

No. 26-5865

IN THE
SUPREME COURT OF THE UNITED STATES

WILLIAM REAVES,

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 OCTOBER 20, 2026, AT 6:00 P.M.

JAMES UTHMEIER
ATTORNEY GENERAL OF FLORIDA

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

SCOTT A. BROWNE
Chief Assistant Attorney General
Counsel of Record

LELSIE T. CAMPBELL
SENIOR ASSISTANT ATTORNEY GENERAL

LISA-MARIE LERNER
SENIOR ASSISTANT ATTORNEY GENERAL

COUNSEL FOR RESPONDENT

CAPITAL CASE
QUESTION PRESENTED

I. Whether certiorari is warranted to review an order from the Florida Supreme Court rejecting Petitioner's claim that his clemency process violated his constitutional due process rights where the Constitution confers no right to any particular clemency procedure?

II. Whether certiorari is warranted to review a cumulative error/manifest injustice claim found procedurally barred where Petitioner was attempting to relitigate long-final decisions from 2002 and 2012?

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OPINION BELOW

The opinion of the Florida Supreme Court is reported as *Reaves v. State*, No. SC2026-1512, 2026 WL 3071534 (Fla. Oct. 14, 2026).

JURISDICTION

Petitioner seeks to invoke this Court's jurisdiction under 28 U.S.C. § 1257. However, this Court lacks jurisdiction as to one of his questions presented in the Petition because it was resolved on independent and adequate state-law grounds. Even if jurisdiction were present, this case is inappropriate for the exercise of this Court's discretionary jurisdiction as to the questions presented because the Florida Supreme Court's opinion does not conflict with any decision by this Court, another state court of last resort, or a United States court of appeals, nor does it decide any important and unsettled question of federal law. *See* Sup. Ct. R. 10(b)-(c).

CONSTITUTIONAL PROVISIONS INVOLVED

The State accepts the constitutional provision set forth by Reaves in his petition.

STATEMENT OF THE CASE AND FACTS

William Reaves is under an active death warrant based on his February 25, 1992, conviction for the first-degree murder of Indian River County Deputy Sheriff Richard Raczkoski on September 23, 1986, and his March 31, 1992, death sentence. *Reaves v. State*, 639 So. 2d 1 (Fla.), *cert. denied*, 513 U.S. 990 (1994).¹ Once his case

¹ Reaves was convicted and sentenced to death, however, the Florida Supreme Court reversed because the prosecuting attorney had represented Reaves in a prior criminal

became final, Reaves pursued state and federal collateral relief, and ultimately, all relief was denied. On October 11, 2018, pursuant to Rule 3.851(j), Fla. R. Crim. P., the Attorney General filed its Notification to the Clerk of the Florida Supreme Court that Reaves completed his direct appeal, initial postconviction proceedings in state court, and his habeas corpus proceedings and appeal therefrom in federal court.² On September 18, 2026, Governor DeSantis signed a death warrant setting Reaves's execution for October 20, 2026. Reaves then filed his fourth successive, fifth overall, postconviction motion under Fla. R. Crim. P. 3.851 and on October 2, 2026, relief was denied summarily. Reaves appealed and filed a related state petition for writ of habeas corpus. On October 14, 2026, the Florida Supreme Court affirmed the denial of postconviction relief and denied the habeas petition. *Reaves*, 2026 WL 3071534 *4.

Facts of Crime and Penalty Phase

Throughout Reaves's recitation of the facts in his petition, he presents argument, not merely facts based on the record. The State asks this Court to ignore arguments raised in the facts.

The trial record established that at about 3 a.m. on September 23, 1986, Deputy Sheriff Richard Raczkoski responded to a 911 call from a phone booth outside a Zippy Mart near Vero Beach and "inquired about outstanding warrants on William Reaves." *Reaves*, 639 So. 2d at 3. "Within minutes of the call, the deputy was found near the phone booth with four gunshot wounds [in the back] from which he died later

matter. *Reaves v. State*, 574 So. 2d 105 (Fla. 1991).

