2026, the Defendant filed a motion for stay of execution.
8. On June 20, 2026, the Defendant filed a motion for rehearing of this Court's denial of Defendant's demand for additional public records from the Broward Sheriff's Office.
9. On June 20, 2026, the Defendant filed a motion for leave to depose Detective John Curcio.
10. On June 22, 2026, the State filed a written response to the Defendant's successive motion to vacate judgments of convictions and sentence of death.
11. On June 22, 2026, the State filed a written response to the Defendant's motion for stay of execution.
12. On June 22, 2026, the Broward Sheriff's Office filed a written response to the Defendant's motion for rehearing of this Court's denial of Defendant's demand for additional public records from the Broward Sheriff's Office.
13. On June 22, 2026, the Broward Sheriff's Office filed a written response to the Defendant's motion for leave to depose Detective John Curcio.
14. On June 23, 2026, this Court conducted a Huff hearing and Case Management Conference pursuant to Rule 3.851(h)(6).
15. On June 23, 2026, the State adopted the arguments contained in the Broward Sheriff's Office written response to the Defendant's motion for rehearing of this Court's denial of Defendant's demand for additional public records from the Broward Sheriff's Office and the State adopted the arguments contained in the Broward Sheriff's Office written response to the Defendant's

motion for leave to depose Detective John Curcio.

16. After considering the Defendant's motion to vacate judgments of conviction and sentence, the State's written response to the Defendant's motion to vacate judgments of conviction and sentence, the Defendant's motion for stay of execution, the State's written response to the Defendant's motion for stay of execution, the Defendant's motion for rehearing of this Court's denial of the Defendant's demand for additional public records from the Broward Sheriff's Office, the Broward Sheriff's Office written response to the Defendant's motion for rehearing of this Court's denial of the Defendant's demand for additional public records from the Broward Sheriff's Office, the Defendant's motion for leave to depose Detective John Curcio, the Broward Sheriff's Office written response to the Defendant's motion for leave to depose Detective John Curcio, the entire court file and the entire record on appeal as well as the arguments from the State and the Defendant this Court makes the following findings of fact and conclusions of law:

A. The Defendant seeks postconviction relief based on two grounds.

B. As to ground one the Defendant claims his conviction and sentence is unreliable due to the State's withholding of material, exculpatory evidence and presentation of false testimony, in violation of the Eighth and Fourteenth Amendments. Specifically, this claim is based on a letter sent by Detective John Curcio of the Broward Sheriff's Office to the Defendant's brother Gary Sochor in 2022 seeking information to assist in Detective Curcio's decades long effort to locate the remains of murder victim Patricia Gifford. Based on this claim the Defendant also filed a separate motion for rehearing of this Court's denial of the Defendant's demand for additional public records from the Broward Sheriff's Office and the Defendant also filed a separate motion for leave to depose Detective John Curcio. This Court finds the motion, files, and records in the present case conclusively show the Defendant is not entitled to relief on this claim and the Defendant is also not entitled to relief as to the motion for rehearing regarding the demand for additional public records and the Defendant is also not entitled to relief as to the motion for leave to depose Detective John Curcio. This Court finds this claim is untimely and

procedurally barred. This Court notes Rule 3.851(d) and Rule 3.851(d)(2)(A) require the Defendant to raise this claim within 1 year after the judgment and sentence become final or within 1 year after the Defendant learned of the facts on which this claim is predicated. See Randolph vs. State, 422 So.3d 166 (Fla. 2025). This Court notes the Defendant was indicted for first degree murder and kidnapping in 1986 and the Defendant was convicted of first degree murder and kidnapping in 1987. This Court further notes the Defendant was sentenced to death in 1987. This Court further notes the Defendant has previously raised a Brady claim regarding the trial testimony of his brother Gary Sochor in a prior motion for postconviction relief. This Court further notes the Florida Supreme Court affirmed the denial of the Defendant's six (6) prior motions for postconviction relief as previously stated in this order. This Court finds Gary Sochor testified and was the subject of direct examination and cross examination during the Defendant's jury trial in 1987. As such this Court finds this claim to be both untimely and procedurally barred. Even if this Court determined this claim was not untimely and was not procedurally barred (which this Court does not find) the State argues and this Court agrees this claim is without merit. This Court notes Gary Sochor's testimony was considered by the jury who subsequently convicted the Defendant of first degree murder and kidnapping based on the overwhelming evidence of the Defendant's guilt presented at trial including but not limited to the Defendant's confession that he murdered victim Patricia Gifford after she rejected his sexual advances. This Court does not agree with the Defendant and finds there is no Brady violation. This Court does not agree with the Defendant and finds the State did not withhold any material or exculpatory evidence. This Court does not agree with the Defendant and finds there is no Giglio violation. This Court does not agree with the Defendant and finds there is no "continuing investigation." This Court does not agree with the Defendant that law enforcement "believes" that Gary Sochor is actually the person who murdered victim Patricia Gifford. This Court notes Detective Curcio has also written *the Defendant* Dennis Sochor to request the same information in an attempt to locate the remains of victim Patricia Gifford. This Court does not

find the State possessed or suppressed any exculpatory or material evidence. This Court finds there is no reasonable probability and in addition also finds there is absolutely no possibility that if this “evidence” in question – that Detective Curcio has continued to write both *the Defendant* Dennis Sochor and his brother Gary Sochor for decades in an attempt to locate the remains of victim Patricia Gifford – was presented to a new jury the results would be different. This Court adopts the reasoning contained in the State’s response to Defendant’s motion to vacate judgments of conviction and sentence a copy of which is attached to and incorporated as part of this order. Therefore, pursuant to Rule 3.851(h)(6) this claim is denied. As such this Court also finds the Defendant is not entitled to a rehearing of this Court’s denial of the Defendant’s demand for additional public records from the Broward Sheriff’s Office and this Court also finds the Defendant is not entitled to leave to depose Detective John Curcio for all the reasons previously stated in this order.

C. As to ground two the Defendant claims newly discovered evidence shows that Florida’s lethal injection protocol consistently causes flash pulmonary edema resulting in the conscious perception of severe air hunger until death in violation of the Eighth Amendment and Due Process Clause of the Fourteenth Amendment. This Court finds the motion, files, and records in the present case conclusively show the Defendant is not entitled to relief on this claim. First, this Court finds this claim (a method-of-execution claim) is untimely and procedurally barred. This Court notes Rule 3.851(d) and Rule 3.851(d)(2)(A) require the Defendant to raise this claim within 1 year after the judgment and sentence become final or within 1 year after the Defendant learned of the facts on which this claim is predicated. See Randolph vs. State, 422 So.3d 166, (Fla. 2025). The Florida Department of Corrections lethal injection procedures attached as an exhibit to the Defendant’s motion to vacate judgments of conviction and sentence on which this claim is predicated are dated February 18, 2025. This Court finds the current drug protocol as outlined in the Florida Department of Corrections lethal injection procedures has been used for many years prior to 2025. As such this Court finds the Defendant

did not raise this claim within 1 year after the Defendant learned of the facts on which this claim is predicated. Second, this Court finds this claim is legally insufficient. In Trotter vs. State, 428 So.3d 68 (Fla. 2026), the Florida Supreme Court stated to obtain relief on a method-of-execution claim the Defendant must “establish that the method of execution presents a substantial and imminent risk that is sure or very likely to cause serious illness and needless suffering and identify a known and available alternative method of execution that entails a significantly less severe risk of pain.” See also Asay vs. State, 224 So.3d 695 (Fla. 2017) and Knight vs. State, --- So.3d --- (Fla. 2026) also cited as 51 Fla. L. Weekly S125 (Fla. 2026). This Court finds the current lethal injection procedures do not present a substantial and imminent risk that is sure or very likely to cause serious illness or needless suffering. Specifically, this Court notes the Florida Department of Corrections lethal injection procedures attached as an exhibit to the Defendant’s motion to vacate judgments of conviction and sentence on which this claim is predicated expressly state in Administration of Execution step (12)(c)(4) as follows:

“At this point, the team warden will assess whether the inmate is unconscious. The team warden must determine, after consultation, that the inmate is indeed unconscious. If the inmate is unconscious and the team warden orders the executioners to continue, the executioners shall proceed to step (12)(c)(6).” (emphasis added)

This Court further notes Administration of Execution step (12)(c)(5) states “[i]n the event that that inmate is not unconscious, the team warden shall signal that the execution process is suspended.” In addition, this Court finds the Defendant speculates without any support that an inmate “might” or “could” become conscious at some point after the inmate is assessed to be unconscious per Administration of Execution step (12)(c)(4). As such this Court finds the Defendant has failed to establish that the method of execution presents a substantial and imminent risk that is sure or very likely to cause serious illness and needless suffering. Even this Court did find the Defendant established the method of execution does present a substantial and imminent risk that is sure or very likely to cause serious illness and needless suffering (which this Court does not find), this Court also finds the Defendant has not identified a known

and available alternative method of execution that entails a significantly less severe risk of pain. This Court notes F.S.S. 922.105(1) authorizes lethal injection or electrocution as the only available methods of execution in Florida. As such this Court finds execution by firing squad is not authorized by Florida Law and therefore not available. This Court adopts the reasoning contained in the State's response to Defendant's motion to vacate judgments of conviction and sentence a copy of which is attached to and incorporated as part of this order. Therefore, pursuant to Rule 3.851(h)(6) this claim is denied.

