IN THE SUPREME COURT OF FLORIDA

CASE NO. SC19-195

WILLIAM EARL SWEET,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

ON APPEAL FROM THE CIRCUIT COURT OF THE FOURTH JUDICIAL CIRCUIT FOR DUVAL COUNTY, STATE OF FLORIDA
Lower Tribunal No. 1991-CF-2899

REPLY BRIEF OF APPELLANT

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RESTATEMENT OF THE CASE

William Sweet has lived in solitary confinement on Florida's death row since 1991, and he is innocent of capital murder. The State provides a version of the facts of this case in its brief in opposition from this Court's opinion on direct appeal. State Brief in Opposition ("BIO") BIO at 1. The facts on the direct appeal were based on the testimony of Marcene Cofer and Solomon Hansbury, both of whom have completely recanted. The State-recited facts are like an empty cereal box – a pretty picture of fruity loops with nothing on the inside.

The facts that led to Mr. Sweet's death conviction have little to do with murder and everything to do with overzealous and possibly unethical prosecution by the Duval County State Attorney, coupled with ineffective trial and post-conviction counsel. Mr. Sweet's trial lawyers were a notorious alcoholic teamed with a civil rights lawyer who was later disbarred. Neither had any capital trial experience. During trial, there was no physical evidence, weapons, bullets, DNA, blood, or hair introduced to tie Mr. Sweet to the crime scene. Since 1991, every witness against him has recanted, except a twelve-year-old girl. Solomon Hansbury, who fabricated the jailhouse confession used to convict Mr. Sweet, explained that prosecutors showed him articles in the Florida Times Union to create his false testimony. Death sentences based on prosecutorial misconduct rather than guilt beyond a reasonable doubt are fundamentally unfair.

There have been twenty different lawyers representing Mr. Sweet over the past

twenty-nine years. Some were post-conviction lawyers so ineffective that they failed to timely file Mr. Sweet's federal habeas claims. Others were so self-enriching that they repeatedly moved for and received fees to investigate, research, and file a *Giglio* claim based on prosecutorial misconduct that was never actually filed. *See Giglio v. United States*, 405 U.S. 150 (1972). As a poor, urban alumnus of the infamous Dozier School for Boys who barely survived childhood meningitis, Mr. Sweet was condemned because he was represented by incompetent lawyers and suffered repeated failures in the justice system. The most recent of these was the failure to enforce basic *Brady* obligations and order the production of documents illegally stored by infamous State Attorney Bernie De La Rionda, a right which this Court recently granted to Anthony Mungin. *Mungin v. State*, Case No. SC 18-635 (order remanding case for inventory of De La Rionda's records on May 10, 2019).

ARGUMENT I

EGREGIOUS ERRORS AND OMMISIONS BY PAST POST-CONVICTION COUNSEL SHOULD ALLOW AN EXCEPTION TO THE TIME LIMITS IN FLORIDA RULE OF CRIMINAL PROCEEDURE 3.851(d)(2)(C)

Mr. Sweet brought two claims of ineffective assistance of trial and post-conviction counsel in his 3.851 motion. Claim 1 involves trial counsel's severe drinking problem, which was discovered, but never disclosed, by post-conviction counsel. Claim 2 is a claim regarding post-conviction counsel's failure to file a *Giglio* claim regarding the perjured testimony of Solomon Hansbury. Mr. Sweet's

counsel's grave and shocking errors are responsible for this wrongful death conviction. The circuit court should have granted an evidentiary hearing to allow further development of these claims.

This Court has consistently recognized a statutory right to effective post-conviction counsel. *Spaulding v. Dugger,* 526 So. 2d 71, 72 (1988) ("we recognize that under Fla Stat. 27.702, defendants under sentence of death are entitled as a statutory right, to effective legal representation . . . in all collateral relief proceedings"). Any other finding would be incongruous, given that Florida both regulates and funds the extensive machinery of post-conviction death litigation to the tune of tens of millions of dollars per year. Fla. R. Crim. P. 3.112(k) & 3.851(b).

A death penalty case requires due process at every stage in proceedings. *Beck v. Alabama*, 447 U.S. 625, 637 (1980) ("death is a different kind of punishment from any other which may be imposed in this country . . . different in its severity and its finality, and the action of the sovereign in taking the life of one of its citizens also differs dramatically from any other legitimate state action"). Summary denials are disfavored in death cases. *See Maharaj v. State,* 684 So. 2d 726 (Fla. 1996); *Hoffman v. State*, 571 So. 2d 449 (Fla. 1990). It is unfair to hold Mr. Sweet on death row without a due process hearing on his trial and post-conviction lawyer's unconscionable oversights and in violation of his statutory right to effective post-

conviction counsel.

