

No. 26-5156

IN THE
SUPREME COURT OF THE UNITED STATES

JAMES AREN DUCKETT,
Petitioner,

v.

STATE OF FLORIDA,
Respondent.

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

BRIEF IN OPPOSITION
EXECUTION SCHEDULED FOR JULY 28, 2026, AT 12:00 P.M.

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CAPITAL CASE
QUESTIONS PRESENTED

QUESTION 1

The Florida Supreme Court's Decision Concluding that the Successive Motion for DNA Testing was Procedurally Barred because it was an Improper Successive Motion Based on its Existing Precedent did not Violate *Bowie v. City of Columbia*, 378 U.S. 347 (1964), or the Fundamental Fairness required by *Dist. Att'y's Office for Third Jud. Dist. v. Osborne*, 557 U.S. 52 (2009).

QUESTION 2

The Florida Supreme Court's Decision Affirming the Denial of the Public Records Request for DNA Labs International's Protocols did not violate Due Process.

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OPINION BELOW

The Florida Supreme Court’s decision affirming the state postconviction court’s denial of the successive motion for DNA testing is an unpublished order, but it is available at *Duckett v. State*, No SC2026-1084, 2026 WL 2137081 (Fla. July 24, 2026).

JURISDICTION

On July 24, 2026, the Florida Supreme Court issued its order denying relief and refused to permit a rehearing to be filed due to the pending execution. On July 25, 2026, Duckett, represented by Capital Collateral Regional Counsel – South (CCRC-S), filed a petition for writ of certiorari in this Court. The petition was timely. Sup. Ct. R. 13.3; 28 U.S.C. § 2101(c).

Typically, this Court has jurisdiction over a final judgment issued by the “highest court of a State” under 28 U.S.C. § 1257(a). But this Court lacks jurisdiction over both questions raised in the petition because they are solely matters of state law.

CONSTITUTIONAL PROVISIONS INVOLVED

The Due Process Clause of the Fifth Amendment to the United States Constitution provides: “No person shall be ... deprived of life, liberty, or property without due process of law.”

U.S. Const. amend. V.

The Due Process Clause of the Fourteenth Amendment to the United States Constitution provides: . . . “nor shall any State 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

On May 11, 1987, Duckett raped and murdered 11-year-old Teresa McAbee, while on duty as a police officer. *Duckett v. State*, No. SC2026-0449, 2026 WL 1970442, at *1 (Fla. July 8, 2026). Duckett's fingerprints were commingled with the victim's palm prints and fingerprints on the hood of his patrol car, despite it having rained earlier the evening of the murder. Additionally, Duckett was the last person seen with the victim late that night and her body was found early the next morning in a nearby lake by a local fisherman. The tires of his patrol car matched the tire tracks found around that lake. The tires were "unusual" because they were Goodyear snow tires, which are not typically sold in south Florida, that were donated to the police by a local tire store that received the tires by mistake. *Duckett*, 2026 WL 1970442, at *1; *Duckett v. State*, 231 So. 3d 393, 397–98 (Fla. 2017) (recounting the evidence presented at trial citing *Duckett v. State*, 918 So. 2d 224, 228–29 (Fla. 2005)).

Duckett was convicted of sexual battery and first-degree murder and his jury recommended the death penalty by an eight-to-four vote. *Duckett*, 2026 WL 1970442, at *1. On direct appeal, the Florida Supreme Court affirmed his convictions and death sentence. *Id.* (citing *Duckett v. State*, 568 So. 2d 891, 891 (Fla. 1990)).

