

No. _____

**IN THE
SUPREME COURT OF THE UNITED STATES**

DAMONTRIO GLEE,

Applicant/Petitioner,

v.

**SECRETARY, DEPARTMENT OF
CORRECTIONS,**

Respondent.

**APPLICATION FOR EXTENSION OF TIME TO
FILE PETITION FOR WRIT OF CERTIORARI**

LAW OFFICES OF LINDA S. SHEFFIELD
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TO THE HONORABLE COURT

To the Honorable Clarence Thomas, Associate Justice of the United States Supreme Court and Circuit Justice for the Eleventh Circuit:

Applicant-Petitioner, Damontrio Glee ("Applicant") represented by the undersigned attorney, retained on September 16, 2026, respectfully requests an extension of time to file a petition for writ of certiorari. Sup. Ct. R. 13.5. The deadline for Applicant to file his petition is Wednesday, September 30, 2026, which is ninety days from July 2, 2026, the date when the Court of Appeals for the Eleventh Circuit issued its Order and Judgment denying Applicant's request for a certificate of appealability from the Order of the United States District Court for the Middle District of Florida's denial of his 28 U.S.C. §2254 petition for writ of habeas corpus on January 20, 2026. Applicant, through timely filed post-conviction remedies, is seeking to overturn the judgment of the Duvall County Florida courts wherein he was convicted and is now serving his two life sentences.

For good cause herein, Applicant Glee asks that this deadline be extended by 14 days, so that the new deadline would be Wednesday, October 14, 2026. This application is filed more than ten (10) days prior to the due date for extraordinary circumstances stated herein.

BACKGROUND AND OPINIONS BELOW

There are important questions which were determined adversely by the court below, concerning counsel issues and due process issues during jury selection and

irregularities which took place immediately after jury selection, about which trial counsel failed to act, and which were poorly managed by the trial judge. Additionally, Applicant's case was tried with his co-defendant, before two 6 member juries simultaneously, and there were interactions with the jurors and others in a common area where it was reported that derogatory comments were made about the defendants about which counsel did not act to protect this Applicant. Supervision of jurors and their interaction with those in a common area were not supervised which led to allegations of juror misconduct, which were not properly cured. It is Glee's position that the hearing held was insufficient and that the seriousness of the misconduct was not cured by the Court which prejudiced Glee. This is the initial look at the case file since undersigned was just hired, but, as of the filing of this request for an extension of time, Glee relies on *United States v. Cavallo*, 790 F. 3d 1202 (11th Cir. 2015); *United States v. Ronda*, 455 F. 3d 1273 (11th Cir. 2006); *Remmer v. United States*, 347 U.S. 227 (1954).

JURISDICTION

This Court has jurisdiction under 28 U.S.C. §1254(1).

REASONS EXTENSION IS JUSTIFIED

Supreme Court Rule 13.5 provides that, "An application to extend the time shall set out the basis for jurisdiction in this Court, identify the judgment sought to be reviewed, include a copy of the opinion and any order respecting rehearing, and

set out specific reasons why an extension of time is justified.” Sup. St. R. 13.5. The specific reasons why an extension of time is justified are as follows:

1. Undersigned counsel was not contacted by the Applicant’s family until September 15, 2026 and was not retained until this date to represent him in filing a petition for writ of certiorari to this Honorable Court.
2. The undersigned has looked up the record in this case which exceeds 5,000 pages and must be read and researched.
3. The undersigned has oral argument in the United States Court of Appeals for the Eighth Circuit on September 23, 2026 and must travel to St. Louis Missouri on September 22, 2026. The undersigned also observes the Jewish holiday of Yom Kippur which begins the evening of September 20, 2026 and ends at sundown the day of September 21, 2026. This does not leave enough time for the undersigned to read, research, prepare and get the petition to the printers to meet the filing deadline of September 30, 2026.

NOTICE TO OPPOSNG COUNSEL & CONSENT

The Office of the Attorney General’s representative, Michael B. McDermott, has been contacted by telephone (850-414-3599), a message left and an email sent to michael.mcdermott@myfloridalegal.com and no response has been received as of the time this application is being filed. Undersigned counsel spoke with another

attorney in the office who did not have the authority to consent to this extension, Bill Stafford, who kindly provided the direct contact information for Mr. McDermott.

CONCLUSION

For the foregoing reasons and good cause shown, Applicant Glee respectfully requests that this Honorable Court grant this application for a 14-day extension of time to file a petition for writ of certiorari, for a due date of October 14, 2026.

Dated: September 16, 2026

LAW OFFICES OF LINDA S. SHEFFIELD
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Attorney for Applicant, Damontrio Glee

WORD COUNT CERTIFICATION

This motion contains 834 words and does not exceed the maximum word count allowed for a motion.

Dated: September 16, 2026

/S/ Linda S. Sheffield

CERTIFICATE OF SERVICE

On the 16th day of September, 2026, service was made on opposing counsel:

Michael B. McDermott
michael.mcdermott@myfloridalegal.com
And by electronic service through the ECF system.

