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**In The**  
**SUPREME COURT OF THE UNITED STATES**  
**October Term 2025**

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RAYMOND BRIGHT,  
Petitioner,  
V.

FLORIDA, AND SECRETARY, FLORIDA DEPARTMENT  
OF CORRECTIONS

Respondent.

CAPITAL CASE

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

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**PETITION FOR WRIT OF CERTIORARI**

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ROBERT R. BERRY  
LAW OFFICE OF ROBERT R. BERRY  
1521 Highland Drive  
Tallahassee, FL 32317  
(850) 597-8015  
robert@attorneyrobertberry.com  
Attorney for Petitioner

August 20, 2026

**QUESTION PRESENTED**  
**CAPITAL CASE**

Are a trial or appellate court's analyses of 1) the weight of evidence of guilt and/or 2) the gravity of aggravators proven beyond a reasonable doubt appropriate factors in evaluating the effectiveness of trial or appellate counsel when it comes to *Strickland's* application to the process underlying a jury's recommendation following the weighing of aggravating and mitigating factors, -- a necessarily moral judgment?

## **LIST OF PARTIES AND RELATED CASES:**

### **PARTIES**

Raymond Bright – Petitioner

State of Florida – Respondent

Secretary, Florida Department of Corrections – Respondent

### **RELATED CASES**

Bright v. Florida, 568 U.S. 897 (2012)

Bright v. Florida, 141 S.Ct. 1697 (Mem). (2021)

Bright v. State, 90 So.3d 249 (Fla. 2012)

State v. Bright, 200 So.3d 710 (Fla. 2016)

Bright v. State, 2016 WL 5885554 (Fla. 2016)

Bright v. State, 299 So.3d 985 (Fla. 2020)

Bright v. State, 45 Fla. L. Weekly S220 (Fla. 2020)

Bright v. State, 432 So.3d 485 (Fla. 2026)

Bright v. State, 2026 WL 1361728 (Fla. 2026)

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## **I. PETITION FOR WRIT OF CERTIORARI**

Raymond Bright petitions this Court for a writ of certiorari to review the judgment of the Florida Supreme Court in *Bright v. State*, 432 So.3d 485 (Fla. 2026).

## **II. OPINIONS BELOW**

The opinion of the Florida Supreme Court *State of Florida v. Raymond Bright*, SC2023-1735; SC2024-0876. (A007). The trial court's decision denying relief under *Fla. R. Crim. P. 3.851*, on October 31, 2023, Circuit Court for the Judicial Circuit in and for Duval County, Florida. (A045). The Florida Supreme Court order denying rehearing was issued on April 14, 2026. (a004).

## **III. JURISDICTION**

The jurisdiction of this Court is invoked under *28 U.S.C. 1257* as it involves a decision by the highest court of the State of Florida that is repugnant to the Constitution of the United States. The opinion at issue was filed on February 26, 2026. (A003). (A001). The Petitioner filed a timely motion for rehearing, which was denied on May 15, 2026.

## **IV. CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED**

The Fifth, Sixth and Fourteenth Amendments to the U.S. Constitution.

## **V. STATEMENT OF THE CASE**

The Petitioner, Raymond Bright, is an inmate in the Florida Department of Corrections under sentence of death. (a. 007). He filed a direct appeal of his conviction and sentence and did not prevail. *Bright v. State*, 90 So.3d 249 (Fla. 2012). He sought post-conviction relief, which was granted by the trial court in part and the Florida Supreme Court affirmed and ordered a new penalty phase. *State v. Bright*, 200 So..3d 710 (Fla. 2016). A second penalty phase was held and the Petitioner was again sentenced to death. Prior to the second penalty phase commencing, the trial judge issued an “Order Regulating Penalty Phase Closing Arguments.” (App. 101). In that order, the trial judge specially directed the state “shall not argue that the ‘defendant should be shown the same amount of mercy he showed the victim.’”, citing *Nowell v State*, 998 So.2d 597 (Fla. 2008) and two other cases. (App. 104). Despite this, the prosecutor ended the State’s closing this way:

“Well, ladies and gentlemen, I leave you with these parting thoughts. You've got a decision to make about whether the defendant should get the death penalty, that is, death, or life imprisonment without the possibility of parole as to the murder of Derek King and as to the murder of Randall Brown.

Defense will suggest to you, well, you're going to determine whether he lives or whether he dies. That may say to you, well you know, he was a sinner, but even a sinner should be forgiven. And they will tell you that your vote makes it happen and it is your vote. That is, each of you control this.

Isn't it ironic that in terms of -- you have a choice. By his actions, he is now in the criminal justice system, and as a result, you have a choice as to whether he should get death or whether he should get life. Well, Raymond Bright never gave each of these victims a choice, did he?”

(App. 108-109). The Petitioner’s counsel immediately objected based on the Court’s above order. *Id.* The trial judge overruled the objection. *Id.* Shortly thereafter, after the State’s argument concluded, the judge reviewed his own order and stated at sidebar:

“While we're here, I looked at my order, and I think what miss Bynum was referring to when she objected to Mr. de la Ronda’s argument was paragraph 15. Says counsel shall not argue that the defendant should be shown the same mercy he showed the victim. And I believe that was the tone of that argument was.

“We will go into it later if I need to, but just to clear the record up, I think that's what you were referring to, that paragraph.”