² On March 21, 2024, an amended notification was filed.

that morning.” *Id.* “A piece of paper inside the deputy’s vehicle had written on it: William Reaves, black male, 4336 38th Avenue, date of birth 12/30/48.” *Id.* “Witness Whitaker, who discovered the deputy, testified that he saw a black man wearing red shorts and a white T-shirt running from the scene. . . .” *Id.* Witness Hinton’s prior testimony was read into the record which revealed:

Reaves, wearing red shorts and carrying a gun wrapped in a white T-shirt, came to his apartment after the shooting and said: “I done ... up. I just shot a cop, I just shot a police.” Hinton testified that Reaves quoted the deputy as saying, “Don't shoot me. Don't shoot me. Don't kill me,” to which Reaves responded, “One of us got to go. One of us got to go, me or you.” Hinton had no trouble understanding Reaves; his speech was not slurred and he appeared to be in full control of his faculties. Witness Fredell testified that Reaves was wearing red shorts and a white T-shirt on the afternoon prior to the early-morning murder and did not appear to be under the influence of alcohol or drugs.

Id.

Detective Pisani quoted Reaves’s account of the events which was that while conversing with Deputy Raczkoski, a gun fell from Reaves’s shorts and the deputy put his knee on the gun. *Id.* Reaves pushed the deputy from the gun and refused to surrender it to the deputy when asked. Reaves stated that “in a panic and ‘wired on cocaine” he “shot the deputy as he was running away,” emptying “the seven-round clip of his .38 when he fired.” *Id.* “A firearms expert testified that Reaves’[s] gun was a type that required a pull of the trigger each time it was fired; it was not an automatic.” *Id.* The jury convicted Reaves of first-degree murder.

During the penalty phase, the State presented witnesses outlining Reaves’s felony convictions for armed robbery, grand theft, and battery on a law enforcement

officer. Reaves's mitigation case included five lay witnesses who knew Reaves, two military men who were with Reaves in Vietnam, and Dr. Weitz who testified about Reaves's mental condition and "Vietnam Syndrome." The ten to two jury recommended death. The trial court imposed a death sentence based on aggravation of: (1) prior violent felony; (2) avoid arrest; and (3) heinous, atrocious, or cruel (HAC). *Id.* at 3, n.2. The court found no statutory mitigation but found non-statutory mitigation of: "Reaves was honorably discharged from military service, had a good reputation in his community up to the age of sixteen, was a considerate son to his mother, and was good to his siblings." *Id.* at 3, n.3.

On direct appeal, the Florida Supreme Court affirmed the conviction. *Id.* at 6. While the HAC aggravator was rejected, the death sentence was affirmed upon the determination that applying the aggravator was harmless given the two remaining strong aggravators and weak mitigation. *Id.*

Postconviction Litigation

On February 21, 1996, Reaves filed his initial motion for postconviction relief and later amended it raising twenty-five claims. *Reaves v. State*, 826 So. 2d 932, 936 (Fla. 2002). Relief was summarily denied. On appeal, Reaves raised fourteen claims. The Florida Supreme Court found several procedurally barred, others insufficiently or prematurely pled, but other claims of ineffective assistance of counsel were improperly denied without an evidentiary hearing. The case was remanded "on the claims relating to whether counsel was ineffective for failing to raise a voluntary intoxication defense and related subclaims. . . ." *Id.* at 936, 944. Reaves's petition for

writ of habeas corpus was denied. *Reaves v. Crosby*, 837 So. 2d 396 (Fla. 2003).

While on remand, Reaves filed a successive postconviction motion and later supplemented it including notifying the trial court of a finding of Post-Traumatic Stress Disorder and Veterans Affairs notification of 100% disability. After the evidentiary hearing, relief was denied on all outstanding motions and amendments.

Reaves appealed and raised two issues:

(1) whether the trial court erred in denying a new trial where it was demonstrated that trial counsel was deficient in failing to investigate, prepare or present a voluntary intoxication defense; and (2) whether the trial court erred in excluding the testimony of Eugene Hinton from the evidentiary hearing and in denying forensic testing of evidence for drug metabolites.