/s/ Linda S. Sheffield

**ORDER JULY 2, 2026 UNITED STATES COURT OF APPEALS FOR
THE ELEVENTH CIRCUIT DENYING GLEE'S REQUEST FOR A
CERTIFICATE OF APPEALABILITY**

**UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT**

ELBERT PARR TUTTLE COURT OF APPEALS BUILDING
56 Forsyth Street, N.W.
Atlanta, Georgia 30303

David J. Smith
Clerk of Court

For rules and forms visit
www.ca11.uscourts.gov

July 02, 2026

Michael Robert Ufferman
Michael Ufferman Law Firm, PA
2022-1 RAYMOND DIEHL RD
TALLAHASSEE, FL 32308-3844

Appeal Number: 26-10535-G
Case Style: Damontrio Glee v. Secretary, Department of Corrections
District Court Docket No: 3:23-cv-00244-WWB-SJH

The enclosed copy of this Court's order denying the application for a Certificate of Appealability is issued as the mandate of this court. See 11th Cir. R. 41-4. Counsel and pro se parties are advised that pursuant to 11th Cir. R. 27-2, "a motion to reconsider, vacate, or modify an order must be filed within 21 days of the entry of such order. No additional time shall be allowed for mailing."

Any pending motions are now rendered moot in light of the attached order.

Clerk's Office Phone Numbers

General Information:	404-335-6100	Attorney Admissions:	404-335-6122
Case Administration:	404-335-6135	Capital Cases:	404-335-6200
CM/ECF Help Desk:	404-335-6125	Cases Set for Oral Argument:	404-335-6141

Enclosure(s)

DIS-4 Multi-purpose dismissal letter

In the
United States Court of Appeals
For the Eleventh Circuit

No. 26-10535

DAMONTRIO GLEE,

Petitioner-Appellant,

versus

SECRETARY, DEPARTMENT OF CORRECTIONS,

Respondent-Appellee.

Appeal from the United States District Court
for the Middle District of Florida
D.C. Docket No. 3:23-cv-00244-WWB-SJH

ORDER:

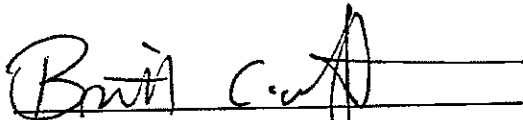
Damontrio Glee moves for a certificate of appealability to appeal the denial of his 28 U.S.C. § 2254 petition, which asserted four claims of ineffective assistance of trial counsel.

2

Order of the Court

26-10535

His motion is DENIED because he has failed to make a substantial showing of the denial of a constitutional right. See 28 U.S.C. § 2253(c)(2); *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).


UNITED STATES CIRCUIT JUDGE

**ORDER JANUARY 20, 2026 UNITED STATES DISTRICT COURT FOR
THE MIDDLE DISTRICT OF FLORIDA DENYING GLEE'S 28 U.S.C.
§2254 MOTION AND REQUEST FOR A CERTIFICATE OF
APPEALABILITY**

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION**

DAMONTRIO GLEE,

Petitioner,

v.

Case No.: 3:23-cv-244-WWB-SJH

SECRETARY, DEPARTMENT OF
CORRECTIONS,

Respondent.

ORDER

THIS CAUSE is before the Court on Petitioner's counseled Petition Under 28 U.S.C. § 2254 by a Person in State Custody Pursuant to a State Court Judgment ("Petition," Doc. 1), Respondent's Answer (Doc. 5) thereto, and Petitioner's Reply (Doc. 13).¹ Petitioner alleges four grounds for relief. Upon review, an evidentiary hearing is not warranted, because the Court can resolve the entire Petition on the basis of the record. See *Schriro v. Landrigan*, 550 U.S. 465, 474 (2007). For the reasons set forth below, the Petition will be denied.

I. PROCEDURAL HISTORY

On July 21, 2005, the State of Florida filed an indictment in Duval County Circuit Court case number 2005-CF-5567, charging Damontrio Glee ("**Glee**") with two counts of first-degree murder for the deadly shooting of Larry Gibson and King W. Brookins, Jr.,

¹ For purposes of reference to pleadings and exhibits, the Court will cite the document numbers and page numbers assigned by the Court's electronic docketing system.

one count of possession of a firearm by a convicted felon, and one count of tampering with evidence based on events that occurred in Duval County, Florida, on September 3, 2004.² (Doc. 5-4 at 97–99). On March 18, 2008, the State filed a fourth amended information in Duval County Circuit Court case number 2005-CF-4840, charging Glee, among others, with one count of violation of racketeering laws and one count of conspiracy to traffic in cocaine based on events that occurred in Duval County, Florida, between September 3, 2004, and March 25, 2005. (Doc. 5-9 at 209–215). The charges in the two cases were consolidated for trial.³ (See *id.* at 186–187).

After a five-day trial, on September 25, 2009, the jury found Glee guilty as charged in both cases. (Doc. 5-11 at 52–60; Doc. 5-19 at 17–19; see *also* Doc. Nos. 5-13, 5-14, 5-15, 5-16, 5-17, 5-18). On November 13, 2009, the trial court sentenced Glee to two terms of life in prison on the first-degree murder charges and a concurrent term of five years in prison on the tampering charge; as well as to two terms of thirty years in prison on the racketeering charge and the conspiracy charge, to run concurrent to each other but consecutive to the life sentences. (Doc. 5-11 at 61–71, 83–100; Doc. 5-12 at 43). The same day, the trial court denied Glee's motion for a new trial. (Doc. 5-11 at 74–76).