Rule 3.851(d)(2)(C) permits an exclusion to the applicable time limits for filing a post-conviction claim for neglect of counsel. Fla. R. Crim. P. 3.852(d)(2)(C) ("No motion shall be filed or considered . . . if filed beyond the time limitation . . . unless it alleges . . . post-conviction counsel, through neglect, failed to file the motion"). In this case, post-conviction counsel Frank Tassone knew Sweet had a *Giglio* claim regarding the false and misleading testimony of Solomon Hansbury. Tassone filed more than twenty motions for attorney fees and investigative expenses, but he never filed a single motion regarding newly discovered evidence or Solomon Hansbury's fabrications. TM8/479-480. Tassone also never appealed the unconstitutional denial of funds. Post-conviction counsel's incompetent performance compromised a full and fair hearing of Mr. Sweet's *Giglio* claim in violation of due process. Neglect of post-conviction counsel, coupled with uncontroverted evidence of a colorable *Giglio* claim, should be sufficient to meet the standards of 3.851(d)(2)(C).

Both the circuit court and the State cite *Howell v. State*, 145 So. 3d 774 (Fla. 2013), in support of the proposition that that the neglect exception in 3.851(d)(2)(C) should only apply in the context of an initial motion, rather than a successive motion. However, the facts of *Howell* are distinguished from Sweet's case. *Howell* was the

second successive motion filed under 3.851 in a warrant posture and it contained no bare claim of ineffective assistance of post-conviction counsel. In Mr. Sweet's case, post-conviction counsel requested and was paid fees to investigate and prepare a motion on the Hansbury *Giglio* claim. Post-conviction counsel never filed the Hansbury *Giglio* claim. Thus, Mr. Sweet's situation is much more analogous to the type of neglect encountered in an initial post-conviction motion than in *Howell*.

Both the circuit court and the State cite Mr. Sweet's eight post-conviction motions as evidence that he has had meaningful access to judicial process. BIO at 9. The mere fact that the attorney-roulette wheel provided counsel who filed successive motions on Mr. Sweet's behalf says nothing about the effectiveness of his post-conviction counsel or his access to judicial process. The opposite is true. Post-conviction counsel failed to use an affidavit that proved Sweet's trial counsel was drunk, missed federal habeas deadlines, and filed more than twenty motions for fees to investigate and prepare a *Giglio* claim on Hansbury's perjured testimony that was never actually ever filed. The facts of these claims far exceed the type of error that might exist in a standard death penalty case and show the cumulative effect of a denial of due process and constitutional guarantees. A number of successive motions have been filed because Mr. Sweet has been continually denied the type of access to qualified, diligent counsel that might have brought his innocence claim to light. The

circuit court should have exercised its inherent discretion to permit an evidentiary hearing in Mr. Sweet's case.

ARGUMENT II

THE CIRCUIT COURT ABUSED DISCRETION IN ITS DENIAL OF DISCOVERY FROM SECRET GARAGE FILES THAT MAY HAVE CONTAINED NEWLY DISCOVERED EVIDENCE RELATING TO THE *GIGLIO* CLAIM ON FALSE TRIAL TESTIMONY OF SOLOMON HANSBURY, AND THIS COURT SHOULD REMAND AS IN THE RECENT *MUNGIN* CASE

The circuit court abused its discretion in denying discovery of potentially relevant secret and illegally maintained garage files by State Attorney Bernie De la Rionda. De la Rionda was photographed with thirty boxes of secret garage files in the Florida-Times Union. TM8/16. The State never represented that De la Rionda's secret garage files were either irrelevant or produced to the State Public Records Repository as required by law. The circuit court improperly shifted an unreasonable burden of proof to Mr. Sweet in withholding discovery under Rule 3.852(i) and prevented Mr. Sweet from finding newly discovered evidence that could have exempted his existing claims from the time limits in Rule 3.851(d)(2)(A). *See Swafford v. State*, 125 So. 3d 760, 776 (Fla. 2013) (requiring a cumulative analysis of all evidence, including evidence which is procedurally barred or presented in another post-conviction proceeding); *Marek v. State*, 14 So. 3d 985, 990 (Fla. 2009); *Jones v. State*, 709 So. 2d 512, 521 (Fla. 1998). This decision should be reversed,

especially in light of the Court's recent remand for inventory of De la Rionda's records in *Mungin v. State*, Case No. SC 18-635 (May 10, 2019).