Reaves v. State, 942 So. 2d 874, 877-79 (Fla. 2006). Reaves did not ask the Florida Supreme Court to revisit its prior determination that penalty phase counsel was not ineffective under *Strickland*. The Florida Supreme Court found that “Reaves did not present any evidence at the evidentiary hearing to show his level of intoxication at the time of the murder” nor did he present any evidence corroborating Reaves’s assertion he was under the influence at the time of the offense. The court affirmed the denial of postconviction relief after the evidentiary hearing, finding trial counsel was not ineffective for failing to present a voluntary intoxication defense. Also, the court denied relief on Reaves’s *Ring v. Arizona*, 536 U.S. 584 (2002) claim.

Subsequent state postconviction litigation was unsuccessful. *See Reaves v. State*, 27 So. 3d 661 (Fla. 2009) (Table) (affirming denial of successive postconviction motion raising public records issue, a constitutional challenge to death penalty, and

separation of powers violation during creation of lethal injection protocol); *Reaves v. State*, 91 So. 3d 782 (Fla. 2012) (denying *Porter v. McCollum*, 558 U.S. 30 (2009) claim as *Porter* not retroactive on collateral review); *Reaves v. State*, 241 So. 3d 63 (Fla. 2018) (denying *Hurst v. Florida*, 577 U.S. 92 (2016) claim).

Reaves also sought federal habeas relief. Initially, the federal district court granted relief on the guilt phase ineffective assistance of counsel claim and stayed the order for an evidentiary hearing on the penalty phase issues. The State appealed and the Eleventh Circuit Court of Appeals reversed. *Reaves v. Sec’y. Fla. Dep’t of Corr.*, 717 F.3d 886, 905 (11th Cir. 2013) (finding district court should have denied relief on guilt phase ineffectiveness claim and remanded for court to address the remaining claims). After a federal evidentiary hearing on the penalty phase issues, the district court granted relief on an issue never raised in state or federal court by Reaves. On appeal, the Eleventh Circuit reversed and remanded with instructions to deny the petition. *Reaves v. Sec’y Fla. Dep’t of Corr.*, 872 F.3d 1137, 1141-42, 1160 (11th Cir. 2017), *cert denied*, 585 U.S. 1020 (2018).

Active Death Warrant Litigation

Following the September 18, 2026, signing of Reaves’s death warrant, Reaves made public records demands of Florida Department of Corrections, Office of Executive Clemency-Florida Commission on Offender Review, Florida Department of Law Enforcement, Office of the State Attorney-Nineteenth Judicial Circuit, and Indian River County Sheriff’s Office (IRCSO). After a hearing, all demands were denied. (WR-PCR132-241, 242-99, 303-28, 329-37). On September 27, 2026, Reaves

filed his fourth successive, fifth overall, Rule 3.851 motion raising: (1) a constitutional challenge to Florida’s clemency process; (2) an as-applied challenge to lethal injection protocol; and (3) newly discovered evidence of alleged police corruption. The State responded. (WR 366-548, 562-631). On October 2, 2026, relief was summarily denied. (WR 643-93, 694-715). Reaves appealed and filed a related habeas petition.

On *de novo* review, the Florida Supreme Court found Reaves’s challenges to his clemency review meritless. Initially, the Florida Supreme Court noted its precedent has “emphasized the unlimited discretion vested solely in the executive branch, both to decide whether to grant clemency and to establish the procedures governing the clemency process.” *Reaves*, 2026 WL 3071534 *3. Based on this, the court found that a capital defendant does not have “any entitlement to records relating to his clemency proceeding” nor does a defendant have a “constitutional right to the effective assistance of clemency counsel.” *Id.* The court also rejected Reaves’s challenge to his clemency process based on his hearing issues because those allegations were speculative. *Id.*

With respect to the Reaves’s method-of-execution claim, the Florida Supreme Court found it untimely under Fla. R. Crim. P. 3.851(d)(2), procedurally barred, and rejected it on the merits. In rejecting relief, the court noted that Florida’s current three-drug protocol has been repeatedly upheld against facial and as-applied challenges. *Id.*

In his state habeas petition, Reaves pointed to the forty years of appellate opinions, from his direct appeal through subsequent postconviction cases, to ask the

Florida Supreme Court “to conduct some form of cumulative review unencumbered by any procedural bars and to ultimately award him relief.” *Id* at *4. In denying the habeas petition, the court held that similarly broad “cumulative-error” habeas claims do not allow a defendant to circumvent procedural bars. *Id*.