Glee appealed his convictions and sentences. (See *id.* at 126–128, 149, 154; Doc. Nos. 5-20, 5-21, 5-22, 5-25, 5-26, 5-27, 5-28, 5-29, 5-30). On December 6, 2012, Florida's First District Court of Appeal ("**First DCA**") per curiam affirmed the convictions

² The indictment also charged Lavario Ray with the same offenses. (See Doc. 5-4 at 97–99).

³ After the trial, the State filed a nolle prosequi as to the charge of possession of a firearm by a convicted felon. (Doc. 5-9 at 186–187; Doc. 5-12 at 43–44).

without a written opinion, see *Glee v. State*, 103 So. 3d 147 (table) (Fla. 1st DCA 2012), and issued the mandate on January 2, 2013. (Doc. Nos. 5-23, 5-24).

On February 28, 2014, Glee filed a counseled motion for postconviction relief under Florida Rule of Criminal Procedure 3.850, which the trial court summarily denied on February 19, 2021. (Doc. 5-31 at 8–20, 104–116). On January 20, 2022, the First DCA per curiam affirmed the denial without a written opinion in *Glee v. State*, 334 So. 3d 607 (table) (Fla. 1st DCA 2022), denied rehearing on March 14, 2022, and issued the mandate on March 31, 2022. (Doc. Nos. 5-35, 5-37, 5-38).

On March 1, 2022, Glee filed a second counseled Rule 3.850 motion based on newly discovered evidence. (Doc. 5-39). Based on Glee's notice of voluntary dismissal, on February 27, 2023, the trial court dismissed the second Rule 3.850 motion with prejudice. (Doc. 5-40; Doc. 5-41 at 2–3). On March 3, 2023, Glee timely filed his counseled Petition in this Court. (Doc. 1).

II. LEGAL STANDARD

A. The Antiterrorism Effective Death Penalty Act

Pursuant to the Antiterrorism Effective Death Penalty Act ("**AEDPA**"), a federal court may not grant federal habeas relief with respect to a claim adjudicated on the merits in state court unless the adjudication of the claim:

- (1) resulted in a decision that was contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States; or
- (2) resulted in a decision that was based on an unreasonable determination of the facts in light of the evidence presented in the State court proceeding.

28 U.S.C. § 2254(d). The phrase “clearly established Federal law” encompasses only the holdings of the United States Supreme Court “as of the time of the relevant state-court decision.” *Williams v. Taylor*, 529 U.S. 362, 412 (2000).

“[S]ection 2254(d)(1) provides two separate bases for reviewing state court decisions; the ‘contrary to’ and ‘unreasonable application’ clauses articulate independent considerations a federal court must consider.” *Maharaj v. Sec’y for Dep’t of Corrs.*, 432 F.3d 1292, 1308 (11th Cir. 2005). The meaning of the clauses was discussed by the Eleventh Circuit Court of Appeals in *Parker v. Head*:

Under the “contrary to” clause, a federal court may grant the writ if the state court arrives at a conclusion opposite to that reached by [the United States Supreme Court] on a question of law or if the state court decides a case differently than [the United States Supreme Court] has on a set of materially indistinguishable facts. Under the “unreasonable application” clause, a federal habeas court may grant the writ if the state court identifies the correct governing legal principle from [the United States Supreme Court’s] decisions but unreasonably applies that principle to the facts of the prisoner’s case.

244 F.3d 831, 835 (11th Cir. 2001) (quoting *Williams*, 529 U.S. at 412–13). Even if the federal court concludes that the state court applied federal law incorrectly, habeas relief is appropriate only if that application was “objectively unreasonable.”⁴ *Id.* (quotation omitted).

Finally, under § 2254(d)(2), a federal court may grant a writ of habeas corpus if the state court’s decision “was based on an unreasonable determination of the facts in light

⁴ In considering the “unreasonable application inquiry,” the Court must determine “whether the state court’s application of clearly established federal law was objectively unreasonable.” *Williams*, 529 U.S. at 409. Whether a state court’s decision was an unreasonable application of law must be assessed in light of the record before the state court. *Holland v. Jackson*, 542 U.S. 649, 652 (2004); see also *Bell v. Cone*, 535 U.S. 685, 697 n.4 (2002) (declining to consider evidence not presented to state court in determining whether the state court’s decision was contrary to federal law).

of the evidence presented in the State court proceeding.” 28 U.S.C. § 2254(d)(2). However, the state court’s “determination of a factual issue . . . shall be presumed correct,” and the habeas petitioner “shall have the burden of rebutting the presumption of correctness by clear and convincing evidence.” 28 U.S.C. § 2254(e)(1); *see also Parker*, 244 F.3d at 835–36.

B. Ineffective Assistance of Counsel

In *Strickland v. Washington*, 466 U.S. 668 (1984), the Supreme Court of the United States established a two-part test for determining whether a convicted person is entitled to relief on the ground that his counsel rendered ineffective assistance: (1) whether counsel’s performance was deficient and “fell below an objective standard of reasonableness”; and (2) whether the deficient performance prejudiced the defense. *Id.* at 687–88. A court must adhere to a strong presumption that counsel’s conduct falls within the wide range of reasonable professional assistance. *Id.* at 689–90. “Thus, a court deciding an actual ineffectiveness claim must judge the reasonableness of counsel’s challenged conduct on the facts of the particular case, viewed as of the time of counsel’s conduct.” *Id.* at 690; *Gates v. Zant*, 863 F.2d 1492, 1497 (11th Cir. 1989).