Since then, Duckett has unsuccessfully sought postconviction relief in both state and federal court. *Duckett*, 2026 WL 1970442, at *2 (citing *Duckett v. State*, 918 So. 2d 224, 227 (Fla. 2005) (affirming denial of initial postconviction motion and denying habeas petition); *State v. Duckett*, Nos. 87-CF-1347(01), 88-CF-0262, 2008 WL 10675331 (Fla. 5th Cir. Ct. June 9, 2008) (denying first successive postconviction

motion, no appeal taken); *Duckett v. McDonough*, 701 F. Supp. 2d 1245, 1250 (M.D. Fla. 2010) (denying federal habeas petition); *Duckett v. State*, 148 So. 3d 1163, 1166 (Fla. 2014) (affirming denial of second successive postconviction motion); *Duckett v. State*, 231 So. 3d 393, 395 (Fla. 2017) (affirming denial of third successive postconviction motion); *Duckett v. State*, 260 So. 3d 230, 230-31 (Fla. 2018) (affirming denial of fourth successive postconviction motion).

Warrant proceedings

On February 27, 2026, the Governor signed a death warrant. *Duckett*, 2026 WL 1970442, at *2. Shortly after Governor DeSantis signed a death warrant, on March 5, 2026, Duckett filed a motion for Single Nucleotide Polymorphism (SNP) DNA testing of slide Q-6(3) in the state postconviction court. *Id.* (explaining the origin of the slide and citing § 925.11, Fla. Stat. and Fla R. Crim. P 3.853). The State agreed to DNA testing and the postconviction court granted the first motion for DNA testing. Following testimony on the issue, the state postconviction order permitted DNA Labs International, Inc. (DLI), to conduct the SNP DNA testing using the ForenSeq Kintelligence Kit.¹

¹ Duckett in his fact section complains that the state postconviction court permitted DNA Labs International (DLI) to perform the SNP DNA testing using the Kintelligence Kit, on the extremely small semen sample which would necessarily be consumed during the testing, based on the recommendation of Florida Department of Law Enforcement Deputy Director of Forensic Services Clark that Whole Genome Sequencing (WGS) would be overkill, when she is not an expert on SNP DNA testing. Pet. at 20. Deputy Director Clark explained that WGS was “overkill” because humans share the overwhelming majority of DNA. and therefore, SNP testing would be appropriate in this case. Although Deputy Director Clark is not an expert in SNP DNA testing, she certainly is an expert in human genetics for purposes of forensic

Duckett appealed aspects of the SNP DNA testing to the Florida Supreme Court. On March 26, 2026, the Florida Supreme Court granted the motion for a stay of execution to allow for completion of the DNA testing. *Duckett v. State*, 431 So. 3d 990, 993 (Fla. 2026). The SNP DNA tests were “inconclusive” because neither the Florida Department of Law Enforcement (FDLE) nor DLI had the capability to perform a statistical analysis on the SNP DNA data. *Duckett*, 431 So. 3d at 993. FDLE informed the postconviction court that a qualified bioinformaticist may be able to perform a statistical analysis on the DNA data. *Id.* at 994. On April 30, 2026, the Florida Supreme Court remanded the case to the postconviction court. *Id.* at 996, 997.

While that appeal was pending, on March 25, 2026, the defense filed a motion requesting the DNA testing protocol. The State filed an objection. The state postconviction court denied the motion for DLI’s protocols.

On remand, on May 4, 2026, the state postconviction court ordered DLI, which had conducted the SNP DNA testing, to provide the SNP DNA data to the defense. It is undisputed that all of the data was provided to Duckett’s counsel to obtain a statistical analysis before May 7, 2026.

On June 2, 2026, the State filed a report of the statistical analysis of the SNP DNA test results generated by Parabon Nanolabs, Inc. in the lower court. Parabon

identifications. The state postconviction court properly relied on this Deputy Director Clark’s recommendation in determining DLI could conduct the SNP DNA testing using the standardized, commercially available Kintelligence Kit. Defense counsel’s selective one-word quotation without explanation is misleading. *Bell v. Lynaugh*, 858 F.2d 978, 984 n.6 (5th Cir. 1988) (criticized defense counsel for making “misleading” factual assertions in the petition).

analyzed the SNP DNA data using EuroForMix genotyping software. Parabon's statistical analysis concluded that it is 4,100 times more likely that the sperm collected from the underwear of the 11-year-old victim is Duckett's DNA than it is not his DNA. Fla. R. Crim. P. 3.853 (c)(8) ("The results of the DNA testing ordered by the court must be provided in writing to the court, the movant, and the prosecuting authority").