The State has an ongoing duty to disclose exculpatory evidence to Mr. Sweet throughout collateral proceedings. *See Brady v. Maryland,* 373 U.S. 83 (1963); *Johnson v. Butterworth*, 713 So.2d 985 (Fla. 1998). This obligation exists apart from Rule 3.852(i). Rule 3.852(i) is a broad post-conviction discovery rule that compels production of records when public records that are not in the State Public Records Repository ("SPRR") are either relevant to the subject matter of a proceeding or appear reasonably calculated to lead to the discovery of admissible evidence. Fla. R. Crim. P. 3.852(i)(2). A defendant bears the burden of demonstrating that the records sought might relate to a colorable claim for post-conviction relief. *Mann v. State,* 112 So. 3d 1158, 1163 (Fla. 2013). This Court reviews denials of public records requests under the abuse of discretion standard. *Pardo v. State,* 108 So. 3d 558, 565 (Fla. 2012), *cert. denied,* 568 U.S. 1078 (2012). Mr. Sweet could not fully pursue his *Giglio* claim because the circuit court unreasonably denied the production of De la Rionda's illegally held files.

The circuit court denied production of De la Rionda's garage files because, "an attenuated connection between Mr. De la Rionda and Defendant's case that only exists because Mr. De la Rionda was working in the same State Attorney Office that

prosecuted Defendant." TM8/194. This is an abuse of discretion because it is undisputed that De la Rionda made an appearance in Sweet's case on at least two occasions ***relating to motions for fees for the investigation of the Giglio claim on Solomon Hansbury in 2013***. TM8/183-191. De la Rionda's appearances on motions for fees were on the exact same *Giglio* claims ***that were pending before the circuit court in the 8th Motion and*** the exact same *Giglio* claims ***at issue in this appeal.***

Hansbury falsely testified at trial that Mr. Sweet confessed to the crime. TM8/3-4. In return, prosecutors commuted Hansbury's second-degree felony escape charge from a potential 15 years in Florida State Prison to a mere 32 days in jail and one year probation. *See* Fla. Stat. § 944.40 (1999); R5/932-33. De la Rionda prosecuted Hansbury in 1993 when he was charged with several counts of murder, robbery, and aggravated assault with a deadly weapon. De la Rionda did not have an "attenuated connection" but rather, a continuing role in suppressing evidence that may have supported a newly-discovered evidence claim under Rule 3.851. At a minimum, the circuit court should have conducted an *in camera* inspection to determine if relevant files with *Brady* or *Giglio* information existed and should have been produced.

Secret garage files with information relevant to Sweet's case and Hansbury's prosecution could be relevant and probative of Mr. Sweet's claims in the Eighth

Motion and more importantly, could contain critical exculpatory evidence, including evidence of prosecutorial misconduct. *Brady v. Maryland,* 373 U.S. 83 (1963); *Giglio v. United States*, 405 U.S. 150 (1972). Even without having any access to the De la Rionda files themselves, Mr. Sweet made a profound showing that De la Rionda's secret garage files could contain relevant information. First, De la Rionda has a history of legal impropriety and has drawn harsh criticism for allegations of overzealousness and prosecutorial misconduct. Fair Punishment Project, *Too Broken to Fix: Part I: An In-Depth Look at America's Outlier Death Penalty Counties*, August 2016; TM8/90-147; TM8/107. Second, Mr. Sweet's motion to compel included an Affidavit by Solomon Hansbury in which Hansbury swears he was shown newspaper accounts of Mr. Sweet's crime by State Attorneys to prepare his admittedly false testimony. Third, De la Rionda's garage files were illegally maintained. *See* Fla. R. Crim. P. 3.852(h)(1) & (2). Fourth, the State never represented that De la Rionda's garage files were duplicates. Fifth, the State never produced any evidence that De la Rionda's files were produced to the SPRR as required by law. *See* Fla. R. Crim. P. 3.852(d); *Sims v. State*, 753 So. 2d 66, 70-71 (Fla. 2000). Finally, the State never represented that the files did not contain exculpatory *Brady* or *Giglio* information in response to Mr. Sweet's request. De la

Rionda's secret files could be relevant to Mr. Sweet's claim and they belong in the light of the SPRR rather than the garage.