As observed by the Eleventh Circuit Court of Appeals:

[The test for ineffective assistance of counsel] has nothing to do with what the best lawyers would have done. Nor is the test even what most good lawyers would have done. We ask only whether some reasonable lawyer at the trial could have acted, in the circumstances, as defense counsel acted at trial. Courts also should at the start presume effectiveness and should always avoid second guessing with the benefit of hindsight. *Strickland* encourages reviewing courts to allow lawyers broad discretion to represent their clients by pursuing their own strategy. We are not interested in grading lawyers’ performances; we are interested in whether the adversarial process at trial, in fact, worked adequately.

White v. Singletary, 972 F.2d 1218, 1220–21 (11th Cir. 1992) (citation omitted). Under those rules and presumptions, “the cases in which habeas petitioners can properly prevail on the ground of ineffective assistance of counsel are few and far between.” *Rogers v. Zant*, 13 F.3d 384, 386 (11th Cir. 1994).

III. ANALYSIS

A. Ground One

V-6 DINO made to strike venire panel
In Ground One, Glee alleges his trial counsel was ineffective for failing to move to strike the entire venire panel after one of the jurors made comments that tainted the entire panel. (Doc. 1 at 5–12; see also Doc. 13 at 1–2).

Glee raised this claim in ground one of his Rule 3.850 motion. (Doc. 5-31 at 12–13; see also Doc. 5-32 at 11–15). The trial court summarily denied the claim as follows:

“In order for the statement of one venire member to taint the panel, the venire member must mention facts that would not otherwise be presented to the jury.” *Johnson v. State*, 903 So. 2d 888, 897 (Fla. 2005). The Second DCA has summarized the applicable law:

The decision whether to dismiss any or all jurors lies in the sound discretion of the trial judge. It is within the discretion of the trial court to determine whether remarks made by veniremen during the examination of the panel are prejudicial; and the trial court’s decision not to quash the panel will not be disturbed absent an abuse of that discretion.

When a prospective juror comments on a defendant’s criminal history and expresses some knowledge of the defendant himself, it is an abuse of discretion not to strike the venire. However, when a prospective juror simply expresses a personal opinion of the criminal justice system, that opinion, without more, is usually insufficient to taint the remainder of the venire. The presumption that the venire members can abide by their oath does not disappear simply because one prospective juror expresses a provocative opinion for an ulterior purpose.

Reppert v. State, 86 So. 3d 525, 526 (Fla. 2d DCA 2012) (internal quotations and citations omitted).

Here, the portion of jury selection that [Glee] takes issue with involves a prospective juror's comment about the role of proportionality in sentencing. The relevant portion of the transcript reads:

....

MR. BURNS [Prospective Juror]: The only issue I have is if there is no death penalty for an unquestionable murder.

MR. MANTEI [For the State]: You want to know why that is?

Mr. BURNS: Yes.

MR. MANTEI: Okay. Mr. Burns, all I can tell you -- I mean, are you familiar with that not all murders get the death penalty?

MR. BURNS: Yes.

MR. MANTEI: Those that are unquestionably actual murders?

MR. BURNS: Yes.

MR. MANTEI: That's going to be kind of going through your head here?

MR. BURNS: Yes. I don't know anything about any of these cases, but I'm a strong believer that the punishment should fit the crime. And I think that's why we have such a large amount of crimes in our society now . . . because there's no fear of the punishment.

MR. MANTEI: Okay.

PROSPECTIVE JUROR: I agree.

PROSPECTIVE JUROR: I agree with him.

PROSPECTIVE JUROR: I agree.

THE COURT: Ladies and gentlemen, it's going to get out of hand now. We're kind of addressing the wrong issues. I

appreciate what everyone's saying. But when you're asked to serve as a juror, your oath is going to be to follow the law and the evidence and to apply the law to the evidence.

Even if this were a capital case, you would be told that sentencing is no responsibility of the jury; it's the responsibility of the Court. And in this instance, for different reasons, the death penalty isn't applicable.

To be honest with you, I don't know the facts of this case. I haven't heard the evidence. So -- but the decision has been made. And so even though you may feel, look, everybody charged -- or everybody convicted of first-degree murder absolutely deserves the death penalty, you can have that feeling and still serve as a juror on this case. Your oath is: I'll follow the evidence and the law and render a verdict according to the evidence and the law. And that's the total extent of your responsibility. The responsibility for sentencing is entirely up to the Court.

And they're -- if people are convicted, they're entitled to a sentencing hearing where they can bring in their kindergarten teacher or whatever. There's a sentencing hearing. There's a process. The State can present things in aggravation. There's a lot of things going on.

But just to say[,] I believe everyone ought to get the death penalty if they're convicted of first-degree murder[,] really isn't an issue. And I appreciate your [sic] saying that and it's of interest. And there's nothing wrong with them asking it, but it doesn't mean you can't serve as a juror. So[,] please keep that in mind.

And the same thing is true, people come in and say -- for instance, gun offenses, a lot of people think everyone ought to be able to carry a gun. Nothing wrong with that. You're welcome to say that. But your oath is, well, if you prove that someone was inappropriately carrying a concealed gun and didn't have a permit and if you prove that, even though I think they ought to be able to do it, I'm willing to follow the law and the evidence, and I will convict them if you prove [it]. Then you can still serve as a juror even though you think everyone ought to be able to carry guns.