This Court finds no merit in claim one or claim two of the Defendant's successive motion to vacate judgments of conviction and sentence as previously stated in this order. As such it is hereby **ORDERED and ADJUDGED** that the Defendant's successive motion to vacate judgments of conviction and sentence is hereby **DENIED**.

This Court finds the Defendant is not entitled to a stay of execution for the same reasons this Court finds no merit in claim one or claim two of the Defendant's successive motion to vacate judgments of conviction and sentence as previously stated in this order. As such the Defendant's motion for stay of execution is **DENIED**.

This Court finds the Defendant is not entitled to a rehearing of this Court's denial of the Defendant's demand for additional public records from the Broward Sheriff's Office for the same reasons this Court finds no merit in claim one of the Defendant's successive motion to vacate judgments of conviction and sentence as previously stated in this order. As such the Defendant's motion for rehearing of this Court's denial of the Defendant's demand for additional public records from the Broward Sheriff's Office is **DENIED**. This Court finds the Defendant is not entitled to leave to depose Detective John Curcio for the same reasons this Court finds no merit in claim one of the Defendant's successive motion to vacate judgments and sentence as previously stated in this order. As such the Defendant's motion for leave to depose Detective John Curcio is **DENIED**.

Pursuant to the Florida Supreme Court's order dated June 10, 2026, the Defendant has the right to appeal this order and shall file a notice of appeal by 1:00 PM on Friday, June 26, 2026.

DONE and ORDERED at Fort Lauderdale, Broward County, Florida this 23rd day of June, 2026.

86015270CF10A 06-23-2026 3:08 PM



86015270CF10A 06-23-2026 3:08 PM 23rd day of June, 2026

MARTIN S. FEIN
CIRCUIT COURT JUDGE
case #86-15270CF10A

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Supreme Court of Florida

WEDNESDAY, JUNE 10, 2026

Dennis Sochor,
Appellant

v.

State of Florida,
Appellee

SC1960-71407

Lower Tribunal No(s):
061986CF015270A88810

Because the Governor has signed a death warrant for the execution of Dennis Sochor at 6:00 p.m., Tuesday, July 14, 2026, we direct that all further proceedings in this case be expedited.

The proceedings pending in the trial court, if any, shall be completed and orders entered as expeditiously as possible, but by no later than 11:00 a.m., Friday, June 26, 2026.

We hereby set the following schedule for any proceeding that may come before this Court. The notice of appeal shall be filed by 1:00 p.m., Friday, June 26, 2026. If any writ petition is filed, it is due by 1:00 p.m., Friday, June 26, 2026. The record on appeal shall be filed by 4:30 p.m., Friday, June 26, 2026. The initial brief on the merits shall be filed by 2:00 p.m., Monday, June 29, 2026. The answer brief on the merits shall be filed by 5:00 p.m., Tuesday, June 30, 2026. The reply brief on the merits shall be filed by 2:00 p.m., Wednesday, July 1, 2026. Oral argument, if necessary, will be scheduled at a later date.

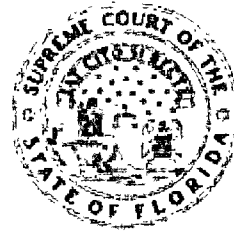
CASE NO.: SC1960-71407

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Copies of any pleadings filed by counsel in the trial court, federal courts, with the Governor's Office, or with any other entity shall be served simultaneously with the filing in the other courts or entities to the following address: warrant@flcourts.org.

A True Copy
Test:

SC1960-71407 6/10/2026
John A. Tomasino
Clerk, Supreme Court
SC1960-71407 6/10/2026



KC

Served:

CAPAPPEALS TLH ATTORNEY GENERAL
BROWARD CLERK
SUZANNE KEFFER
MARILYN FRANCES MUIR
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JOEL SILVERSHEIN

**IN THE CIRCUIT COURT OF THE SEVENTEENTH JUDICIAL CIRCUIT IN
AND FOR BROWARD COUNTY, FLORIDA**

STATE OF FLORIDA,

Plaintiff,
v.

DENNIS SOCHOR,

Defendant.

Case No.
061986CF015270A88810
1986-15270CF10A (Original)
ACTIVE DEATH WARRANT
July 14, 2026 @ 6:00 p.m.

**STATE'S RESPONSE TO SUCCESSIVE MOTION TO
VACATE JUDGEMENTS OF CONVICTION AND SENTENCE**

The State of Florida, responds to Defendant's Successive Motion to Vacate Judgments of Conviction and Sentence with Special Request for Leave to Amend filed on June 20, 2026, and states that relief should be summarily denied.

On June 10, 2026, Governor DeSantis signed a death warrant for Dennis Sochor with the execution set for July 14, 2026. The Florida Supreme Court ordered that all circuit court proceedings be done by 11:00 a.m., June 26, 2026.

FACTS AND PROCEDURAL HISTORY

This is Sochor's sixth successive post-conviction motion challenging his conviction and sentence of death for the first-degree murder of [REDACTED]. *Sochor v State*, 619 So. 2d 285 (Fla. 1993), *cert. denied*, 510 U.S. 1025 (1993).

Facts of the Crime and Direct Appeal

In 1981 Dennis Sochor lived in Fort Lauderdale, Florida and shortly after Christmas that year, his brother, Gary Sochor ("Gary"), visited him from

Michigan. On New Year's Eve, the brothers drove a truck from Sochor's apartment to the Banana Boat lounge. *Sochor v. Sec'y Dep't of Corr.*, 685 F.3d 1016, 1019 (11th Cir. 2012), *cert. denied*, 569 U.S. 948 (11th Cir. 2013). There the brothers met eighteen-year-old [REDACTED] and her friend, [REDACTED]. As the women sat at the Banana Boat tiki bar, Sochor and Gary approached and engaged them in conversation for a few hours. Someone took a photograph of Sochor sitting next to the women. *Id.*

When [REDACTED] had too much to drink, [REDACTED], Sochor, and Gary took her to her car in the parking lot and [REDACTED] went inside to pay her tab. When [REDACTED] returned to the car, she realized [REDACTED] was unable to drive. "Sochor and his brother asked [REDACTED] if she wanted to accompany them" in their truck to go get something to eat "while [REDACTED] slept in her car;" and [REDACTED] "accepted their invitation." *Id.*

The men took [REDACTED] to a remote area. In a tape-recorded confession to the police, Sochor stated that he and [REDACTED] had an argument after he had asked her to have sex and she refused. Sochor grabbed her by her hair, and she fought him, screaming and scratching Sochor's face. "Sochor 'got angry and began choking her.' When [REDACTED] stopped breathing, Sochor knew that he had 'probably

¹ Gifford and her boyfriend lived in Fort Lauderdale, however, because he had to work New Year's Eve, [REDACTED] and [REDACTED] went to the Banana Boat because their friend tended bar there. They drove [REDACTED] car that night at 9:00 p.m. *Sochor v. Sec'y Dep't of Corr.*, 685 F.3d 1016, 1019 (11th Cir. 2012).

just murdered her.” *Id.* He confessed that he drove his truck down a dirt road and left “her body in the weeds.” *Id.*