When the State plays hide and seek with evidence, the Defense is entitled to "get the facts." *See Smith v. State*, 708 So. 2d 253 (Fla. 1998). *See also Roberts v. State*, 840 So. 2d 962 (Fla. 2002). In *Smith*, as in *Roberts*, the Florida Supreme Court relinquished jurisdiction to the trial court for development of the facts pertaining to a claims of *ex parte* communications between the trial court and the prosecution. *Id*. These cases illustrate the critical importance of developing a full factual record in capital post-conviction proceedings – especially when claims of prosecutorial misconduct are at issue. As in *Smith*, the Court should remand this case to the circuit court for further factual development. *See Mungin v. State*, Case No. SC 18-635 (May 10, 2019).

Mr. Sweet had a pending *Giglio* claim relating to Hansbury's testimony before the circuit court. Bernie De la Rionda took his state case files home and kept them in his garage, instead of providing them in response to repeated discovery requests and all of his legal and ethical obligations as a state actor. Mr. Sweet's request under Rule 3.852(i) was "reasonably calculated to lead to the discovery of admissible evidence" because De la Rionda worked with the dishonest man at the center of Mr. Sweet's *Giglio* claim. De la Rionda prosecuted Hansbury for murder, robbery and a

slew of other charges and entered an appearance in Mr. Sweet's case. Production is authorized under Rule 3.852(i)(2)(C). *See* Fla. R. Crim. P. 3.852(i)(2)(C) (the trial court ***shall*** order production of additional public records where records reasonably calculated to lead to admissible evidence have been diligently sought at the SPRR and are identified with specificity). All of the prerequisites of Fla. R. Crim. P. 3.852(i) were satisfied and the circuit court abused discretion in denying Mr. Sweet's motion.

ARGUMENT III

THE CIRCUIT COURT ERRED IN DENYING DISCOVERY FROM THE JACKSONVILLE SHERIFF'S OFFICE AND DISMISSING THE SPOLIATION CLAIM REGARDING THE WILRIDGE ARREST RECORDS

The spoliation of jail records was the subject of Claim 3 of Sweet's Eighth Motion, and Mr. Sweet requested discovery from the Jacksonville Sheriff's Office to establish Claim 3. TM8/48. Without discovery, post-conviction counsel could never know the meaning of the disposition stamp, or why it was excluded from the "true and correct" business records that the State produced during the hearing on the Sixth Motion. The more troubling question is: if not from CORE or the Jacksonville Sherriff's Office, where exactly did the State obtain this record that has been sworn to be a true and correct copy of a court record kept in the ordinary course of business? If the ordinary business records produced to post-conviction counsel is actually the true and

correct copy, why did the State enter a different record into evidence? Since the documents produced by the State, which were admitted into evidence based on the business records exception to the hearsay rule, markedly differ from what is available in CORE and what was produced by the Jacksonville Sherriff's Office, there was a grave possibility of a *Brady* violation, spoliation of evidence, and withholding evidence favorable to Mr. Sweet. *Brady v. Maryland,* 373 U.S. 83 (1963). After discovery, documents produced by the State may have shown that Wilridge's case was disposed on the same day he was charged, as he testified at the hearing on the Sixth Motion. Mr. Sweet should have been entitled to discovery and a hearing on this claim.

ARGUMENT IV

THE CIRCUIT COURT ERRED IN FAILING TO GRANT AN EVIDENTIARY HEARING ON MR. SWEET'S SUBSTANTIVE CLAIMS

The circuit court erred in failing to hold an evidentiary hearing on Mr. Sweet's claims. An ineffective assistance of counsel claim is a mixed question of law and fact subject to plenary review under the test set forth in *Strickland v. Washington,* 466 U.S. 668 (1984). *See also Sochor v. State*, 883 So. 2d 766 (Fla 2004). The legal standard for an evidentiary hearing is a liberal one: a hearing is mandated unless there is a conclusive showing of no possible relief. Fla. R. Crim. P. 3.851(f)(5)(B) (2019). The circuit court should have permitted the additional discovery and the opportunity for Mr. Sweet to amend his pleading if newly discovered evidence was

discovered in De la Rionda's secret garage files. *Bryant v. State*, 901 So. 2d 810 (Fla. 2005).