Same thing with drugs. I mean, a lot of people think marijuana ought to be legalized. You're welcome to say that. That

doesn't exclude you from serving on a case where someone is charged with possession of marijuana. You say, look, I don't approve of it, but if you prove it beyond a reasonable doubt, I will render a true verdict according to the evidence and the law. Even though I don't agree with the evidence or I don't agree with the law, I will render a true verdict. That's all you're being asked to do here.

And so in a lot of instances -- I think as I pointed out, we all come in with biases[,] prejudices[,] and sympathies. That's perfectly normal. But your oath is: I'll set aside my biases, my prejudices, [and] my sympathies[,] and render a verdict according to the evidence and the law even though I don't like it. That's what you're being asked to do.

And so[,] as I said in the beginning, there may be things that are so momentous in our life, for instance, maybe murder -- maybe a relative was murdered, and for whatever reason hearing the evidence here, that would become overwhelming to you, then you couldn't serve as a juror. You'd have to say, you know, I just couldn't pay attention. I'd be thinking of something else. I'd be worried about this[,] or my cousin[,] or whatever it was. Then you can't serve.

And that's all both the State and the defense are going to be asking you, not to favor one side, [and] not to favor the other. The State doesn't want everyone coming in here saying, yeah, I favor the State. They don't want that. They want someone who will listen to the evidence and render a true verdict according to the evidence and the law, whatever it may be, guilty, not guilty, [or] lesser offenses. And the defense is asking the same thing, just render a true verdict. If you can do that, then you can serve as a juror.

But respectfully, I don't want to get into what the penalties ought to be for crimes or, you know, third-degree felonies, the maximum five years, it ought to be 15 years. Well, you know, that's not what we're here to debate today.

(Ex. C at 71–76⁵).

Thus, the comment at issue did not pertain to [Glee's] criminal history or otherwise express an opinion about [Glee's] case. Instead, one prospective juror simply expressed a personal opinion about the criminal justice system

⁵ (See Doc. 5-13 at 73–78).

generally. See *Reppert*, 86 So. 3d at 526. The juror's generalized opinion about proportionality in sentencing did not prejudice [Glee] and thus did not taint the jury pool. See *Hayes v. State*, 954 So. 2d 1265, 1266 (Fla. 5th DCA 2007) ("A venire member's expression of an opinion stated during a voir dire examination, without more, is ordinarily not considered sufficient to taint the remainder of the panel."); *Morris v. State*, 219 So. 3d 33, 41 (Fla. 2017) (finding the trial court did not err in denying the defendant's motion to strike the jury panel after a prospective juror opined that holding a separate penalty phase in a capital case was a waste of taxpayer money).

Moreover, the trial court provided a detailed explanation of the law and the function of a jury immediately following the comment at issue. The trial court's instruction further eliminates any concern that the prospective juror's generalized comment about sentencing proportionality somehow tainted the jury panel. See *Reppert*, 86 So. 3d at 527 ("Moreover, any possible taint that might have arisen was dissipated by the trial court's detailed explanation of the law following the prospective juror's comment.").

As such, defense counsel did not have a good faith legal basis to file a motion to strike the jury panel and it is clear the trial court would have denied such a motion if counsel had filed it. A lawyer is not ineffective when he or she fails to present a meritless motion. *Whitted v. State*, 992 So. 2d 352, 353 (Fla. 4th DCA 2008) ("Counsel was not ineffective for failing to file a motion sure to be denied."). Thus, in the absence of showing there was a reasonable probability the trial court would have granted defense counsel's hypothetical motion to strike the jury panel, Ground One of [Glee's] motion fails.

(Doc. 5-31 at 104–109). The First DCA per curiam affirmed the trial court's denial without a written opinion. (Doc. 5-35).

Because the First DCA affirmed without a written opinion, the Court presumes the affirmance was based on the trial court's findings. See *Wilson v. Sellers*, 584 U.S. 122, 125–26 (2018) (holding that where the relevant state court decision on the merits does not provide any rationale for its decision, "the federal court should 'look through' the unexplained decision to the last related state-court decision that does provide a relevant rationale" and "should then presume that the unexplained decision adopted the same reasoning"). As the trial court decided the claim on the merits, the Court addresses it in

accordance with the deferential standard for federal court review of state court adjudications. Upon thorough review of the record and the applicable law, the Court concludes that the state court's decision to deny Glee's claim was neither contrary to nor an unreasonable application of federal law, and it was not based on an unreasonable determination of the facts given the evidence presented to the state court. See 28 U.S.C. § 2254(d); see also *United States v. Tegzes*, 715 F.2d 505, 507 (11th Cir. 1983) (stating that "jurors need not be totally ignorant of the consequences of crime, nor free or opinion towards crime"); cf. *Ward v. United States*, 694 F.2d 654, 665 (11th Cir. 1983) (stating that a party challenging a trial court's refusal to strike a prospective juror for cause must demonstrate that the juror "exhibited actual bias," meaning "either an express admission of bias, or proof of specific facts showing such a close connection to the circumstances of the case that bias must be presumed," and concluding the defendant failed to demonstrate such bias where "the prospective juror was the wife of an FBI agent who had participated in a fruitless search of [defendant's] property"). Therefore, Ground One is denied.