Gary testified that after they left the Banana Boat, Sochor stopped the truck and stepped out. Gary then heard [REDACTED] “hollaring [sic] for help, asking what was going on.” *Id.* When Gary got out of the passenger's side, he ran around the vehicle and saw Sochor had [REDACTED] on the ground, his hands pinned down while he sat on top of her. Gary threw a rock at Sochor and “hollared [sic] at him to leave her alone.” *Id.* Sochor “told [him] to get back in the truck.” *Id.* Gary complied because he was afraid of Sochor. Gary never saw [REDACTED] again. *Id.*

Following [REDACTED] disappearance, Sochor saw a television report showing a photograph of him sitting with [REDACTED] at the tiki bar. Upon seeing that, he “estimate[d] that [he] had, in fact, committed another rape and was terrified of the fact, so [he] decided to leave town.” *Id.* Sochor drove to Tampa where he dumped the truck, traveled to New Orleans, and eventually moved to Atlanta. *Id.* Years later, he was arrested in Georgia and indicted on October 9, 1986, for [REDACTED] murder and kidnapping. *Id.* (ROA-R 1143-44)

Sochor confessed to the arresting police officers in Atlanta and twice more in Florida. Each time he gave more detailed statements. *Id.* at 1019-20. (ROA-T 474-505). The jury convicted Sochor of first-degree murder and recommended a death sentence, which the trial court imposed.²

² The aggravation found was: (1) prior violent felony; (2) killing committed during the course of a felony (kidnapping); (3) especially heinous, atrocious, or cruel

On direct appeal, the Florida Supreme Court affirmed the conviction but found the evidence did not support the cold, calculated, and premeditated aggravating factor. Even so, the Court found the error harmless and affirmed the death sentence. *Sochor v. State*, 580 So. 2d 595 (Fla. 1991). Subsequently, the United States Supreme Court granted certiorari and remanded the matter for a proper harmless error analysis in light of the invalid CCP aggravator. *Sochor v. Florida*, 504 U.S. 527 (1992). On remand, the Florida Supreme Court conducted the required review and again affirmed the conviction and sentence. *Sochor*, 619 So. 2d at 293, n. 11. Certiorari was denied on December 31, 1993, and rehearing denied on February 22, 1994. *Sochor v. Florida*, 510 U.S. 1025 (1993).

Post-conviction Litigation in State and Federal Courts

On July 25, 1995, Sochor filed his initial post-conviction motion. After an evidentiary hearing, relief was denied. Although the Florida Supreme Court found penalty phase counsel's mitigation investigation and presentation deficient under *Strickland v. Washington*, 466 U.S. 668 (1984), it found Sochor was not prejudiced. *Sochor v. State*, 883 So. 2d 766 (Fla. 2004). It also rejected the remaining claims³ and Sochor's habeas petition. *Id.*

Next, Sochor filed a federal petition for a writ of habeas corpus which was

(HAC); and cold, calculated, and premeditated (later stricken). No mitigation was found. *Sochor*, 619 So. 2d at 288, 292, n. 2, 11.

³ Of import here, Sochor asserted: “. . . (2) the State committed a *Brady [v. Maryland]*, 373 U.S. 83 (1963)] violation by not revealing” Gary was given immunity. *Sochor*, 883 So. 2d at 785, n. 7.

denied. *Sochor v. McNeil*, Case No. 05–61534–CIV, 2009 WL 9046175 (S.D. Fla. 2009). The Eleventh Circuit Court of Appeals affirmed. *Sochor v. Sec’y, Dept. of Corr.*, 685 F. 3d 1016 (11th Cir. 2012). The United States Supreme Court denied certiorari on April 22, 2013. *Sochor v. Crews*, 569 U.S. 948 (2013).

Sochor filed his first successive post-conviction motion under Fla. R. Crim. P. 3.851 on March 14, 2008. The Circuit Court denied the motion and the Florida Supreme Court affirmed on October 30, 2009. *Sochor v. State*, 22 So. 3d 68 (Fla. 2009) (affirming summary denial of challenge to Florida’s lethal injection protocol and other claims). During that litigation, Sochor filed a second successive Rule 3.851 motion raising a claim of newly discovered evidence alleging that his brother, Gary, committed the murder and, on January 18, 2011, relief was denied. Sochor then filed a claim based on *Porter v. McCollum*, 558 U.S. 30 (2009), treated as a separate (third successive) motion and the court denied relief on September 6, 2011. The Florida Supreme Court affirmed the denial of both motions. *Sochor v. State*, 95 So. 3d 210 (Fla. 2012); *Sochor v. State*, 83 So. 3d 709 (2012) (upholding denial of newly discovered evidence claim alleging Gary Sochor’s involvement in crimes because such was inadmissible hearsay).

Sochor filed his fourth successive postconviction motion under *Hurst v. Florida*, 577 U.S. 92 (2016). The Florida Supreme Court affirmed. *Sochor v. State*, 235 So. 3d 304 (Fla. 2018) (finding *Hurst* not retroactive to Sochor’s sentence).

Sochor’s fifth successive Rule 3.851 motion presented two competing legal theories related to an alleged hearsay claim implicating Gary Sochor in [REDACTED]

murder. The trial court summarily denied the claims as inadmissible hearsay. Again, the Florida Supreme Court affirmed. *Sochor v. State*, 246 So. 3d 195 (Fla. 2018) (agreeing that the evidence about Gary was rank hearsay).

STANDARD OF REVIEW

This is a successive motion as “a state court has previously ruled on a postconviction motion challenging the same judgment and sentence.” Florida Rule of Criminal Procedure 3.851 (e)(2). *See Sochor*, 883 So. 2d at 766 (affirming denial of original post-conviction motion). To bring a successive post-conviction claim and one outside the one-year time limitation, the defendant must show either: (1) newly discovered evidence; (2) a new constitutional right held to apply retroactively; or (3) counsel’s neglect to file a motion. *See* Rule 3.851(d)(2); *Owen v. Crosby*, 854 So. 2d 182, 188 (Fla. 2003) (explaining capital defendant failed to establish that his successive motion was predicated on newly discovered evidence, thus, he could not overcome the procedural bar); *Knight v. State*, 784 So. 2d 396, 400 (Fla. 2001); *Francis v. Barton*, 581 So. 2d 583, 584 (Fla. 1991). Without such a showing, the motion should be summarily denied. Fla. R. Crim. P. 3.851 (e)(2).

The court may deny a successive post-conviction motion if it fails to sufficiently “allege factual elements sufficient to constitute a basis for the collateral relief sought” or “the record conclusively shows no entitlement to relief.” *Spencer v. State*, No. SC2026-0880, 2026 WL 1757938, at *3 (Fla. June 18, 2026); *Kennedy v. State*, 547 So. 2d 912, 913 (Fla. 1989). Procedurally barred

claims may be denied summarily. *See Rogers v. State*, 409 So. 3d 1257, 1263 (Fla. 2025); *Muhammad v. State*, 603 So. 2d 488, 489 (Fla. 1992) (“Issues which either were or could have been litigated at trial and upon direct appeal are not cognizable through collateral attack”).

This Court should summarily deny post-conviction claims raised beyond the one-year time limitation for successive motions. *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.”); *Morris v. State*, 317 So. 3d 1054, 1071 (Fla. 2021) (court may summarily deny procedurally barred claims). Sochor’s motion is nothing but an untimely successive attempt to review his conviction and death sentence. Further, the Florida Supreme Court has repeatedly denied challenges to Florida’s lethal injection protocols. Relief should be denied here as well.

ARGUMENT

CLAIM ONE

Sochor’s *Brady/Giglio* Claim Must Be Summarily Denied as It Is Procedurally Barred, Legally Insufficient, and Without Merit.

Sochor presents another successive claim focused on Gary Sochor’s alleged culpability for the murder of [REDACTED]. In his latest attempt to obtain relief, Sochor makes several assumptions to manufacture a new version of recycled *Brady/Giglio* claims that in reality are nothing more than Sochor’s exploitation of the [REDACTED] family’s resolve to find [REDACTED] remains. As

demonstrated below, this issue does not present any factual predicate or valid legal basis to overcome the procedural and substantive hurdles it faces. Summary denial is warranted.