Mr. Sweet is entitled to an evidentiary hearing unless records conclusively show he is not entitled to relief or a particular claim is legally insufficient. *Freeman v. State*, 761 So. 2d 1055, 1061 (Fla. 2000). *See* Fla. R. Crim. P 3.851(f)(5)(B) & (D) (2); *Lemon v. State*, 498 So. 2d 923 (Fla. 1986) (quoting Fla. R. Crim. P. 3.850); *Gaskin v. State*, 737 So. 2d 509, 516 (Fla. 1999) (same). Factual allegations as to the merits of a constitutional claim as well as to issues of diligence must be accepted as true, and an evidentiary hearing is warranted if the claims involve "disputed issues of fact." *Maharaj v. State*, 684 So. 2d 726, 728 (Fla. 1996). *See also Lightbourne v. State*, 742 So. 2d 238, 249 (Fla. 1999) (remanding for an evidentiary hearing to evaluate the reliability of factual allegations); *Swafford v. State*, 679 So. 2d 736, 739 (Fla. 1996) (remanding for an evidentiary hearing); *Roberts v. State*, 678 So. 2d 1232, 1235 (Fla. 1996) (same); *Scott v. State*, 657 So. 2d 1129, 1132 (Fla. 1995) (same); *Johnson v. Singletary*, 647 So. 2d 106, 111 (Fla. 1994). The circuit court failed to accept that Mr. Sweet's allegations were true in the initial stage of 3.851 proceedings. *See Lightbourne v. Dugger*, 549 So. 2d 1364, 1365 (Fla. 1989). Because Mr. Sweet had claims with disputed issues of fact, Mr. Sweet should have been granted an evidentiary hearing under 3.851(f).

ARGUMENT V

STANDARDS OF DECENCY ARE EVOLVING AND FLORIDA SHOULD RECOGNIZE A CLAIM OF ACTUAL INNOCENCE TO PROTECT THE FUNDAMENTAL RIGHTS OF PRISONERS CONDEMNED TO DEATH

Mr. Sweet has languished as an innocent man on death row for close to thirty years. This Court never explicitly conducted a thorough proportionality review following the direct appeal of Mr. Sweet's case. At a minimum, this Court should weigh the paucity of evidence that might still exist to convict Sweet in a hypothetical new trial and determine if his death sentence complies with state and federal constitutional protections. *See* Editorial Board, *Capital Punishment Deserves a Quick Death*, N.Y. Times, December 31, 2017 ("In many . . . exonerations, prosecutors won convictions and sentences despite questionable or nonexistent evidence, pervasive misconduct or a pattern of racial bias . . . at least 4 percent of all death-row inmates are wrongfully convicted"); Mitch Perry, *More Prisoners are Exonerated from Florida's Death Row Than Anywhere Else in America*, Florida Phoenix (June 4, 2019) ("Florida has more exonerations of death row inmates than any other state in the country").

The excruciatingly high standard of reasonable doubt reflects a "fundamental value determination of our society is that it is far worse to convict an innocent man than to let a guilty man go free." *In re: Winship*, 397 U.S. 358, 371 (1970) (Harlan, J., concurring). Such protections for due process and against cruel and unusual punishment

of the innocent apply with equal force in this case. *House v. Bell*, 547 U.S. 518, 536-38 (2006); *Schlup v. Delo*, 513 U.S. 298 (1995). *See* Jan Pudlow, *Panel: Death Penalty Needs Fixing – You Can Never Release an Innocent Person from the Grave*, 36 Fla. B. News 1 (October 1, 2009) (emphasizing that more than twenty innocent people have been executed in Florida since the death penalty was reinstated); Bruce P. Smith, *The History of Wrongful Execution*, 56 Hastings L.J. 1185, 1186 (2005) (the prospect that persons can be executed for crimes they did not commit provides the most compelling argument for abolishing the death penalty). If Florida chooses to continue to execute its citizens, it must take unique precautions to avoid executing the innocent ones. This Court should reverse Mr. Sweet's unjust conviction and provide relief from the three decades of wrongful incarceration on death row.

It is a violation of due process, proportionality, and every protection provided to the innocent in the state and federal constitutions to impose a death sentence based solely on the testimony of a twelve-year-old child. *See House v. Bell*, 547 U.S. at 536-37 (comity and finality must yield to the imperative of correcting a fundamentally unjust incarceration on *habeas corpus* review); *Souter v. Jones*, 395 F.3d 577, 592 (6th Cir. 2005) (considering changed testimony as "new evidence" which "chips away" at slim circumstantial evidence supporting conviction). *See also Schlup v. Delo*, 513 U.S. 298 (1995). Added to all of the new evidence, recanting

witnesses, incompetent lawyers, and unfair hearings, is a discovery that Mr. Sweet's primary trial counsel kept a bottle of rum in his bottom drawer and was drunk throughout the investigation and trial of Mr. Sweet's capital case.