B. Ground Two

In Ground Two, Glee alleges his trial counsel was ineffective for failing to move for judgment of acquittal on the felony murder counts, because the State's evidence failed to demonstrate an essential element of one of the underlying felonies (robbery). (Doc. 1 at 12–16; see also Doc. 13 at 2–3).

Glee raised this claim in ground three of his Rule 3.850 motion. (Doc. 5-31 at 14–15; see also Doc. 5-32 at 15–19). The trial court summarily denied the claim as follows:

In Ground Three, [Glee] argues defense counsel was ineffective for not making a certain argument in support of his motion for a judgment of

acquittal. Specifically, [Glee] claims the State failed to establish that he stole any property. As such, [Glee] believes the evidence was legally insufficient to support a robbery conviction, which in turn undermines the State's alleged felony murder theory. [Glee's] claim fails for multiple reasons.

First, the record indicates the jury found [Glee] guilty of premeditated [sic] murder rather than felony murder. The jury found [Glee] guilty of two counts of first-degree murder: one in which the victim was King Brookins and one in which the victim was Larry Gibson. Each jury form specifically states the jury found [Glee] guilty of first-degree murder "as charged in the indictment." In pertinent part, both first-degree murder charges in the grand jury's indictment alleged that [Glee] killed his victims "unlawfully and from a premeditated design." Neither first-degree murder count in the indictment made any reference to underlying felonies. Because the jury found [Glee] guilty "as charged in the indictment," and because the indictment unambiguously charged [Glee] with premeditated [sic] first-degree murder, the record does not suggest the jury found [Glee] guilty under a felony-murder theory.

Alternatively, even in a scenario in which the jury found [Glee] guilty of first-degree felony murder, there is no reason to believe the trial court would have granted a motion for a judgment of acquittal if only counsel had made the argument [Glee] outlines in Ground Three. "The purpose of a motion for judgment of acquittal is to challenge the legal sufficiency of the evidence" *Cunningham v. State*, 385 So. 2d 721, 722 (Fla. 3d DCA 1980). "In moving for a judgment of acquittal, a defendant admits not only the facts stated in the evidence, but also every reasonable conclusion favorable to the State that the fact-finder might fairly infer from the evidence." *State v. Odom*, 56 So. 3d 46, 49 (Fla. 5th DCA 2011). "The trial court should not grant a motion for judgment of acquittal unless there is *no view* of the evidence which the jury might take favorable to the opposite party that can be sustained under the law." *McBride v. State*, 7 So. 3d 1146, 1148 (Fla. 2d DCA 2009) (emphasis added and internal quotations omitted).

Here, the State presented evidence of robbery that was sufficient to overcome the specific motion [Glee] describes in Ground Three. Eric Ladson testified that [Glee] and Lavario Ray were members of a cocaine distribution ring in Jacksonville. Mr. Ladson testified that he met with [Glee] shortly after the murders in this case. Mr. Ladson observed that [Glee] was "agitated." Mr. Ladson asked [Glee] what was troubling him. [Glee] revealed that he had been a part of a robbery that culminated in murder. The primary object of the robbery was a kilo of cocaine. At the close of the State's case, defense counsel moved for a judgment of acquittal as to each count against [Glee]. The trial court denied defense counsel's motion.

Especially when viewed in a light most favorable to the State, the testimony would have warranted the denial of a motion for judgment of acquittal. And in the absence of being able to show that the trial court would have granted [Glee's] hypothetical motion, [Glee's] claim fails on the merits. *See Whitted*, 992 So. 2d at 353 ("Counsel was not ineffective for failing to file a motion sure to be denied."). For these reasons, the Court denies Ground Three of [Glee's] motion.

(Doc. 5-31 at 110–112 (record citations omitted)). The First DCA per curiam affirmed the trial court's denial without a written opinion. (Doc. 5-35).

Because the First DCA affirmed without a written opinion, the Court presumes the affirmance was based on the trial court's findings. *See Wilson*, 584 U.S. at 125–26. As the trial court decided the claim on the merits, the Court addresses it in accordance with the deferential standard for federal court review of state court adjudications. Upon thorough review of the record and the applicable law, the Court concludes that the state court's decision to deny Glee's claim was neither contrary to nor an unreasonable application of federal law, and it was not based on an unreasonable determination of the facts given the evidence presented to the state court. *See* 28 U.S.C. § 2254(d); *see also* Fla. Stat. § 782.04 (providing, in relevant part, that felony murder is "committed by a person engaged in the perpetration of, or in the attempt to perpetrate" robbery); (Doc. 5-4 at 98; Doc. 5-11 at 18, 20, 52, 54; Doc. 5-17 at 26–28, 50–54). Therefore, Ground Two is denied.

C. Ground Three

In Ground Three, Glee alleges his trial counsel was ineffective for failing to effectively impeach the State's witnesses. (Doc. 1 at 16–17; *see also* Doc. 13 at 4).