In this sixth successive motion for postconviction relief, Sochor claims that the State withheld “evidence” that BSO continues to believe that Gary knows more about the murder of [REDACTED] i.e., where the body is located. (Motion at 9). The factual basis offered for this claim is a letter in BSO’s Supplemental Production to Defendant’s Demand for Additional Public Records.” (Motion at 8; Sochor’s Attachment B). In the letter to Gary dated January 3, 2022, Detective Curcio relates his endeavor to recover [REDACTED] remains for her family and that “any information” Gary could provide “will help” [REDACTED] family “have a place to visit.” Also included in the attachment is an email in which Curcio states that he has written to Sochor “many times wanting more information as to where he left the victim” and neither Sochor nor Gary ever responded.

Sochor claims, without citing to any legal authority, that this request for Gary’s assistance is exculpatory/impeachment evidence and somehow material to Sochor’s guilt or death sentence pursuant to *Brady v. Maryland*, 373 US 83 (1963). Furthermore, he alleges the State relied on false or perjured testimony in violation of *Giglio v. United States*, 405 U.S. 150 (1972). Summary denial is warranted as this claim is procedurally barred, legally insufficient as pled, and without merit. *Morris v. State*, 317 So. 3d 1054, 1071 (Fla. 2021) (reaffirming law that summary denial is warranted when *Brady* claim is procedurally barred or

facially insufficient).

Over the years, the issue of Gary's culpability was presented in three motions for postconviction relief, therefore, this fourth attempt to recycle Gary's alleged involvement in the crime must be denied. Gary's culpability in [REDACTED] murder was first argued as part of Sochor's trial defense. In a shotgun approach, Sochor claimed that: he either killed [REDACTED] in a "heat-of-passion"; his intoxication precluded a finding of premeditation; or that this was a case of mistaken identity, i.e., that Gary killed [REDACTED]⁴ *Sochor*, 619 So. 2d at 289-90.

The State's proof of Sochor's guilt included his three taped statements admitting that he strangled [REDACTED] with his bare hands and Gary's eyewitness account of this murder. Gary testified that he had an independent recollection of that night, and he feels guilty and somewhat responsible because he did not help [REDACTED] as she struggled and begged for her life. (ROA 321, 338, 362, 369, 376-377). Paul Jones, Sochor's roommate in Georgia, testified that Sochor admitted he had choked someone and disposed of the body in the countryside, stuffing it into a drainage pipe. (ROA 564-565). Other evidence establishing Sochor's guilt was the testimony of his mental health experts who opined that the strangulation death was the result of Sochor's drug and alcohol abuse coupled with his antisocial personality disorder. *Id*

⁴ A review of the complete record reveals there was no evidence presented by Sochor regarding mistaken identity. The Florida Supreme Court found the claim meritless. *Sochor*, 619 So. at 289 & n. 6.

In its opinion, the Florida Supreme Court summarized Gary's testimony including that [REDACTED] and Sochor were kissing and she willingly accompanied the brothers in their truck, ostensibly to go for breakfast. Gary remembered [REDACTED] screaming for help, with Sochor sitting on top of her which prompted Gary to throw a rock over Sochor's head, but that it did not stop Sochor from killing [REDACTED] *Sochor*, 619 So. 2d at 287-88.

The Circuit Court granted Sochor an evidentiary hearing on some claims raised in the initial post-conviction motion including two which involved Gary's level of culpability in the murder. Sochor alleged that the State withheld evidence that it granted Gary immunity in exchange for his testimony in violation of *Brady* and encouraged Gary to lie at trial⁵ in violation of *Giglio*. *Sochor*, 883 So. 2d at 770 n. 6. As noted above, the Court denied those claims after an evidentiary hearing which was affirmed on appeal. *Sochor*, 883 So. 2d at 781-790 (agreeing that the trial court's finding that the prosecutor was credible, Gary Sochor not credible, on the issues of immunity and directing Gary how to testify).

Since then, Sochor has twice attempted to relitigate the issue of Gary's culpability. In his second successive 3.851 postconviction motion, Sochor alleged that he possessed newly discovered evidence that Gary was "responsible for

⁵ The alleged evidence to be kept from the jury was Gary's admission that he engaged in "sexually charged behavior" with [REDACTED] which exacerbated Sochor's rage leading to her strangulation. (1PCR 346-348).

committing murder.”⁶ The trial court summarily denied the claim, finding it to be inadmissible double hearsay which exposed no one, not even Gary, to criminal liability. The affidavit reporting Gary’s alleged “admission” did not identify a particular victim, a date of a crime, nor any single detail about the alleged murder. (3PCR 146). The summary denial was affirmed on appeal. *Sochor*, 83 So. 3d at 709 (upholding summary denial of claim of newly discovered which amounted to inadmissible hearsay).

In his fifth successive post-conviction motion filed in 2016, Sochor presented an affidavit by Marvin Droset⁷, a childhood friend of Sochor’s, implicating Gary as “more responsible” for ██████ murder.⁸ Sochor alleged that the affidavit was either newly discovered evidence or was somehow withheld by the State in violation of *Brady*. The trial court found the affidavit was inadmissible hearsay and that the claim should have been raised.⁹ Again, the

⁶ The evidence was an affidavit from Lynn Winter who offered that while on a telephone call, she heard her former son-in-law Eric, state in the background, that Gary told him he had committed murder. (3PCR 31).

⁷Marvin Droste testified for Sochor at the evidentiary hearing in support of his initial post-conviction motion. *Sochor v. State*, 883 So. 2d 766, 777 (Fla. 2004). Consequently, he was available to present this evidence at that time.

⁸The 2015 affidavit states that in 1982, Droste was at a bar with Gary where while intoxicated told him that there had been trouble in Florida and a “coke whore” had been picked up in a club and had died later while partying. The death was an accident, (not planned); she had been buried in the sand; and did not think the body had been found and might never be. Gary said in a remorseful way, that he was “more responsible than anyone else.” (6PCR 27).

⁹ Marvin Droste testified for Sochor at the original post-conviction evidentiary hearing in support of the ineffective assistance of counsel claim regarding

Florida Supreme Court affirmed. *Sochor*, 246 So. 3d at 195 (upholding summary denial of claim based on rank hearsay and legal insufficiency and refuted by the record).

Now on the verge of his execution, Sochor alleges Curcio's 2022 letter to Gary supports a new *Brady* claim suggesting that BSO personnel "believed and continue to believe, that Gary knows more about the murder of [REDACTED] than he lets on." (Motion at 9). This alleged belief Sochor posits can be gleaned from Curcio's 2022 letter to Gary, seeking assistance in finding [REDACTED] body. (Attachment B). Sochor speculates that this letter contains "evidence," i.e., Curcio's opinion that Gary knows more about the murder. Sochor further extrapolates that this opinion has been "withheld" from him in violation of *Brady* and *Giglio*, and it is somehow exculpatory and would probably produce an acquittal or life sentence. Summary denial is warranted on this baseless successive claim. Even if such an opinion¹⁰ exists, that opinion is not admissible evidence and is not "material" under *Brady*. This latest attempt to re-litigate Gary's culpability is procedurally barred and summary denial is warranted.

Sochor acknowledges that Curcio is a member of BSO's "Cold Case Homicide Unit," created in 2019, and was not involved in the initial investigation of [REDACTED] murder. Therefore, any alleged opinion he may have about Gary's

mitigation. *Sochor*, 883 So. 2d at 777. Consequently, Sochor could have presented this witness earlier than 2016.

¹⁰ Curcio was not employed with BSO at the time of this murder investigation.

involvement would not have been formed until decades after the trial. Sochor presents no evidence to the contrary. The Supreme Court has stated “nothing in our precedents suggested that [the State's] disclosure obligation continued after the defendant was convicted and the case was closed.” *Dist. Attorney's Off. for Third Jud. Dist. v. Osborne*, 557 U.S. 52 (2009); *see also United States v. Smith*, 749 F.3d 465, 492 (6th Cir. 2014) (*Brady* does not require the prosecutor to disclose a report written more than a year after trial). Curcio’s alleged opinion, no matter when it was formed, did not exist at the time of trial; thus, there was no evidence in the State’s possession to suppress. *Wyatt v. State*, 71 So. 3d 86, 103 (Fla. 2011) (affirming denial of *Brady* claim as the information, even though favorable did not exist at the time of trial and therefore there can be no violation). Even if such an opinion exists, that opinion is not admissible evidence and is not “material” under *Brady*. This latest attempt to re-litigate Gary’s culpability is procedurally barred and summary denial is warranted.