REASONS FOR DENYING THE PETITION

ISSUE I

This Court Should Decline to Exercise Its Certiorari Jurisdiction to Review the Florida Supreme Court’s Decision Rejecting Reaves’s Claim that His Executive Clemency Proceedings Violated His Constitutional Due Process Rights.

After the death warrant was signed, Reaves filed a successive postconviction motion where he argued that Florida’s clemency process unconstitutionally violated his federal due process rights because the State and his clemency counsel refused to give him the transcript of the clemency interview and a copy of what his counsel submitted to the clemency board. He also argued that his counsel’s actions were tantamount to outright abandonment of his legal and ethical obligation to Reaves, and essentially denied him meaningful access to and participation in the clemency process, which violated his due process rights because he had no remedy. The lower court summarily denied the claim on both state procedural bars and on the merits. The Florida Supreme Court reviewed it *de novo* and rejected it on the merits. *Reaves*, No. SC2026-1512, 2026 WL 3071534, at *3 (Fla. Oct. 14, 2026). The Florida Supreme Court noted that “minimal due process” was required by this Court’s decision in *Ohio Adult Parole Authority v. Woodard*, 523 U.S. 272 (1998), but emphasized that under

Florida law, the executive branch alone has unlimited discretion to both grant clemency and establish the clemency procedures. *Reaves*, 2026 WL 3071534, at *3-4.

This Court has stated that “pardon and commutation decisions have not traditionally been the business of courts; as such, they are rarely, if ever, appropriate subjects for judicial review.” *Woodard*, 523 U.S. at 276 (quoting *Conn. Bd. of Pardons v. Dumschat*, 452 U.S. 458, 464 (1985)). Even if “some minimal procedural safeguards apply to clemency proceedings,” *Woodard*, 523 U.S. at 289 (O’Connor, J., concurring), they were satisfied when Reaves was appointed clemency counsel, submitted an application, submitted information to be considered, and was granted an interview. The Constitution does not require the States to enact a specific clemency mechanism. *Herrera v. Collins*, 506 U.S. 390, 414 (1993).

In Florida, the state’s constitution vests in the Governor, with the approval of two of his cabinet members, the discretion to commute the punishment of individuals not convicted of treason or impeachment. *See* art. IV, § 8, Fla. Const.; *see also* Florida Rules of Executive Clemency, Rule 4 (“The Governor has the unfettered discretion to deny clemency at any time, for any reason.”). Because clemency is committed to the discretion of the executive, due process provides only minimal protections for death-row inmates in the clemency process. *See Sullivan v. Askew*, 348 So. 2d 312 (Fla. 1977) (stating that procedures adopted by the governor for the exercise of his exclusive pardon power were not unconstitutional). Pursuant to Florida’s rules of clemency, the sole access to executive clemency that Florida law provides to its defendants is the opportunity to be interviewed before the parole commission with

clemency counsel present. *See* Florida Rule of Executive Clemency 15(B) (stating that the Florida Parole Commission may conduct an investigation into all factors relevant to the issue of clemency and provide a final report to the Clemency Board, and such review shall include an interview with the inmate, who may have clemency counsel present).