On July 11, 2026, the defense filed a report from Dr. David Mittelman, Ph.D., of Othram, Inc., who is a bioinformaticist. Dr. Mittelman's report stated that "the dataset did not contain sufficient information to support a reliable contributor conclusion." Report at 4. Dr. Mittelman stated that he was "unable to identify a validated framework that would permit reliable contributor assessment from a dataset this sparse." *Id.* at 5. He opined that the "available DNA data contain too little usable information to support a reliable contributor determination." *Id.* Dr. Mittelman, however, acknowledged that the presence of alleles at two loci that are not observed in Duckett's DNA profile, does not "exclude" him. *Id.* at 6. Dr. Mittelman also acknowledged that the "Y-chromosome results are consistent with a paternal lineage" *Id.* at 9. The defense expert concluded: "I cannot state, to a reasonable degree of scientific certainty, that James Duckett either is or is not a contributor to the evidentiary DNA mixture" because "the available data are insufficient to support either an inclusion or an exclusion." *Id.* at 10. At bottom, the defense expert took the view that the recent SNP DNA results remain inconclusive.

On July 9, 2026, Duckett filed a sixth successive postconviction motion in the state trial court raising a due process claim regarding the SNP DNA testing under *California v. Trombetta*, 467 U.S. 479 (1984), or, alternatively, *Arizona v. Youngblood*, 488 U.S. 51 (1988). (WR3 1–33).

On the same day, Duckett filed a successive Rule 3.853 motion for DNA testing of more than a dozen additional items that had not been included in his first motion for DNA testing of the slide. (WR3 36–57).

On July 15, 2026, the State filed an answer to the sixth successive postconviction motion asserting it was *Youngblood*, not *Trombetta* that applied to slide Q-6(3), and that under *Youngblood*, no particular type of advanced SNP DNA testing was mandated by federal due process. (WR3 89–111 citing *Youngblood*, 488 U.S. at 59).

On the same day, July 15, 2026, the State also filed a response to the successive Rule 3.853 motion for DNA testing, pointing out that the successive DNA motion was procedurally barred under *Reynolds v. State*, 373 So. 3d 1124, 1126-27 (Fla. 2023). (WR3 112–135).

On July 16, 2026, the state postconviction court held a hearing on both motions. (WR3 177–211).

On July 17, 2026, the state postconviction court summarily denied the sixth successive postconviction motion and denied the successive motion for DNA testing of the additional items. (WR3. 212–387).

The state postconviction court first denied the *Youngblood* claim raised in the sixth successive postconviction motion. (WR3 at 214). The state postconviction court then addressed the successive motion for DNA testing of the additional items not included in the first DNA motion. The state postconviction court concluded that the successive DNA motion was procedurally barred as an improper successive DNA motion, relying on the existing precedent of *Reynolds v. State*, 373 So. 3d 1124 (Fla. 2023). The postconviction court, alternatively, denied the successive motion for SNP DNA testing because the existing record from the 2003 relinquishment established that there was no DNA on the items that Duckett sought DNA testing of.

On July 24, 2026, the Florida Supreme Court affirmed the state postconviction court's denial of the successive motion for DNA testing in an unpublished order. *Duckett v. State*, No SC2026-1084, 2026 WL 2137081 (Fla. July 24, 2026).

On July 25, 2026, Duckett filed a petition for writ of certiorari in this Court raising two questions.

REASONS FOR DENYING THE PETITION

QUESTION 1

The Florida Supreme Court's Decision Concluding that the Successive Motion for DNA Testing was Procedurally Barred because it was an Improper Successive Motion Based on its Existing Precedent did not Violate *Bowie v. City of Columbia*, 378 U.S. 347 (1964), or the Fundamental Fairness required by *Dist. Att'y's Office for Third Jud. Dist. v. Osborne*, 557 U.S. 52 (2009).