Sochor tries to relitigate the issue of Gary’s culpability in [REDACTED] murder under the guise of an alleged Brady violation. Sochor is using Curcio’s letter as the vehicle to achieve that goal by erroneously characterizing this letter as proof that “the State” no longer believes Gary. Sochor speculates further that if the State no longer believes Gary, then he must be the one who killed [REDACTED]. Summary denial is warranted as the issue of Gary’s culpability has been litigated previously. *See Zakrewski v. State*, 415 So. 3d 203, 209 (Fla. 2025) (finding prior unsuccessful claim that death sentence was improper following a jury override

cannot be repackaged under a new legal theory); *Hendrix v. State*, 136 So. 3d 1122 (Fla. 2014) (finding procedurally barred claim regarding impeachment evidence against a jail-house witness as it was raised and rejected previously).

Summary denial is warranted as Sochor has not pled a proper claim under *Brady*, nor met any of its requirements. To establish his claim Sochor must allege that the evidence was exculpatory or impeaching; it was suppressed; and the evidence is material. *Morris*, 317 So. 3d at 1071 (reaffirming that summary denial is warranted when *Brady* claim is procedurally barred or facially insufficient and a *Brady* claim is legally insufficient when trial counsel was aware of information).

The record shows that Sochor was aware before trial that law enforcement relied on Gary for details about the murder, including the location of [REDACTED] remains. BSO initiated those inquiries with Gary while he was in Michigan just days after the murder. Those inquiries culminated in Gary's voluntary return to Florida to assist in the investigation and to retrace his steps that evening around the Banana Boat and State Road 84. (ROA 331-335, 390-393, 412-15). Sochor also knew that Gary met with [REDACTED] mother after which Gary made another attempt in a different location to assist with the search for [REDACTED] body. (ROA 334). Also, Sochor accompanied law enforcement to try to find [REDACTED]. (ROA 412-15).

Sochor's assumptions and inferences surrounding Curcio's persistence in trying to obtain information from either Gary or Sochor about the whereabouts of [REDACTED] remains, does not create exculpatory evidence under *Brady* let alone

material evidence that would provide Sochor with any grounds for relief. Even if Curcio believes that Gary “knows more” than he is telling, that is not evidence, only inadmissible conjecture. *Connolly v. State*, 366 So. 3d 1142, 1148-50 (Fla. 3rd DCA 2023) (affirming denial of relief under *Brady*, explaining that conclusion/opinion about guilt or innocence is inadmissible, and evidence of an alternate suspect were widely known); *see also Duest v. State*, 12 So. 3d 734, 745-46 (Fla. 2009) (affirming denial of *Brady* claim that prosecutor’s memo that case was weak was merely an opinion that was inadmissible and would not lead to exculpatory evidence); *Martinez v. State*, 761 So. 2d 1074, 1079 (Fla. 2000) (explaining that opinion testimony about guilt or innocence is inadmissible).

Sochor’s *Giglio* claim is legally insufficient. For relief, Sochor must establish that the prosecutor knowingly presented false testimony and the statement was material. *Robinson v. State*, 707 So. 2d 688, 693 (Fla. 1998). Sochor’s reliance on Curcio’s 2022 letter to Gary supporting this claim is misplaced and highlights its legal insufficiency. Sochor points to no facts showing that Gary’s trial testimony was either false or that the State knew it was false. At best, Curcio’s 2022 letter acknowledges what Sochor and the jury knew, i.e., Gary was with Sochor when Sochor killed [REDACTED] and Gary may know where Sochor hid her body. Nothing in the letter even hints that Gary’s testimony was untruthful. This claim is insufficiently pled and summary denial is warranted. *Hunter v. State*, 29 So. 3d 256, 271 (Fla. 2008) (upholding summary denial as defendant failed to present specific allegations that testimony was false or that

the state knew it was false).

CLAIM TWO

The Challenge to Florida's Lethal Injection Protocols Is Untimely, Legally Insufficient, Procedurally Barred, and Meritless.

Sochor next asserts Florida's use of etomidate in its longstanding three-drug, lethal-injection protocol facially violates the Eighth Amendment because the protocol may allegedly cause him to consciously experience severe air hunger due to flash pulmonary edema and fail to keep him unconscious during the execution. Sochor likens it to Alabama's use of the gas nitrogen hypoxia which the Eleventh Circuit Court of Appeals found to cause a "substantial risk of harm" because it caused pulmonary edema resulting in severe air hunger for up to three minutes. *Lee v. Comm'r Ala. Dep't of Corr.*, Case No. No. 26-11864, 2026 WL 1651147, at *2 (11th Cir. June 8, 2026). It goes without saying, another state's use of gas in an entirely different execution protocol has no bearing on Florida's protocol which has repeatedly been found to be constitutional. Sochor also argues that "newly discovered evidence" regarding the autopsies of Florida's executed inmates supports his allegation that at some point during the execution edema occurs. This claim is untimely and procedurally barred because he could have raised this claim since the 2017 protocols were issued. It is also meritless under longstanding precedent.

In Florida, "the Eighth Amendment is both the floor and the ceiling for protection from cruel and unusual punishment." *Barwick v. State*, 361 So. 3d

785, 794 (Fla. 2023). This Court lacks authority to extend Eighth Amendment jurisprudence beyond the Supreme Court’s limits. *Gudinas v. State*, 412 So. 3d 701, 713 (Fla. 2025). “The Eighth Amendment does not guarantee a prisoner a painless death - something that, of course, isn’t guaranteed to many people, including most victims of capital crimes.” *Bucklew v. Precythe*, 587 U.S. 119, 132–33 (2019). “Simply because an execution method may result in pain, either by accident or as an inescapable consequence of death, does not establish” cruel and unusual punishment. *Baze v. Rees*, 553 U.S. 35, 50 (2008) (plurality opinion).

An Eighth Amendment method-of-execution claim requires the condemned to: “(1) establish that the method of execution presents a substantial and imminent risk that is sure or very likely to cause serious illness and needless suffering and (2) identify a known and available alternative method of execution that entails a significantly less severe risk of pain.” *Randolph v. State*, 422 So. 3d 166, 173 (Fla. 2025); *Bucklew*, 587 U.S. at 134, 140 (“All Eighth Amendment method-of-execution claims” must “meet the *Baze-Glossip* test¹¹”).

Timeliness

Sochor has failed to show his claim is timely, thus, this Court must summarily deny it. Post-conviction claims raised more than a year after the judgment and sentence become final are untimely and must “meet an exception

¹¹ *Baze v. Rees*, 553 U.S. 35 (2008); *Glossip v. Gross*, 576 U.S. 863 (2015).

to the time-limit rule - otherwise, the claim” should be summarily denied. *Davis v. State*, 417 So. 3d 242, 247 (Fla. 2025) (citing Fla. R. Crim. P. 3.851(d)(2), (e)(2)). Florida’s lethal-injection protocol has used etomidate since 2017. *See Jimenez v. State*, 265 So. 3d 462, 474 (Fla. 2018) (recognizing the court in 2017 “fully considered and approved of the current lethal injection procedure, which replaced midazolam with etomidate as the first drug in the three-drug protocol”); *Id.* at 492 (Pariente, J., concurring in part).