Also, in Florida, the Rules of Executive Clemency dictate that all records generated in the clemency process are confidential. *See* Florida Rule of Executive Clemency 15(A) (stating that all records and documents gathered and generated in the clemency process are “confidential and shall not be made available for inspection to any person except members of the Clemency Board and their staff.”); *Asay v. Florida Parole Comm’n*, 649 So. 2d 859, 860 (Fla. 1994) (“The state has a strong policy to maintain that confidentiality based on the unusually sensitive nature of some clemency evidence and the exclusive authority of clemency given to the executive by the Florida Constitution.”); *Parole Comm’n v. Lockett*, 620 So. 2d 153 (Fla. 1993) (finding that clemency records are confidential and subject solely to the Rules of Executive Clemency and it would violate the separation of powers for the judiciary or legislature to encroach upon these rules); *Bates v. State*, 416 So. 3d 312, 321 (Fla.) (“The executive has sole discretion in exercising clemency powers and, ‘due to important considerations about the separation of powers, we do not second-guess the executive branch in matters of clemency in capital cases.’”) (citations omitted), *cert. denied*, 146 S. Ct. 66 (2025). There simply is no due process requirement that a death-sentenced inmate have access to confidential clemency documents as part of his

clemency determination. *See Woodard*, 523 U.S. at 285 (stating that “the executive’s clemency authority would cease to be a matter of grace committed to the executive authority if it were constrained by the sort of procedural requirements that respondent urges”); *Greenholtz v. Inmates of Neb. Penal and Corr. Complex*, 442 U.S. 1 (1979). Reaves cannot establish a due process violation when he received the clemency process set forth in Florida’s clemency rules. *See Mann v. Palmer*, 713 F.3d 1306, 1316-17 (11th Cir. 2013) (holding that inmate could not show due process violation because “[t]he process [Mann] received, including notice of the hearing and an opportunity to participate . . . comports with [Florida’s] regulations and observes whatever limitations the Due Process Clause may impose on clemency proceedings,” *quoting Woodard*, 523 U.S. at 290 (O’Connor, J., concurring in part and concurring in the judgement)). Florida law exempted the clemency records from disclosure and it prevented clemency counsel from giving Reaves copies of the transcript or anything submitted during the clemency process.

While Reaves maintains that his state claim and the one presented here are not issues of ineffective assistance of clemency counsel, a reading of the petition belies such an assertion. Reaves argues that his counsel abandoned all his ethical and professional obligations and actively infringed on his access to the proceedings. However, his counsel met with him, attended the interview, and submitted material on Reaves’s behalf to the clemency board – the exact duties and obligations required under the clemency rules. Further, this Court has never held that a defendant has a right to effective postconviction counsel, much less to effective clemency counsel.

Counsel here performed the required duties. Reaves cannot show a due process violation because neither this Court nor the Florida Supreme Court has recognized a requirement that clemency counsel be effective.

Finally, the Florida Supreme Court's opinion denying Reaves's claim that Florida's clemency process violated his due process rights does not conflict with any decision from another state court of last resort, from a United States court of appeals, or from this Court. This Court should decline to exercise its certiorari jurisdiction. *See* Sup. Ct. R. 10. This Court has noted that cases which have not divided the federal or state courts or presented important, unsettled questions of federal law do not usually merit certiorari review. *Rockford Life Ins. Co. v. Illinois Dept. of Revenue*, 482 U.S. 182, 184 n.3 (1987). Accordingly, this Court should deny the instant petition.

ISSUE II

Certiorari Should Be Denied Because the Florida Supreme Court Applied an Independent and Adequate State Procedural Bar in Rejecting Reaves's Attempt to Relitigate the *Strickland*³ analysis conducted on his 2002 Appellate Claim of Ineffective Assistance of Penalty Phase Counsel.

In his state habeas petition, Reaves raised a claim of cumulative error/manifest injustice pointing to eleven alleged errors made by trial counsel, the trial court, and the Florida Supreme Court, over the past forty years, from direct appeal through multiple successive postconviction reviews. In rejecting the claim, the Florida Supreme Court found that such a "broad habeas claim" does not allow Reaves "to

³ *Strickland v. Washington*, 466 U.S. 668 (1984).