Duckett asserts the Florida Supreme Court following its existing precedent prohibiting successive DNA motions violated *Bowie v. City of Columbia*, 378 U.S. 347 (1964). Pet. at 29. He also contends that the Florida Supreme Court's finding that his successive motion for DNA testing did not meet the pleading requirements because it lacked a statement that the items contained DNA and finding that the record showed that the items he sought DNA testing of did not, in fact, contain any testable genetic material is a violation of *Dist. Att'y's Office for Third Jud. Dist. v. Osborne*, 557 U.S. 52 (2009), and was incorrect factually. But both the prohibition on successive DNA motions and pleading requirements are solely matters of state law. This Court does not review matters of state law. There is no conflict between this Court's decision in *Bowie* and the Florida Supreme Court's decision following its existing precedent prohibiting successive DNA motions. A court following its existing precedent is not an "unforeseeable judicial construction" or "unexpected" and therefore, is not a violation of *Bowie*. Nor is there any conflict between the lower appellate courts and Florida Supreme Court's decision. Most of the federal circuit courts, as a matter of practice, also prohibit successive causes of action. This Court should deny review of the first question.

The Florida Supreme Court's Decision

The Florida Supreme Court affirmed the state postconviction court's denial of the successive Rule 3.853 motion for DNA testing by order. *Duckett v. State*, No. SC2026-1084, 2026 WL 2137081 (Fla. July 24, 2026). The Court affirmed the state postconviction court's denial of the successive motion for DNA testing. *Duckett*, 2026 WL 2137081 at *1. The Court noted that Duckett had filed another motion for DNA testing seeking testing of several other items not listed in his first motion for DNA testing. *Id.* at *1 & n.4. The Florida Supreme Court concluded that the successive motion was procedurally barred citing *Reynolds v. State*, 373 So. 3d 1124, 1126-27 (Fla. 2023). *Id.* at *1. The Court observed that Duckett was aware of these items at the time he filed his first Rule 3.853 motion for DNA testing on March 5, 2026, but failed to identify any valid reason he could not have requested this testing sooner. *Id.*

The Florida Supreme Court also found the successive DNA motion to be “meritless” because “the record clearly shows” that the additional items “contain no identifiable or testable genetic material.” *Duckett*, 2026 WL 2137081 at *1. The Florida Supreme Court noted that, when these items were examined in 2003, “no DNA was found on them because they either were degraded or did not contain any DNA in the first place.” *Id.* at *1 n.5. The Florida Supreme Court also concluded that for that reason, the motion did not meet the pleading requirements of the DNA statute or the rule of court governing DNA motions because Duckett's successive DNA motion did not include “a description of the physical evidence containing DNA to be tested.” *Id.* at *1 (citing § 925.11(2)(a)1. Fla. Stat.; Fla. R. Crim. P. 3.853(b)(1))

(emphasis in original). The Florida Supreme Court affirmed the denial of the successive Rule 3.853 motion for DNA testing. *Id.* at *2.²

Solely Matters of State Law

The Florida Supreme Court’s prohibition on filing successive DNA motions seeking DNA testing of additional items not listed in the first motion for DNA testing, but that were known at the time of the first motion, established over three years ago in *Reynolds v. State*, 373 So. 3d 1124, 1126-27 (Fla. 2023), is solely a matter of state law. The Florida Supreme Court in its order concluding that the successive DNA motion was procedurally barred because it was a successive motion cited only *Reynolds*. It did not cite any federal constitutional provision or any case relying on a federal constitutional provision. And *Reynolds* itself does not cite any federal constitutional provision or constitutional case.