A narrow exception to this time limit exists when “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). Successive capital claims based on this newly-discovered-evidence exception in Rule 3.851(d)(2)(A) must be filed within a year of when “the facts on which the claim is predicated” become ascertainable by “the exercise of due diligence.” *Bates v. State*, 416 So.3d 312, 319 (Fla. 2025). The defendant must “establish the timeliness of a successive postconviction claim.” *Sparre v. State*, 391 So. 3d 404, 406 (Fla. 2024). Absent such showing at the pleading stage, summary denial is proper. *Id.*

Sochor’s case became final in 1994 with the denial of rehearing of the certiorari denial. *See Sochor v. Florida*, 510 U.S. 1025 (1993), *reh’g denied*, 510 U.S. 1159. The current protocols were set in 2017 rendering his facial challenge now untimely because the protocol “has remained essentially unchanged since 2017.” *See Randolph*, 422 So. 3d at 172. The protocols required etomidate for

the past nine-plus years, including during Sochor's previous post-conviction litigation. His post-warrant claim is well beyond the one-year time limitation under Rule 3.851 (d)(2) and (e)(2). Without question, Sochor could have raised this challenge earlier and his failure to do so results in a time-bar. *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."); *see also Spencer v. State*, No. SC2026-0880, 2026 WL 1757938, at *6 (Fla. June 18, 2026) (rejecting "maladministration" of lethal injection claim and Eighth Amendment challenge to lethal injection protocols). Sochor has not offered a reason his claim could not have been raised in a timely manner and well before the death warrant was signed.¹²

Without revealing when his counsel obtained the offered autopsy reports, Sochor's assertions that other executions resulted in "heavy lungs"¹³ cannot

¹² That lethal injection executions are associated with pulmonary edema have long been discussed in case law. *See Barr v. Lee*, 591 U.S. 979, 981 (2020)(reversing stay of execution that was based in part upon allegations that pentobarbital caused flash pulmonary edema); *In re Ohio Execution Protocol Litig.*, 946 F.3d 287, 290 (6th Cir. 2019) (disagreeing with the district court that pulmonary edema met the first *Glossip* requirement of risk of unconstitutional level of pain or discomfort). Further, such allegations have been made specifically in Florida based upon autopsy reports. *See Brant v. Reddish*, No. 3:13-CV-412-J-34MCR, 2019 WL 4600366, at *18 (M.D. Fla. Sept. 23, 2019) (" . . . , Plaintiffs maintain that they are now in receipt of autopsy reports that show "three of the four individuals executed using etomidate developed [REDACTED] during their executions"). Consequently, Sochor has not established any diligence in bringing this claim, much less the due diligence that Rule 3.851 requires.

¹³ Sochor's allegations that an inmate *may* remain conscious will be addressed

establish his “facial” challenge is timely both because this claim challenges Florida’s protocol as a “facial” matter and the records undergirding his allegations simply do not show what Sochor claims.¹⁴ At bottom, Sochor asserts the use of etomidate renders Florida’s protocol unconstitutional, a claim that could and should have been raised long ago. This Court should summarily deny this claim as untimely.

Procedural Bar

Sochor’s facial challenge is procedurally barred as he had the opportunity to challenge the use of etomidate after it was added to the protocol in 2017. He is procedurally barred now. *See Rogers v. State*, 409 So. 3d 1257, 1263 (Fla. 2025) (holding claims that could have been raised before a warrant are barred in warrant litigation). Sochor could have raised this facial challenge long ago as its operative facts existed since 2017 and remained effectively unchanged since then. *See Randolph*, 422 So. 3d at 173. This claim could have been raised before his warrant, it is barred. *See Rogers*, 409 So. 3d at 1263.

Merits

Sochor’s facial challenge to Florida’s protocol is also meritless as a matter of law and should be summarily denied. *See Long v. State*, 271 So.3d 938, 946 (“Since approving the current lethal injection protocol in *Asay VI*, we have

in the merits section.

¹⁴ Each of the checklists in Sochor’s Attachment G show that each inmate passed the unconsciousness test before the second phase of the protocol began.

repeatedly affirmed the summary denial of challenges to the protocol.”). The use of etomidate in Florida’s current protocol is well established and is constitutional. *See Asay v. State*, 224 So.3d 695, 700-02 (Fla. 2017).

The Litigation History of Florida’s Etomidate Protocol

Florida adopted etomidate as the first drug in its lethal-injection protocol in January 2017. *Long v. Sec’y, Dep’t of Corr.*, 924 F.3d 1171, 1179 (11th Cir. 2019). During an active death warrant, the circuit court held a full evidentiary hearing to determine whether etomidate put the defendant at “substantial risk of serious harm in violation of the Eighth Amendment.” *See Asay*, 224 So. 3d at 699, 701. Four experts testified that etomidate produces rapid onset of unconsciousness, usually within one minute. The duration of the unconsciousness is dose dependent; an average dose of 0.3mg/kg is between three and five minutes. *Id.* Florida’s current protocol calls for the condemned to receive 200mg of etomidate before the warden assesses consciousness.¹⁵ (See protocol attached by Sochor). Both the State and defense anesthesiologists agreed “most patients do not experience pain” from etomidate. *Id.* Considering this evidence, the Florida Supreme Court upheld the etomidate protocol against

¹⁵ Putting these numbers in perspective and rounding up, each ml contains 2mg of etomidate. (Sochor’s Attachments C p. 6 & D p. 1). A 400-pound individual weighs 182 kilograms. At a rate of 0.3 milligrams per kilogram, this individual requires 55 milligrams of etomidate to cause the three to five minutes of hypnosis discussed in the insert. But Florida’s protocol essentially quadruples the dosage discussed in the insert for even this 400-pound individual.

a facial challenge under the *Baze-Glossip* test. *Id.* at 700–02; *see also Hannon v. State*, 228 So. 3d 505, 508–09, 511 (Fla. 2017); *Jimenez*, 265 So. 3d at 474–75.

During an active 2019 warrant, a circuit court granted an evidentiary hearing on an as-applied challenge to the etomidate protocol. *Long v. State*, 271 So.3d 938, 943 (Fla. 2019). There defendant asserted his brain injury and epilepsy made the use of etomidate a violation of the Eighth Amendment. *Id.* The circuit court found that the massive dose of etomidate (200 milligrams) would produce such a deep state of unconsciousness that it would render a person “unaware of noxious stimuli.” *Id.* at 944. Even if the inmate had a seizure, he would be “unconscious and insensate” because “200 milligrams of etomidate would render a person unconscious for at least 30 minutes.” *Id.*

The Florida Supreme Court affirmed and upheld the etomidate protocol once again under the *Baze-Glossip* test. *Id.* at 943–46. Since then, the Court has affirmed the summary denial of every challenge to the etomidate protocol. Florida’s current lethal-injection protocol “has remained essentially unchanged since 2017.” *Randolph*, 422 So. 3d at 172. Florida’s current protocol calls for the condemned to get 200mg of etomidate before the warden assesses consciousness. (Sochor’s Attachment B). The consciousness checks ensure the inmate is unconscious before receipt of the second drug and does not proceed until he is unconscious. *Valle v. Singer*, 655 F.3d 1223, 1233 (11th Cir. 2011).¹⁶

¹⁶ *See also Howell v. State*, 133 So. 3d 511, 522 (Fla. 2014) (noting that a consciousness check, which included a painful pinch of the trapezius would

Legal Insufficiency

Once the Florida Supreme Court has “upheld the constitutionality of a lethal injection protocol, that protocol is facially constitutional as a matter of law.” *Banks v. State*, 150 So. 3d 797, 801 (Fla. 2014). That Court has repeatedly affirmed the 2017 etomidate protocol. *E.g.*, *Randolph*, 422 So. 3d at 172; *Long*, 271 So. 3d at 944. Given these safeguards and established precedents upholding Florida’s protocol, Sochor’s facial challenge fails as a matter of law on *Baze-Glossip*’s first prong of very likely needless suffering.¹⁷

Sochor’s desire to relitigate etomidate’s effectiveness casts no doubt on those holdings. The etomidate Florida’s protocol demands will render him “unconscious and insensate” for “at least 30 minutes,” unable to experience any pain he would otherwise suffer if awake. *Long*, 271 So. 3d at 944, 946; *see also Barr v. Lee*, 591 U.S. 979, 981 (2020) (denying stay of execution as there was competing expert testimony explaining “any pulmonary edema occurs only *after* the prisoner has died or been rendered fully insensate”) (emphasis in original).

“ensure that Howell is unable to perceive any noxious stimuli”); *Glossip*, 576 U.S. at 877-78 (explaining the Supreme Court upheld a protocol even without a “consciousness check”); *Baze*, 553 U.S. at 120 (Ginsburg, J., dissenting) (praising Florida’s consciousness checks).

¹⁷ Notably, Florida has successfully implemented its current etomidate-based three-drug protocol more than forty-one times since its adoption in 2017. *See* Florida Department of Corrections, Execution List: 1976-Present, <https://www.fdc.myflorida.com/institutions/death-row/execution-list-1976-present> (last accessed June 21, 2026).