circumvent procedural rules” and that precedent “forecloses the habeas relief that Reaves seeks.” *Reaves*, 2026 WL 3071534 at *4. Here, Reaves takes one aspect of the claim raised below, the Florida Supreme Court’s assessment of mitigation in his *Strickland* claim raised in the original postconviction relief litigation in *Reaves*, 826 So. 2d at 941-42, and combines it with the rejection of his *Porter v. McCollum*, 558 U.S. 30 (2009) claim raised in his successive postconviction litigation in *Reaves v. State*, 91 So. 3d 782 (Fla. 2012) to allege that the Florida Supreme Court did not assess his penalty phase *Strickland* claim properly. The Florida Supreme Court applied a state law procedural bar to Reaves’s attempt to relitigate long-resolved matters. Moreover, under the facts of this case, Reaves has not shown that the Florida Supreme Court’s decision conflicts with this Court’s precedent, or another federal circuit court or state supreme court. Certiorari should be denied.

A. The decision rests on independent and adequate state law grounds.

This Court lacks jurisdiction because the Florida Supreme Court’s decision rests on adequate and independent state law grounds. *See Foster v. Chatman*, 578 U.S. 488, 497 (2016). This “adequate and independent state grounds” rule stems from the fundamental principle that this Court lacks jurisdiction to review matters of state law. *See Herb v. Pitcairn*, 324 U.S. 117, 125-26 (1945). It is a “fundamental principle” that “our Constitution establishes a system of dual sovereignty between the States and the Federal Government.” *Gregory v. Ashcroft*, 501 U.S. 452, 457 (1991). This Court is the highest authority on the interpretation of federal law, however, “[t]he highest court of each State . . . remains ‘the final arbiter of what is state law.’”

Montana v. Wyoming, 563 U.S. 368, 377 n.5 (2011) (quoting *West v. Am. Telephone & Telegraph Co.*, 311 U.S. 223, 236 (1940)). Consequently, “the views of the state’s highest court with respect to state law are binding on the federal courts.” *Wainwright v. Goode*, 464 U.S. 78, 84 (1983); *see also Animal Sci. Prods., Inc. v. Hebei Welcome Pharm. Co.*, 585 U.S. 33, 44 (2018); *Mullaney v. Wilbur*, 421 U.S. 684, 691 (1975). A decision is independent if it “does not depend on a federal holding” and is “not intertwined with questions of federal law.” *Glossip v. Oklahoma*, 604 U.S. 226, 242-43 (2025).

Moreover, this Court has stated that its “only power over state judgments is to correct them to the extent that they incorrectly adjudge federal rights. And [that] power is to correct wrong judgments, not to revise opinions” or “render an advisory opinion.” *Herb v. Pitcairn*, 324 U.S. at 126. “[I]f the same judgment would be rendered by the state court after [this Court] corrected its views of federal laws, [this Court’s] review could amount to nothing more than an advisory opinion.” *Id.* “[I]f the same judgment would be rendered by the state court after [this Court] corrected its views of federal laws, [this Court’s] review could amount to nothing more than an advisory opinion.” *Id.* at 126. Thus, if a state court’s decision is separately based on state law, this Court “will not undertake to review the decision.” *Florida v. Powell*, 559 U.S. 50, 57 (2010).

Here, the Florida Supreme Court determined that Reaves’s scatter-shot request to relitigate forty years of direct appeal and collateral relief decisions was procedurally barred. *Reaves*, 2026 WL 3071534 at *4. That decision is independent of

Reaves's untimely and procedurally barred *Strickland/Porter* claim and is a recognized basis for finding this Court does not have jurisdiction and certiorari should be denied.

B. The Florida Supreme Court's 2002 resolution of Reaves's ineffective assistance of counsel claim applied *Strickland* properly and *Porter* is not retroactive to cases on collateral review.

In 2002, the Florida Supreme Court reviewed Reaves's claim that penalty phase counsel did not conduct a constitutionally adequate mitigation investigation/presentation. In its review of the ineffectiveness claim, the Florida Supreme Court cited the correct law, *Strickland*, then discussed the mitigation presented at the penalty phase which included "numerous witnesses who discussed Reaves[s] childhood in detail and further testified as to his drug addiction when he returned home from Vietnam. Two men who served with Reaves also testified as to the conditions of fighting the war in Vietnam, including drug usage." *Reaves*, 826 So. 2d at 941. The court then evaluated that mitigation against that which Reaves alleged should have been presented.