The pleading requirements of a state’s DNA statute are also solely a matter of state law. *Tullis v. Lake Erie & W.R. Co.*, 175 U.S. 348, 353 (1899) (noting the “elementary rule” that this Court “accepts the interpretation of a statute of a state affixed to it by the court of last resort thereof”); *Johnson v. Fankell*, 520 U.S. 911, 916 (1997) (“Neither this Court nor any other federal tribunal has any authority to place

² The defense repeatedly and incorrectly refers to in the petition as being a “temporal” limitation on Rule 3.853 motion for DNA testing. Pet. at viii,4,30,32. Florida has no time limitations on motions for DNA testing and *Reynolds* did not create one. A prohibition on filing successive DNA motion is not a temporal limitation. Rather, it is based on filing a second motion or third motion when the items could have easily been included in the first motion. Its rationale is based on judicial economy, not timing.

a construction on a state statute different from the one rendered by the highest court of the State”). The Florida Supreme Court concluded that Duckett had failed to include in his motion for DNA testing “a description of the physical evidence containing DNA to be tested.” *Duckett*, No. 2026 WL 2137081 at 3-4 (citing § 925.11(2)(a)1. Fla. Stat.; Fla. R. Crim. P. 3.853(b)(1))

This Court does not review matters of state law. *Foster v. Chatman*, 578 U.S. 488, 497 (2016) (noting that this Court lacks jurisdiction to review a state court judgment if that judgment rests on state law citing *Harris v. Reed*, 489 U.S. 255, 260 (1989)). Indeed, this Court lacks jurisdiction over cases that do not present federal questions. 28 U.S.C. § 1257; *Johnson v. Williams*, 568 U.S. 289, 309 (2013) (Scalia, J., concurring) (noting that 28 U.S.C. § 1257 imposes a federal question requirement as a condition of this Court’s appellate jurisdiction). This Court lacks jurisdiction over the first question.

No Conflict with this Court

There is no conflict between this Court’s due process jurisprudence and the Florida Supreme Court’s decision denying the successive DNA motion. The core of due process is the right to notice and a meaningful opportunity to be heard. *LaChance v. Erickson*, 522 U.S. 262, 266 (1998). But due process is only required to be afforded to a litigant once, not twice. Due process entitles a defendant to his day in court, not to a second day in court. *Sherrer v. Sherrer*, 334 U.S. 343, 348 (1948) (stating that respondent was afforded his day in court and “there is nothing in the concept of due process which demands that a defendant be afforded a second opportunity to litigate”

concluding that the proceedings were in “no way inconsistent with the requirements of procedural due process”) (emphasis added).

There is no federal constitutional right to postconviction proceedings *Pennsylvania v. Finley*, 481 U.S. 551, 557 (1987) (“States have no obligation to provide” for postconviction relief). And any procedural due process rights are diminished at the postconviction stage due to the conviction and diminished even further at the successive postconviction stage. *Dist. Atty’s Office for Third Jud. Dist. v. Osborne*, 557 U.S. 52, 69 (2009) (explaining the right to due process in postconviction proceedings “is not parallel to a trial right”).

There is also no federal substantive due process right to DNA testing. *Osborne*, 557 U.S. at 72-74. When a State chooses to offer help to those seeking relief from convictions, such as enacting DNA testing statutes or adopting rules of court allowing DNA testing, “due process does not dictate the exact form such assistance must assume.” *Id.* at 69. And any procedural due process right at the postconviction stage is only required to meet the fundamental fairness standard of *Medina v. California*, 505 U.S. 437, 446, 448 (1992). *Osborne*, 557 U.S. at 69. Although this Court in *Osborne* stated that a “state-created right can, in some circumstances, beget yet other rights to procedures essential to the realization of the parent right,” Duckett has no parent right to filing successive motions for DNA testing under state law. *Id.* at 68. Any parent right under Florida law is limited to an initial motion for DNA testing. Florida does not permit the filing of second motions for DNA testing that omitted known items from the first DNA motion under *Reynolds v. State*, 373 So. 3d 1124,

1126-27 (Fla. 2023), so, there is no state created right to file successive DNA motions for any liberty interest to arise from. The only exception would be for items that were not known at the time of the filing of the first motion for DNA testing. There is no federal constitutional right to file multiple motions for DNA testing in state court under *Osborne* or *Medina*.