The Eighth Amendment prohibits cruel and unusual punishment. The United States Supreme Court has recognized that "in a capital case a truly persuasive demonstration of 'actual innocence' made after trial would render the execution of a defendant unconstitutional." *Herrera v. Collins*, 506 U.S. 390, 417 (1993). In a concurring opinion, Justice O'Connor agreed that "executing the innocent is inconsistent with the Constitution," "contrary to the contemporary standards of decency," "shocking to the conscience," and "offensive to a principle of justice so rooted in the traditions and conscience of our people as to be ranked as fundamental." *Id*. at 419 (O'Connor, and Kennedy, J.J., concurring) (internal quotations and citations omitted). Justice O'Connor concluded that "the execution of a legally and factually innocent person would be a constitutionally intolerable event." *Id*. In light of the compelling evidence of Mr. Sweet's innocence, allowing him to be executed violates his rights under the Fifth, Eighth, and Fourteenth Amendments to the United States Constitution.

Florida should protect Mr. Sweet from cruel and unusual punishment. The Florida Constitution specifically provides that, "[t]he prohibition against cruel or

unusual punishment, and the prohibition against cruel and unusual punishment, shall be construed in conformity with decisions of the United States Supreme Court which interpret the prohibition against cruel and unusual punishment provided in the Eighth Amendment to the United States Constitution." Art. I, § 17, Fla. Const. The Florida Supreme Court has rejected the claim that Florida's failure to recognize a freestanding actual innocence claim violates the Eighth Amendment. *Tompkins v. State*, 994 So. 2d. 1072, 1089 (Fla. 2008). Nonetheless our standards of decency have evolved since 2006. *Roper v. Simmons*, 543 U.S. 551, 561 (2005) (evolving standards of decency that mark the progress of a maturing society); *Graham v. Florida*, 560 U.S. 48, 85 (2010) (Stevens, J., concurring) ("Society changes. Knowledge accumulates. We learn, sometimes, from our mistakes. Punishments that did not seem cruel and unusual at one time may, in the light of reason and experience, be found cruel and unusual at a later time."); Dan King, *It's Time to End the Death Penalty Nationwide*, The American Conservative, May 2, 2019 ("Even one wrongful death at the hands of the government is a clear moral failure. It's long past time that the United States catch up with the rest of the world and end the barbaric, inhumane practice that is the death penalty"). *See Baze v. Rees*, 553 U.S. 35 (2008); Brandon L. Garrett, *Judging Innocence*, 108 Colum. L. Rev. 55 (2008); D. Michael Risinger, *Innocents Convicted: An Empirically Justified Factual Wrongful Conviction Rate*,

97 J. Crim. L. & C. 761 (2007). Four decades after *Furman*, "the poor, the sick, the ignorant, the powerless and the hated" are still executed, perpetuating a barbaric practice that devalues our constitutional protections and all human life. *Furman v. Georgia*, 408 U.S. 238, 251 (1972).

CONCLUSION

The circuit court improperly denied Mr. Sweet's Eighth Successive Motion to Vacate Judgments of Conviction and Sentence. The only adult eyewitness and the victim of the crime have both recanted. The State's jailhouse informant admitted he lied. Throughout post-conviction proceedings, further exculpatory evidence has been produced. There is no remaining evidence to convict Mr. Sweet with a unanimous jury verdict beyond a reasonable doubt. Serious flaws in the justice system put an innocent man on death row for more than a quarter century. A correction is long overdue. Mr. Sweet requests this Court reverse the circuit court's order, vacate his conviction and sentence of death, grant him a new trial, or at a minimum, remand this case for further discovery under Rule 3.852(i) and a full evidentiary hearing.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing REPLY BRIEF OF APPELLANT has been transmitted to this Court through the Florida Courts E-Filing Portal, which will send a notice of electronic filing to Lisa A. Hopkins, Assistant Attorney General, at capapp@myfloridalegal.com and Lisa.Hopkins@myfloridalegal.com, and mailed via United States Postal Service to William Earl Sweet, DOC #100063, Union Correctional Institution, P.O. Box 1000, Raiford, Florida 32083 on this 7th day of June, 2019.

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CERTIFICATE OF COMPLIANCE

I hereby certify that a true copy of the foregoing Reply Brief of Appellant was generated in Times New Roman, 14 point font, pursuant to Fla. R. App. 9.210 (a) (2).

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