Alternative Method of Execution

Sochor's facial challenge also fails *Baze-Glossip*'s alternative-execution-method prong. The Supreme Court has repeatedly confirmed that anyone bringing an Eighth Amendment method-of-execution claim alleging the infliction of unconstitutionally cruel pain must identify "an alternative method of execution." See *Bucklew*, 587 U.S. at 136, 140, 149 ("*Glossip* expressly held that identifying an available alternative is a requirement of all Eighth Amendment method-of-execution claims alleging cruel pain."). The Court has said: "Distinguishing between constitutionally permissible and impermissible degrees of pain ... is a necessarily comparative exercise." *Id.* at 136. Deciding "whether the State has cruelly 'superadded' pain to the punishment of death isn't something that can be accomplished by examining the State's proposed method in a vacuum, but only by 'compar[ing]' that method with a viable alternative. ... to involve no more pain than was reasonably necessary to impose a lawful death sentence." *Id.*

The alternative-method requirement thus provides a necessary component of answering whether a state's method is cruel and unusual. See *id.* ("To determine whether the State is cruelly superadding pain, our precedents and history require asking whether the State had some other feasible and readily available method to carry out its lawful sentence that would have significantly reduced a substantial risk of pain."). While Sochor proposed an alternative method of execution with some details, he did not credit his source, and did not

show that the State could carry it out “relatively easily and reasonably quickly,” or that it would significantly reduce the chance of unconstitutional pain. Execution by firing squad would have to be enacted into law, valid protocols written, reviewed, and approved, and then the qualified personnel found and trained; the claim is insufficiently pled.

This failure to plead sufficient facts showing that a firing squad is feasible, readily implemented, and would significantly reduce a substantial risk of severe pain renders his claim insufficiently pleaded. *See Rogers v. State*, 409 So. 3d 1257, 1268 (Fla.) (rejecting firing squad as an alternative method of execution because defendant failed to show how it could be readily implemented or significantly reduce the substantial risk of severe pain), *cert. denied*, — U.S. —, 145 S. Ct. 2695, 221 L.Ed.2d 963 (2025); *Tanzi*, 407 So. 3d at 393 (same).

Heath v. State, 426 So. 3d 1253, 1262–63 (Fla. 2026); *see also Lukehart v. State*, Case No. SC2026-0736, 2026 WL 1480328, at *3-5, n. 12 (Fla. May 27, 2026).

This Court should summarily deny Sochor’s claim as untimely, procedurally barred, and legally insufficient under the *Baze-Glossip* test.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 22nd day of June 2026, I electronically filed the foregoing with the Clerk of Court by using the Florida Courts E-Portal Filing System which will send a notice of electronic filing to the following: Honorable Martin S. Fein, Circuit Court Judge; Victoria Cruz, Judicial Assistant vcruz@17th.flcourts.org; divft@17th.flcourts.org; Megan Zbikowski, Seventeenth Judicial Circuit General Counsel at MZbikowski@17th.flcourts.org; Harold F. Pryor, State Attorney, HPryor@sao17.state.fl.us; Steven A. Klinger, Assistant State Attorney at SKlinger@sao17.state.fl.us, Joel Silvershein, Assistant State Attorney at JSilvershein@sao17.state.fl.us; and Regina Faulk, Assistant State Attorney at GFaulk@sao17.state.fl.us; at Office of the State Attorney, 201 SE 6th Street, Fort Lauderdale, FL 33301-3303; Suzanne Keffer, Capital Collateral Regional Counsel-South at Keffers@ccsr.state.fl.us; Paul Kalil, Assistant Capital

Collateral Counsel-South, at KalilP@ccsr.stat.fl.us; Anna-Nicole Cooke, CookeAN@ccsr.state.fl.us and Michael Cookson at CooksonM@ccsr.state.fl.us; mhcookson@gmail.com; and pleadings@ccsr.state.fl.us; at Capital Collateral Regional Counsel-South, 110 SE 6th Street, Ste 701, Fort Lauderdale, Florida 33301-5001, and the Florida Supreme Court, warrant@flcourts.org and canovak@flcourts.org.

CERTIFICATES OF COMPLIANCE

I HEREBY CERTIFY that this pleading has been produced in 12-point Bookman Old Style and that according to the Word program on which this document was written it contains 6746 words in compliance with Fla. R. Gen. Prac. & Jud. Admin. 2.515 and 2.520(a)(3), (5); Fla. R. App. P. 9.100(g) and 9.210.

FURTHER, I HEREBY CERTIFY that the legal authorities identified in the pleading exist and are accurately cited in compliance with Fla. R. Gen. Prac. & Jud. Admin. 2.515 and 2.520(a)(3), (5).

/s/ Leslie T. Campbell
LESLIE T. CAMPBELL
Senior Assistant Attorney General

APPENDIX B

Sochor v. State, No. 86-15270CF10A (Fla. 17th Cir. Ct. June 23, 2026).

Decision of State Lower Court Affirmed by Florida Supreme Court in Judgement
Sought to be Reviewed.

Supreme Court of Florida

No. SC2026-0971

DENNIS SOCHOR,
Appellant,

vs.

STATE OF FLORIDA,
Appellee.

July 8, 2026

PER CURIAM.

Over forty-four years ago, Dennis Sochor murdered Patricia Gifford. For this crime, he was sentenced to death. Governor Ron DeSantis recently signed a warrant directing that Sochor's death sentence be carried out on July 14, 2026.

Following issuance of the warrant, Sochor filed a motion for postconviction relief, raising two claims. The circuit court summarily denied the motion. Sochor now appeals that ruling and asks us for a stay of execution.¹ For the following reasons, we

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

affirm the circuit court's order and decline to stay Sochor's execution.

I

On New Year's Eve in 1981, Sochor and his brother, Gary, met eighteen-year-old Gifford at a lounge in Broward County. She eventually left with them to get breakfast. When Gifford later refused Sochor's sexual advances, he choked her to death and disposed of her body.²

After seeing a televised photograph of himself at the lounge with Gifford, Sochor fled the state. Five years later, law enforcement apprehended him in Georgia. He proceeded to give three separate recorded confessions, in which he admitted to killing Gifford after she spurned his sexual advances.

At trial, the State played these confessions to the jury and called various witnesses, including Gary. Based on this and other evidence, the jury found Sochor guilty of kidnapping and first-degree murder and recommended that he be sentenced to death for the latter crime by a vote of ten to two. Agreeing with that

2. Gifford's body was never found.

recommendation, the circuit court sentenced him to death. In doing so, the court found four aggravating factors, including that the murder was cold, calculated, and premeditated (CCP).³ It found no mitigating circumstances.

Sochor appealed, raising numerous guilt- and penalty-phase claims. Although we determined that there was insufficient evidence to support the CCP aggravator, we concluded that Sochor was not entitled to appellate relief and affirmed his convictions and death sentence. *See Sochor v. State*, 580 So. 2d 595, 603-04 (Fla. 1991). Sochor then successfully sought certiorari review by the United States Supreme Court. *Sochor v. Florida*, 502 U.S. 967 (1991). That Court vacated our judgment and remanded for us to conduct a harmless error analysis regarding the trial court's finding and weighing of the CCP aggravator. *Sochor v. Florida*, 504 U.S. 527, 540-41 (1992). On remand, we conducted the harmless error analysis and once again affirmed Sochor's convictions and death

3. The other aggravating factors were: (1) Sochor was previously convicted of a felony involving the use or threat of violence to the person; (2) Sochor carried out the murder while he was engaged in the commission of a felony; and (3) the murder was especially heinous, atrocious, or cruel.

sentence. *Sochor v. State*, 619 So. 2d 285, 293 (Fla. 1993). His judgment and sentence became final when the U.S. Supreme Court denied certiorari review in 1993. *See Sochor v. Florida*, 510 U.S. 1025 (1993); Fla. R. Crim. P. 3.851(d)(1) (providing when a judgment and sentence become final).

Thereafter, Sochor filed his initial postconviction motion, raising thirty claims. The circuit court ultimately denied relief on all of them, and we affirmed on appeal. *Sochor v. State*, 883 So. 2d 766, 769 (Fla. 2004). We also denied Sochor's accompanying petition for writ of habeas corpus. *Id.* at 789-90 & n.27.