Much of petitioner's due process argument is based the assertion that the Florida Supreme Court's following its existing precedent of *Reynolds* violates *Bouie v. City of Columbia*, 378 U.S. 347 (1964). Pet. at 31. First, this argument is based on a misreading of *Reynolds*. Pet at 30. Duckett incorrectly contends that *Reynolds* is limited to prohibition on filed a successive DNA motion of the same items that were included in the first motion for DNA testing. But *Reynolds* has an alternative holding that also prohibits filing a second motion for DNA testing of additional items that were not included in the first DNA motion. *Reynolds*, 373 So. 3d at 1126-27.

Second, the Florida Supreme Court following its prior holding in *Reynolds* in this case was anything but an "unforeseeable judicial construction" of Rule 3.853. *Reynolds* was the directly on-point, controlling precedent regarding successive DNA motions and had been decided over three years before Duckett filed the successive motion for DNA testing. It certainly was not a surprise that both the state postconviction court and the Florida Supreme Court followed *Reynolds*. Merely by performing a simple WESTLAW search, the defense could have foreseen that the second motion for DNA testing of the additional items not included in the first DNA motion would be viewed as an improper successive motion and considered to be

procedurally barred under holding of *Reynolds*.

To be a *Bouie* violation, the court's interpretation must be "unexpected and indefensible by reference to the law which had been expressed prior to the conduct in issue." *Rogers v. Tennessee*, 532 U.S. 451, 461 (2001) (quoting *Bouie*, 378 U.S. at 354). There was nothing "unexpected" or "indefensible" about the Florida Supreme Court following its existing precedent and holding the successive DNA motion was barred under *Reynolds*. A *Bouie* claim necessarily fails when a court is simply following their directly on-point and relatively recent precedent, as the Florida Supreme Court did in this case.

Moreover, it is doubtful that *Bouie* even applies to Rule 3.853 because that rule governs DNA testing, not criminal conduct. Rule 3.853 and Florida's postsentencing DNA testing statute, § 925.11, Florida Statutes (2026) are not substantive criminal statutes. There is no analogy to Ex Post Facto concerns and fair warning principles, which are the basis for Court's holdings in *Bouie* and *Rogers*, involved in DNA testing.

There is no conflict between this Court's decision in *Bouie* and the Florida Supreme Court's decision in this case.

No Conflict with the Lower Appellate Courts

Nor is there any conflict with either the federal circuit courts of appeals or the state courts of last resort and the Florida Supreme Court's decision in this case. As this Court has observed, a principal purpose for certiorari jurisdiction "is to resolve conflicts among the United States courts of appeals and state courts concerning the meaning of provisions of federal law." *Braxton v. United States*, 500 U.S. 344, 347

(1991); *see also* Sup. Ct. R. 10(b) (listing conflict among federal appellate courts and state supreme courts as a consideration in the decision to grant review). Issues that have not divided courts or are not important questions of federal law do not merit this Court's attention. *Rockford Life Ins. Co. v. Ill. Dep't of Revenue*, 482 U.S. 182, 184, n.3 (1987).

There is no federal constitutional right to file a motion for DNA testing, much less a federal constitutional right to file a successive motion for DNA testing, so there can be no conflict on the issue as a constitutional matter. Duckett does not point to any decision from any federal circuit court holding that a prohibition on successive DNA motions violates the federal due process clause.

But, even as a matter of practice rather than as a matter of federal constitutional law, there is no conflict between the federal circuit courts and the Florida Supreme Court's prohibition on successive DNA motions. Federal courts, as a matter of practice, require that related claims be brought in a single cause of action. *Katz v. Gerardi*, 655 F.3d 1212, 1214 (10th Cir. 2011) (holding that "related claims must be brought in a single cause of action). The federal circuit courts prohibit successive causes of actions. *Vanover v. NCO Fin. Services, Inc.*, 857 F.3d 833, 843 (11th Cir. 2017) (prohibiting claim-splitting because it promotes judicial economy and shield parties from vexatious and duplicative litigation). Indeed, the First, Second, Fifth, Seventh, Eighth, Ninth, Tenth, Eleventh, and D.C. Circuits all prohibit claim-splitting. *Steele v. United States*, 144 F.4th 316, 324 & n.4 (D.C. Cir. 2025). There is no conflict between the federal circuit courts of appeals and the Florida Supreme

Court on the issue of successive motions.