(App. at 113-114). Though suggesting the topic of the improper comment would be revisited, neither the trial court, nor the state nor defense

counsel revisited it. Inexplicably, when the issue was raised in the post-conviction hearing regarding the resentencing, the trial court found that based on defense counsel's testimony at the post-conviction evidentiary hearing a strategic decision was made not to take the court up on its "curative instruction offer." (App. 84). There was no such offer made by the trial court. To be fair though, defense did not on their own initiative seek such a curative instruction after the trial judge refamiliarized himself with his own order. Thus, the jury had no reason to think it improper to take the State up on its invitation to show the Petitioner the same mercy he showed the deceased individuals. Despite the factual error, or owing to its factual error, the trial court denied post-conviction relief to the Petitioner to the extent he was arguing his attorney was ineffectual in allowing the jury to buy into this "eye for an eye" argument and to the extent that error had caused him harm. Though the initial comment was objected to, appellate counsel did not raise the issue on direct appeal, leading to an ineffective assistance claim regarding appellate counsel at issue here.

On review, the Florida Supreme Court also rejected the Petitioner's challenge of ineffective assistance of appellate counsel, stating:

“Our precedent characterizes “same mercy” arguments as “impermissible.” See *Wolf v. State*, 416 So. 3d 1117, 1132 (Fla. 2025), cert. denied, — U.S. —, 146 S.Ct. 1584, 223 L.Ed.2d 570 (U.S. Jan. 20, 2026). But “a mercy argument standing alone does not constitute reversible error.” *Merck v. State*, 975 So. 2d 1054, 1062 (Fla. 2007). This is so especially when “the mercy comments [are] not dwelled upon or emphasized in the context of the entire closing.”

“Here, considering the entire closing, the State did not dwell upon or emphasize the mercy comments. Namely, the State did not implore the jury to recommend death as a result of Bright's failure to show mercy. Considering these facts along with the strength of the evidence against Bright and the gravity of the aggravators, we find that any error would have been harmless. As such, Bright cannot show that appellate counsel's failure to raise this claim prejudiced him”.

*Id.* at 502-503. The finding the State did not dwell on the mercy comments ignores this was the “parting thought” they wanted to leave the jury with as they concluded their presentation. (App. at 108). The language of the second paragraph quoted immediately above will be parsed in explaining the reasons this Court should grant certiorari review below.

This timely petition follows.

## **VI. REASONS FOR GRANTING WRIT**

We are guided in the analysis of ineffective of trial and appellate counsel claims by this Court’s decision in *Strickland v. Washington*, 466

U.S. 668 (1984). There this Court wrote “[t]he benchmark for judging any claim of ineffectiveness must be whether counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied on as having produced a just result.” *Id.* at 686. More famously, the Court outlined the standard to be applied as consisting of two parts:

“First, the defendant must show that counsel's performance was deficient. This requires showing that counsel made errors so serious that counsel was not functioning as the “counsel” guaranteed the defendant by the Sixth Amendment. Second, the defendant must show that the deficient performance prejudiced the defense. This requires showing that counsel's errors were so serious as to deprive the defendant of a fair trial, a trial whose result is reliable. Unless a defendant makes both showings, it cannot be said that the conviction or death sentence resulted from a breakdown in the adversary process that renders the result unreliable.”

*Id.* at 687.

The question here is whether the Florida Supreme Court’s decision so mangles this Court’s analysis that it requires further definition of its holding in *Strickland*, or at least considering the contours of *Strickland* as it relates to penalty phase analysis.

First, the Court appropriately concedes trial counsel sufficiently preserved the issue for appellate review. They disregard, or at least don’t

mention, the trial court's erroneous finding a curative instruction was offered and trial counsel made some strategic decision to reject the offer.

Second, the Florida Supreme Court's assertion the State did not "dwell upon or implore the jury to recommend death as a result of Bright's failure to show mercy," is risible. They ended their argument with this plea; it was their "parting thoughts." The comment was so improper, and so prevalent in Florida courts, that there was a pre-argument order prohibiting it, though the trial judge forgot his own order. Upon review though, the judge expressed an intention to readdress the matter.

Third, and the Petitioner would argue improperly, the Florida Supreme Court completely juxtaposes the application of Strickland to the guilt/innocence phase of a criminal trial with the penalty phase, where the guilt question has been definitionally resolved against the citizen and now the jury is weighing in part elements that must be satisfied beyond a reasonable doubt and a personal judgment about a recommended sentence. At some point this Court is likely going to have to address the procedure Justice Scalia outlined in his concurring opinion in *Ring v. Arizona*, i.e. that aggravating factors belong in the guilt phase. *Ring v.*

*Arizona*, 536 U.S. 547, 610 (2002)(Scalia and Thomas, concurring). That is not the issue here though. Rather, that court is confusing first, the weight of the evidence from the guilt phase and the gravity of the aggravators (quasi-guilt phase) with the personal moral decision that each juror must make in coming to their recommendation on the appropriate penalty. Here, the Florida Supreme Court found the “strength of the evidence “ and the “gravity of the aggravators” rendered the moral judgment, and thus the recommendation of the jurors, a *fait accompli*. If that is what this Court means when *Strickland* is applied to sentencing proceedings, it should say so. Otherwise, it should accept certiorari review and properly resolve the contours of *Strickland* vis-à-vis death sentencing proceedings.

## **VII. CONCLUSION AND PRAYER FOR RELIEF**

**WHEREFORE**, the Petitioner prays this Court grant certiorari review for the reasons outlined herein.

Respectfully submitted:

/s/ Robert Berry

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**ROBERT R. BERRY**

Florida Bar Number 714216

Florida Board Certified Criminal Appellate Lawyer

1521 Highland Drive

Tallahassee, Florida 32317

(850)597-8015 (office)

(850)597-7157 (fax)

Robert@attorneyrobertberry.com

Attyrobertberry@aol.com

Counsel for Petitioner