Glee raised this claim in ground four of his Rule 3.850 motion. (Doc. 5-31 at 16–17; *see also* Doc. 5-32 at 19–20). The trial court summarily denied the claim as follows:

In Ground Four, [Glee] argues his lawyer should have used the details of his co-defendants' plea agreements to impeach the co-defendants' trial testimony. Several co-defendants, who were members of [Glee's] narcotics organization, testified against [Glee]. First, Antonio Mann testified that he was present for Larry[] Gibson's death. Mr. Mann knew that [Glee] was a leader in an organization that acquired and distributed narcotics. Mr. Mann was a member of the organization and he knew the organization bought and sold cocaine. Officers arrested Mr. Mann in the spring of 2005. On cross-examination, Mr. Mann conceded that the version of events he shared at trial differed from the one he first told [the] police. He further conceded that testifying against [Glee] was part of his arrangement with the State. Mr. Mann agreed that his deal with the State allowed him to reduce his maximum prison exposure from thirty years to six years. Mr. Mann said he was hoping to receive a time-served or probation-only sentence. He was also hoping for a favorable sentencing recommendation from the State. Defense Counsel asked Mr. Mann whether he was cutting a deal to "save [his] skin." Mr. Mann answered affirmatively.

Next, [Kenyon Lee] testified that he knew [Glee] from school and from the neighborhood. [Mr. Lee] knew that [Glee] was a drug dealer. [Mr. Lee] was a part of [Glee's] drug-dealing organization. He sold marijuana. He was at the drug house where the murders in this case occurred. He witnessed [Glee] shoot one of the victims. He later assisted with the removal of the victims' bodies. [Mr. Lee] conceded that he was a two-time convicted felon. On cross-examination, he also conceded he had been a person of interest in this case. He acknowledged that although he sold marijuana and helped dispose of the victims' bodies, the State did not charge him with any crimes.

[Marcus Small] testified that he knew [Glee] from his neighborhood in Jacksonville. He knew [Glee] was a leader in a drug-dealing organization. [Mr. Small] was present when the murders in this case took place. He assisted with the disposal of the victims' bodies. [Mr. Small] agreed that he is a convicted felon. He also conceded that he did not voluntarily report the events in this case to [the] police. He further admitted that he consumed multiple alcoholic beverages prior to witnessing the events at the crime scene.

Additionally, [David Thorbs] testified that he was a member of [Glee's] narcotics organization. The organization trafficked in cocaine. [Mr. Thorbs] was a money collector and transporter for the organization. He described how [Glee] and [Glee's] associates would manufacture and distribute drugs in Jacksonville. [Mr. Thorbs] made multiple trips to Texas on the organization's behalf to pick up eight to fifteen kilos of cocaine at a time. [Mr. Thorbs] reported that he was a federal inmate at Coleman Penitentiary in Coleman, Florida. He was serving a twenty-year federal sentence for nine drug-related offenses. On cross-examination, [Mr. Thorbs]

acknowledged that he also had two prior felony convictions. He agreed that under Rule 35(b) of the Federal Rules of Criminal Procedure, he could possibly receive a sentencing reduction by testifying against [Glee].

Eric Ladson testified that [Glee] was a member of a cocaine distribution ring in Jacksonville. He provided testimony about inculpatory admissions made by [Glee]. Mr. Ladson reported that he was currently incarcerated in a State prison because of his involvement in this case. [He] was serving a six-year prison sentence.

Lastly, Samuel Singleton also testified against [Glee]. Officers arrested Mr. Singleton in 2005 on drug charges stemming from his wiretapped phone conversation with Mr. Ray. He accepted a plea deal from the State. Mr. Singleton's negotiated sentencing range was from zero to five years in prison. Prior to his negotiated deal with the State, Mr. Singleton's prison exposure was thirty years. One condition of his plea deal with the State was that he would testify against [Glee]. Mr. Singleton also agreed that he had a prior felony conviction.

The record shows that, with the exception of [Mr. Small,] the jury was aware of the benefits the witnesses received and/or hoped to receive in exchange for their testimony against [Glee]. Thus, the jury was able to take those benefits into account when evaluating the credibility and probative value of the witnesses' testimony. As for [Mr. Small,] the jury was aware of other potential issues with his credibility, including that he was a member of a drug-dealing organization, was a convicted felon, and was under the influence of alcohol at the time he observed some of the events at issue. In light of the overwhelming evidence of [Glee's] guilt – including the testimony of several eyewitnesses – [Glee] cannot demonstrate there is a reasonable probability the outcome of his trial would have changed if only defense counsel had questioned Mr. Small about whether he had a plea arrangement with the State. See *Strickland*, 466 U.S. at 688. Likewise, because the jury was aware of the benefits that other members of [Glee's] drug-dealing organization received or hoped to receive in exchange for their testimony, there is no reasonable probability the outcome of [Glee's] trial would have changed if only Defense Counsel had asked additional questions about those plea deals. For these reasons, the Court denies Ground Four of [Glee's] motion.

(Doc. 5-31 at 112–115 (record citations omitted⁶)). The First DCA per curiam affirmed the trial court's denial without a written opinion. (Doc. 5-35).

⁶ The relevant portions of the witnesses' testimonies can be found as follows: Mr. Mann's in Doc. 5-16 at 104–129; Mr. Lee's in Doc. 5-16 at 144–161; Mr. Small's in Doc.

Because the First DCA affirmed without a written opinion, the Court presumes the affirmance was based on the trial court's findings. See *Wilson*, 584 U.S. at 125–26. As the trial court decided this claim on the merits, the Court addresses it in accordance with the deferential standard for federal court review of state court adjudications. Upon thorough review of the record and the applicable law, the Court finds that the state court's decision to deny Petitioner's claim was neither contrary to nor an unreasonable application of *Strickland*, and it was not based on an unreasonable determination of the facts given the evidence presented to the state court. See 28 U.S.C. § 2254(d). Therefore, Ground Three is denied.