Duckett does not point to any decision from any other state supreme court holding that a prohibition on successive DNA motions violates the federal due process clause.

There is no conflict between the federal circuit courts of appeals or the state courts of last resort and the Florida Supreme Court.

In sum, both aspects of the first question are solely matters of state law which this Court lacks jurisdiction to review. And there is no conflict between this Court's decision in *Bouie* and the Florida Supreme Court's decision. There is also no conflict between the federal circuit courts and the Florida Supreme Court regarding prohibitions on successive causes of action or successive DNA motions. Review of the first question should be denied.

QUESTION 2

The Florida Supreme Court's Decision Affirming the Denial of the Public Records Request for DNA Labs International's Protocols did not violate Due Process.

Duckett asserts that the Florida Supreme Court's finding that the state postconviction court did not abuse its discretion in denying the public records request for DNA Labs International's protocols of the Single Nucleotide Polymorphism (SNP) DNA testing it conducted violates due process under *Dist. Atty's Office for Third Jud. Dist. v. Osborne*, 557 U.S. 529 (2009). Pet. at 34. There is no federal constitutional due process right to discovery, much less a federal constitutional right to discovery in postconviction proceedings regarding DNA protocols. The Florida Supreme Court's

decision regarding the protocols is solely a matter of state law over which this Court lacks jurisdiction. This Court should deny review of the second question as well.

The Florida Supreme Court's Decision

The Florida Supreme Court affirmed the postconviction court's denial of DLI's protocols, finding no abuse of discretion. *Duckett v. State*, 431 So. 3d 990, 996-97 (Fla. 2026). The Florida Supreme Court agreed with the lower court that DLI's testing process and protocols did not relate to a colorable claim for postconviction relief. *Id.* at 997 (citing *Dailey v. State*, 283 So. 3d 782, 792 (Fla. 2019), and Fla. R. Crim. P. 3.852(i)(2)(C)). Instead, noted the Court, he sought the information "only as possible impeachment evidence." *Id.* The Florida Supreme Court affirmed the denial of the disclosure of the SNP DNA protocols.

Solely a Matter of State Law

The Florida Supreme Court was applying a state rule of court governing public records in capital cases. Fla. R. Crim. P. 3.852. The case it cited in support of its conclusion that the trial court did not abuse its discretion in denying the request for the protocols, *Dailey v. State*, 283 So. 3d 782, 792 (Fla. 2019), only cited Rule 3.852 as well. The Florida Supreme Court did not cite any federal constitutional provision or any case that relied on a federal constitutional provision. The Florida Supreme Court decision was solely a matter of state law.

This Court does not review matters of state law. *Foster v. Chatman*, 578 U.S. 488, 497 (2016) (noting that this Court lacks jurisdiction to review a state court judgment if that judgment rests on state law citing *Harris v. Reed*, 489 U.S. 255, 260

(1989)). Indeed, this Court lacks jurisdiction over cases that do not present federal questions. 28 U.S.C. § 1257; *Johnson v. Williams*, 568 U.S. 289, 309 (2013) (Scalia, J., concurring) (noting that 28 U.S.C. § 1257 imposes a federal question requirement as a condition of this Court’s appellate jurisdiction). This Court lacks jurisdiction over the second question.

No Conflict with this Court

There is no conflict between this Court’s due process jurisprudence and the Florida Supreme Court’s decision in this case. Sup. Ct. R. 10(b) (listing conflict with this Court as a consideration in the decision to grant review).

There is no federal constitutional right to information. *Houchins v. KQED, Inc.*, 438 U.S. 1, 10 (1978) (stating the Court “did not remotely imply a constitutional right guaranteeing anyone access to government information beyond that open to the public generally). The “Constitution itself is not a Freedom of Information Act.” *McBurney v. Young*, 569 U.S. 221, 232 (2013) (quoting *Houchins*, 438 U.S. at 14).