Since that time, Sochor has continued to pursue postconviction relief, both in state and federal court, without success. *See Sochor v. State*, 22 So. 3d 68 (Fla. 2009) (unpublished table decision) (first successive postconviction motion); *Sochor v. State*, 83 So. 3d 709 (Fla. 2012) (unpublished table decision) (second successive postconviction motion); *Sochor v. Sec'y Dep't of Corr.*, 685 F.3d 1016, 1018 (11th Cir. 2012) (federal habeas); *Sochor v. State*, 95 So. 3d 210, 211 (Fla. 2012) (third successive postconviction motion); *Sochor v. State*, 246 So. 3d 195, 195 (Fla. 2018) (fourth successive postconviction motion); *Sochor v. State*,

235 So. 3d 304, 305 (Fla. 2018) (fifth successive postconviction motion).

On June 10, 2026, the Governor signed Sochor's death warrant. Sochor then filed his sixth successive postconviction motion pursuant to Florida Rule of Criminal Procedure 3.851, raising two claims. In his first claim, he argued that the State violated *Brady*⁴ and *Giglio*⁵ by failing to disclose a 2022 letter sent to Sochor's brother, Gary, from a detective with the Broward County Sheriff's Office. That letter sought any information that might lead to the recovery of Gifford's body.

Sochor's second claim raised a facial method-of-execution challenge to Florida's three-drug lethal injection protocol, alleging violations of the Eighth and Fourteenth Amendments to the U.S. Constitution. Specifically, Sochor posited that the initial dose of etomidate is insufficient to render an inmate unconscious for more than five minutes, and the combination of etomidate and the other two drugs results in flash pulmonary edema where the lungs fill

4. *Brady v. Maryland*, 373 U.S. 83 (1963).

5. *Giglio v. United States*, 405 U.S. 150 (1972).

with fluid, making it difficult to breathe. Because the etomidate-induced sedation lasts only five minutes, Sochor reasoned, inmates regain consciousness during the pulmonary edema and experience a sensation much like drowning. He argued the pain from the edema, which is not mitigated by any of the drugs in the protocol, violates the constitutional right to be free from cruel and unusual punishment. Instead of lethal injection, Sochor offered death by firing squad as an alternative, alleging that it would be feasible, could be readily implemented, and would significantly reduce the risk of severe pain.

The circuit court summarily denied both claims on the grounds that they are untimely, procedurally barred, and meritless. Sochor now appeals, challenging only the denial of his method-of-execution claim.

II

We review the summary denial of a postconviction motion de novo. *Rogers v. State*, 409 So. 3d 1257, 1262 (Fla.), *cert. denied*, 145 S. Ct. 2695 (2025). And “we will affirm the denial of successive claims that are procedurally barred, untimely, legally insufficient, or refuted by the record.” *Randolph v. State*, 422 So. 3d 166, 172

(Fla.) (quoting *Bates v. State*, 416 So. 3d 312, 319 (Fla. 2025)), *cert. denied*, 146 S. Ct. 819 (2025). Under this framework, we conclude the circuit court properly denied Sochor’s method-of-execution claim as untimely and meritless.

For postconviction claims to be timely, a defendant must assert them within one year of his conviction and sentence becoming final. See Fla. R. Crim. P. 3.851(d)(1). Our rules recognize a narrow exception for claims based on newly discovered evidence. See Fla. R. Crim. P. 3.851(d)(2)(A). But even claims based on such evidence must “be filed within a year of the date the evidence could have been discovered.” *Bates*, 416 So. 3d at 319 (citing *Wainwright v. State*, 411 So. 3d 392, 401 (Fla. 2025)).

As noted above, Sochor’s convictions and death sentence became final in 1993. In an attempt to avoid rule 3.851’s time limitation, Sochor claims his facial challenge is based on newly discovered autopsies of executed inmates spanning from 2017 to 2026, which, according to him, reveal that every inmate has suffered from pulmonary edema.⁶ He contends that he could not

6. Sochor draws this inference solely from the autopsy reports and related documents. Without an expert affidavit to support his

have obtained these autopsies sooner than May 2026, as demonstrated by the failure of recent death-row inmates to obtain public records during warrant litigation.

We disagree. The autopsies have been discoverable since the first one was conducted in 2017. As we recently observed, “Florida’s ‘current three-drug protocol has remained essentially unchanged since 2017.’ ” *Lukehart v. State*, 51 Fla. L. Weekly S139, S140 (Fla. May 27) (quoting *Randolph*, 422 So. 3d at 172), *cert. denied*, No. 25-7491, 2026 WL 1530138 (U.S. June 1, 2026); *see also Long v. Sec’y, Dep’t of Corr.*, 924 F.3d 1171, 1177 (11th Cir. 2019) (detailing Florida’s adoption of etomidate in January 2017). Consequently, the alleged evidence supporting the assertions Sochor now makes has been available for years, including during Sochor’s previous postconviction litigation. *See Randolph*, 422 So. 3d at 172. Sochor raises these issues long after the evidence

assertion, we find his allegations to be speculative. *See Heath v. State*, 426 So. 3d 1253, 1261 (Fla.) (“[S]peculative and conclusory allegations that lethal injection protocols present a substantial risk of serious harm are insufficient to warrant an evidentiary hearing.” (citing *Cole v. State*, 392 So. 3d 1054, 1065 n.18 (Fla. 2024))), *cert. denied*, No. 25-6746, 2026 WL 363902 (U.S. Feb. 10, 2026).

became discoverable.⁷ As such, his claim is untimely.

The claim is also meritless. “This Court has repeatedly upheld Florida’s lethal injection protocol, including the etomidate protocol.” *Tanzi v. State*, 407 So. 3d 385, 393 (Fla.) (first citing *Asay v. State*, 224 So. 3d 695, 700-02 (Fla. 2017); and then citing *Cole v. State*, 392 So. 3d 1054, 1064-65 (Fla. 2024)), *cert. denied*, 145 S. Ct. 1914 (2025); *see also Rogers*, 409 So. 3d at 1268 (rejecting challenge to etomidate protocol on the merits); *Long v. State*, 271 So. 3d 938, 944-46 (Fla. 2019) (rejecting as-applied and facial challenges to the lethal injection protocol). Accordingly, we affirm the circuit court’s rejection of this claim.⁸

7. We further note that the discovery procedures for postconviction defendants found in Florida Rule of Criminal Procedure 3.852 and section 27.7081, Florida Statutes, “supplement”—not “supplant”—the chapter governing public records (chapter 119). *Hitchcock v. State*, 431 So. 3d 514, 525 (Fla.), *cert. denied*, No. 25-7255, 2026 WL 1170862 (U.S. Apr. 30, 2026). We therefore find Sochor’s argument, which highlights the limited success of inmates in obtaining public records during warrant litigation, unpersuasive. The earliest autopsies could have been discovered years ago under the procedures outlined in chapter 119. In fact, Sochor himself received this information from a third party’s public records request under that chapter.

8. To the extent Sochor relies on the Eleventh Circuit’s recent decision in *Lee v. Commissioner, Alabama Department of Corrections*, No. 26-11864, 2026 WL 1651147 (11th Cir. June 8,

III

For the foregoing reasons, we affirm the circuit court's summary denial of Sochor's postconviction motion. In light of our affirmance of the sole claim Sochor raised on appeal, we deny his motion for a stay of execution. And we decline to hold oral argument or entertain a motion for rehearing. The mandate shall issue immediately.

It is so ordered.

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

An Appeal from the Circuit Court in and for Broward County,
Martin Samuel Fein, Judge
Case No. 061986CF015270A88810

Suzanne Keffer, Capital Collateral Regional Counsel, Paul Kalil, Assistant Capital Collateral Regional Counsel, and Michael T. Cookson and Anna-Nicole Cooke, Staff Attorneys, Office of Capital Collateral Regional Counsel, Southern Region, Fort Lauderdale, Florida,

for Appellant

James Uthmeier, Attorney General, Tallahassee, Florida; Celia Terenzio, Chief Assistant Attorney General, Leslie T. Campbell,

2026), that decision does not alter our conclusion. There, the defendant challenged Alabama's use of nitrogen hypoxia as a method of execution. *Id.* at *1, 3. Because Florida's method of execution materially differs, we find *Lee* inapposite.

Senior Assistant Attorney General, and Lisa-Marie Lerner, Assistant
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for Appellee