The Florida Supreme Court found that the only evidence Reaves alleged that was not presented in the penalty phase included "that Reaves suffered from a venereal disease, that one of his sisters died shortly after he returned from Vietnam, and that he helped a prison guard when two inmates attacked the guard." *Reaves*, 826 So. 2d at 941. The court concluded that there was "no reasonable probability that these additional factors would have affected the balance of aggravating and mitigating circumstances." *Id.* It noted that Reaves's assistance to a prison guard was

“meaningful mitigation” that had not been introduced, but agreed with the trial court’s assessment that “any benefit” Reaves could have garnered by that evidence “would have been negated by more recent evidence that while Reaves was in prison, he hit a deputy in the face and later entered a guilty plea to battery on a law enforcement officer.” *Reaves*, 826 So. 2d at 941 (footnotes omitted). Based on that, the Florida Supreme Court determined that even if trial counsel had presented more and different experts, or more testimony about Reaves’s life and war experience, there was no reasonable possibility that the additional mitigation would have resulted in a life recommendation so Reaves could not establish prejudice under *Strickland*. *Reaves*, 826 So. 2d at 937, 941-42 n.6. The same was true for additional evidence of his life history and Vietnam experience; counsel presented both, and any additional evidence would be cumulative and not result in a different sentence. *Id.* Further, neither the trial court nor the Florida Supreme Court minimized the mitigation evidence but carefully considered it in light of the trial evidence,⁴ when finding it cumulative or irrelevant. *Reaves*, 826 So. 2d at 941. Clearly, the Florida Supreme Court did not minimize any of the mitigation.

Moreover, Reaves did not ask the Florida Supreme Court to reconsider the penalty phase *Strickland* claim when he returned to the appellate court in 2006 after his postconviction evidentiary hearing on the ineffective assistance of guilt phase counsel. *Reaves*, 872 F.3d at 1154. The Florida Supreme Court was under no

⁴ The Florida Supreme Court affirmed the prior violent felony and avoid arrest aggravators. *Reaves*, 639 So. 2d at 6.

obligation to *sua sponte* revisit a decision it made four years in the past and Reaves has not cited a case from this Court requiring such.

In 2012, the Florida Supreme Court was asked to apply *Porter* and reassess Reaves's ineffective assistance of penalty phase counsel claim. The Florida Supreme Court found that *Porter* was not retroactive to Reaves's case on collateral review. *Reaves*, 91 So. 3d at 783; *Walton v. State*, 77 So. 3d 639, 644 (Fla. 2011). Reaves has not pointed to a case where this Court has determined that *Porter* is retroactive to cases on collateral review. As such, Reaves could not use *Porter* to challenge the Florida Supreme Court's 2002 *Strickland* determination in 2012, in his post-warrant litigation, and especially not before this Court on certiorari review. Contrary to Reaves's complaint, and as noted above, the Florida Supreme Court properly evaluated the mitigation presented at trial and assessed it against that which Reaves claims should have been presented and determined in light of the facts of the case, *Strickland* prejudice was not established. In 2002, the Florida Supreme Court conducted a constitutionally required review, and the Florida Supreme Court was not required to revisit its prior rulings following the signing of Reaves's death warrant. Rather, the Florida Supreme Court properly rejected Reaves's attempt to relitigate its prior decisions in his recent post-warrant state habeas proceedings. Because Reaves has not shown that the court's decision conflicts with a decision from this Court, a federal circuit court or another state supreme court, certiorari should be denied.

CONCLUSION

The petition for a writ of certiorari should be denied.

Respectfully submitted,

JAMES UTHMEIER
ATTORNEY GENERAL OF FLORIDA

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

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

Leslie T. Campbell
Senior Assistant Attorney General

Lisa-Marie Lerner
Senior Assistant Attorney General

COUNSEL FOR RESPONDENT