Nor is there any federal constitutional right to discovery in criminal cases, much less a right to discovery in successive state postconviction proceedings involving DNA testing. *Weatherford v. Bursey*, 429 U.S. 545, 559 (1977) (stating there “is no general constitutional right to discovery in a criminal case,” and *Brady v. Maryland*, 373 U.S. 83 (1963), “did not create one”). The “Due Process Clause has little to say regarding the amount of discovery which the parties must be afforded.” *Weatherford*, 429 U.S. at 559 (quoting *Wardius v. Oregon*, 412 U.S. 470, 474 (1973)); *Gray v. Netherland*, 518 U.S. 152, 168 (1996) (quoting both *Wardius* and *Weatherford* and

then stating “these cases do not compel a court to order the prosecutor to disclose his evidence”).

As the Florida Supreme Court observed, Duckett sought the laboratory’s protocol to impeach the results of the SNP DNA testing, that in conjunction with the statistical analysis based on the laboratory’s data, incriminated him further.

This Court’s decision in *Dist. Atty’s Office for Third Jud. Dist. v. Osborne*, 557 U.S. 52 (2009), is of little help to Duckett in establishing a federal due process right to the protocols. *Osborne*, 557 U.S. at 69 (explaining the right to due process in postconviction proceedings “is not parallel to a trial right”). There is no federal substantive due process right to DNA testing. *Id.* at 72-74. And any procedural due process right at the postconviction stage is only required to meet the fundamental fairness standard of *Medina v. California*, 505 U.S. 437, 446, 448 (1992). *Osborne*, 557 U.S. at 69. It is not a violation of fundamental fairness to not require the disclosure of the protocols so that a defendant who requested DNA testing may challenge the results of that testing that ultimately incriminated him further. The defense expert’s report acknowledged that the “Y-chromosome results are consistent with a paternal lineage” Ortham Rpt. at 9. There is no federal constitutional right to the protocols under *Osborne* or *Medina*.

Because this Court has repeatedly held there is no federal constitutional right to information or to discovery, there is no conflict between this Court’s due process jurisprudence and the Florida Supreme Court’s decision in this case affirming the denial of the protocols.

No Conflict with the Lower Appellate Courts

Nor is there any conflict with either the federal circuit courts of appeals or the state courts of last resort and the Florida Supreme Court's decision in this case. As this Court has observed, a principal purpose for certiorari jurisdiction "is to resolve conflicts among the United States courts of appeals and state courts concerning the meaning of provisions of federal law." *Braxton v. United States*, 500 U.S. 344, 347 (1991); *see also* Sup. Ct. R. 10(b) (listing conflict among federal appellate courts and state supreme courts as a consideration in the decision to grant review). Issues that have not divided courts or are not important questions of federal law do not merit this Court's attention. *Rockford Life Ins. Co. v. Ill. Dep't of Revenue*, 482 U.S. 182, 184, n.3 (1987).

There is no conflict between the federal circuit courts and the Florida Supreme Court's decision. The federal circuit courts, of course, follow *Wardius*, *Weatherford*, and *Gray*, and do not recognize a general constitutional right to discovery in criminal cases. *See, e.g., United States v. Dugan*, 136 F.4th 162, 170 (4th Cir. 2025) (quoting *Weatherford*, 429 U.S. at 559), *cert. denied*, 146 S. Ct. 265 (2025).

Duckett does not point to any case from any state court of last resort holding that a defendant in postconviction proceedings has a federal constitutional right to a private laboratory's protocols to challenge the results of DNA testing that were inculpatory.

In sum, the discovery of the protocols is solely matters of state law which this Court lacks jurisdiction to review. And there is no conflict between this Court's due

process jurisprudence regarding discovery and the Florida Supreme Court's decision affirming the denial of the protocols. And there is also no conflict between the federal circuit courts and the state courts of last resort and the Florida Supreme Court regarding the discovery of the protocols. Review of the second question should be denied.

CONCLUSION

The petition for a writ of certiorari should be denied.

Respectfully submitted,

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