D. Ground Four

In Ground Four, Glee alleges a claim of cumulative error as a result of trial counsel's individual or combined errors. (Doc. 1 at 18; see also Doc. 13 at 4).

Glee raised this claim in ground five of his Rule 3.850 motion. (Doc. 5-31 at 17; see also Doc. 5-32 at 20–21). The trial court summarily denied the claim as follows:

In Ground Five, [Glee] makes a claim of cumulative error. "Claims of cumulative error do not warrant relief where each individual claim of error is either 'meritless, procedurally barred, or [does] not meet the *Strickland* standard for ineffective assistance of counsel.'" *Schoenwetter v. State*, 46 So. 3d 535, 562 (Fla. 2010) (quoting *Israel v. State*, 985 So. 2d 510, 520 (Fla. 2008)). Here, because all of [Glee's] claims are meritless and do not meet the *Strickland* standard for ineffective assistance of counsel, [Glee's] claim of cumulative error does not warrant relief. Accordingly, the Court denies Ground Five of [Glee's] motion.

(Doc. 5-31 at 115). The First DCA per curiam affirmed the trial court's denial without a written opinion. (Doc. 5-35).

5-16 at 174–188; Mr. Thorbs's in Doc. 5-16 at 198–202 and Doc. 5-17 at 7–20, 26–35; Mr. Ladson's in Doc. 5-17 at 45–54, 56, 62; and Mr. Singleton's in Doc. 5-15 at 117–119, 146–150.

Because the First DCA affirmed without a written opinion, the Court presumes the affirmance was based on the trial court's findings. See *Wilson*, 584 U.S. at 125–26. As the trial court decided this claim on the merits, the Court addresses it in accordance with the deferential standard for federal court review of state court adjudications. Upon thorough review of the record and the applicable law, the Court finds that the state court's decision to deny Glee's claim was neither contrary to nor an unreasonable application of *Strickland*, and it was not based on an unreasonable determination of the facts given the evidence presented to the state court. See 28 U.S.C. § 2254(d).

Nevertheless, even if the state court's adjudication is not entitled to deference, this claim must still be denied for the reasons that follow. As the United States Supreme Court has not yet held that distinct constitutional claims can be cumulated to grant habeas relief, the judgment of the state court cannot contravene § 2254(d). See, e.g. *Wright v. Van Patten*, 552 U.S. 120, 126 (2008) ("Because our cases give no clear answer to the question presented . . . , it cannot be said that the state court unreasonabl[y] appli[ed] clearly established Federal law." (internal quotation marks and citations omitted)). However, even if the claim of cumulative error is cognizable for federal habeas review, it must still be denied because each individual claim that Petitioner raises is "either meritless, procedurally barred, or [does] not meet the *Strickland* standard for ineffective assistance of counsel." *Schoenwetter*, 46 So. 3d at 562; see also *Morris v. Sec'y, Dep't of Corrs.*, 677 F.3d 1117, 1132 n.3 (11th Cir. 2012) ("We need not determine today whether, under the current state of Supreme Court precedent, cumulative error claims reviewed through the lens of AEDPA can ever succeed in showing that the state court's decision on the merits was contrary to or an unreasonable application of clearly

established law. For our purposes, it is enough to say that Morris's cumulative error claim clearly fails in light of the absence of any individual errors to accumulate."). Therefore, Ground Four is denied.

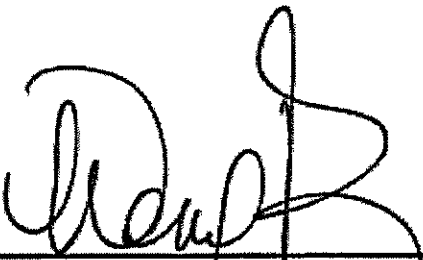
IV. CONCLUSION

Accordingly, it is hereby **ORDERED** and **ADJUDGED** as follows:

1. The Petition (Doc. 1) is **DENIED**, and this action is **DISMISSED with prejudice**.
2. The Clerk of the Court shall enter judgment dismissing this case with prejudice, terminate any pending motions, and close the file.
3. If Petitioner appeals this Order, the Court denies a certificate of appealability. Because the Court has determined that a certificate of appealability is not warranted, the Clerk of the Court shall terminate from the pending motions report any motion to proceed on appeal as a pauper that may be filed in this case. Such termination shall serve as a denial of the motion.⁷

DONE AND ORDERED in Jacksonville, Florida on January 16, 2026.

⁷ The court should issue a certificate of appealability only if a petitioner makes "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). To make this substantial showing, a petitioner "must demonstrate that reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong," *Tennard v. Dretke*, 542 U.S. 274, 282 (2004) (quoting *Slack v. McDaniel*, 529 U.S. 473, 484 (2000)), or that "the issues presented were 'adequate to deserve encouragement to proceed further,'" *Miller-El v. Cockrell*, 537 U.S. 322, 335–36 (2003) (quoting *Barefoot v. Estelle*, 463 U.S. 880, 893 n.4 (1983)). Upon consideration of the record as a whole, this Court denies a certificate of appealability.



WENDY W. BERGER
UNITED STATES DISTRICT JUDGE

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c: Counsel of Record