IN THE SUPREME COURT OF FLORIDA

CASE NO.: SC20-108

LUCIOUS BOYD

APPELLANT

VS.

STATE OF FLORIDA

APPELLEE

ON APPEAL FROM THE CIRCUIT COURT OF THE SEVENTEENTH JUDICIAL CIRCUIT, IN AND FOR BROWARD COUNTY, FLORIDA, (CRIMINAL DIVISION)

ANSWER BRIEF OF APPELLEE

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PRELIMINARY STATEMENT

Appellant, Lucious Boyd, Defendant below, will be referred to as "Boyd" and Appellee, State of Florida, will be referred to as "State". Reference to the appellate records will be as follows:

> R: Direct Appeal SC02-1590; *Boyd v. State*, 910 So.2d 167 (Fla. 2005), *cert. denied*, 126 S. Ct. 1350 (2006);
> 1PCR: First Postconviction Appeal SC13-244/State Habeas SC13-1959; *Boyd v. State*, 200 S.3d 685 (Fla. 2015);
> 2H: Successive State Habeas raising *Hurst v. Florida*[1] issue SC16-1812; *Boyd v. Jones*, 2017 WL 318931 (Fla. Jan. 23, 2017) (unpublished)
> 2PCR: Successive Postconviction Appeal raising Hurst v. Florida issue; Boyd v. State, case no. SC18-1589 (Fla. Mar. 19, 2020);
> 3PCR: Successive Postconviction Appeal raising juror issue SC20-108.

Supplemental materials will be designated by the symbol "S" preceding the type of record referenced. Boyd's initial brief will be notated as "IB." Where appropriate, the volume and page number(s) will be cited.

OVERVIEW

This is Boyd's third postconviction appeal and second attempt to obtain a new trial based on the alleged actions of Juror Tonja Striggles ("Striggles") for failing to disclose personal information. *See Boyd v. State*, 200 So.3d 685 (Fla.

[1] *Hurst v. Florida*, 136 S. Ct. 616 (2016).

2015). Presently Boyd points to Striggles' 2018 disclosure that her cousin was married to the defendant's brother and that she was taking medication during the trial that made her feel "stoned." This claim of newly discovered evidence of juror misconduct arises out of an evidentiary hearing held in federal court on the issue of Striggles' failure to disclose her prior criminal history. In arguing this issue, Boyd attempts to relitigate matters surrounding Striggles previously rejected by this Court. The State asserted that Boyd was not entitled to relitigate matters raised and rejected on appeal and that now are law of the case and procedurally barred from further review. *Harvey v. Dugger*, 656 So.2d 1253, 1256 (Fla. 1995). Alternately, it argued the claim is without merit under *Pena-Rodriguez v. Colorado*, 137 S. Ct. 855 (2017), *Boyd v. State*, 200 So.3d 685, 694-95 (Fla. 2015), and *Carratelli v. State*, 961 So.2d 312 (Fla. 2007) as actual bias against the defendant has not been shown on the face of the record. The trial court denied relief summarily.

STATEMENT OF THE CASE AND FACTS

On April 14, 1999, Boyd was indicted for first-degree murder, armed kidnapping, and sexual battery of DD ("DD").[2] *Voir dire* commenced December 3, 2001 and a jury was seated the next

[2] The State will use the initials of the victim as she was the victim of a sexual battery.

day. Opening statements were given January 7, 2002, and on January 30, 2003, guilty verdicts were returned on each count. (R.1 6-7; R.3 461-63; R.5 2; R.7 378; R.8 457; R.20 1758-76, 2088-89). Following the March 11-12, 2002 penalty phase, the jury unanimously recommended death for the murder. (R.29 2388-91) The *Spencer v. State*, 615 So.2d 688 (Fla. 1993) hearing was held on March 27, April 10, April 30, and May 29, 2002. During the June 21, 2002 sentencing the court imposed death for the murder of DD, 15 years for the armed kidnapping, and life for the sexual battery. (R.3 498, 546-55; R.30 2494-2503).

On direct appeal, Boyd raised 15 issues[3] which were rejected

[3] Of import here, Boyd asserted in Issue I that it was error to refuse to make inquiry and in denying a mistrial upon hearing testimony that jurors had discussed extrajudicial information. *See Boyd v. State*, 910 So.2d 167, n.4 (Fla. 2005). Boyd's remaining issues were: (2) error in overruling defense request under *Brady v. Maryland*, 373 U.S. 83 (1963), denying motion to strike fingerprint examiner's testimony, and in not holding *Richardson v. State*, 246 So.2d 771 (Fla. 1971) hearing; (3) evidence was insufficient to support convictions for sexual battery, first-degree murder, and armed kidnapping; (4) error to overrule objection to evidence Boyd had received a citation for failure to pay a train fare, and to the use of the citation in Boyd's cross-examination; (5) error in overruling objections in Boyd's cross-examination; (6) error in not considering experts' reports and testimony on Boyd's competency; (7) competency hearing should have been ordered during sentencing; (8) Boyd's waiver of mitigation did not comply with *Koon v. Dugger*, 619 So.2d 246 (Fla. 1993); (9) error to give great weight to death recommendation; (10) mitigation presentation was invalid as decision of whether to present witnesses/evidence is for counsel; (11) HAC and felony murder aggravators were not proven; death sentence cannot rest on one aggravator; (12) error to admit victims photo in penalty phase; (13) error in assessment of mitigation; (14) proportionality; and (15) error not to

in the February 10, 2005 opinion. On February 24, 2005, Boyd moved for rehearing which was denied on June 16, 2005, in light of this Court's revised opinion. *See Boyd v. State*, 910 So.2d 167 (Fla. 2005). Mandate issued on September 9, 2005.

In rendering that decision, this Court found:

> The evidence presented at trial revealed the following facts. In the early morning hours of December 5, 1998, {DD's] car ran out of gas while she was on her way to her home in Deerfield Beach, Florida, from a midnight church service. She had just exited from Interstate 95 (I-95) onto Hillsboro Beach Boulevard and pulled onto the shoulder. She then took a red gas can she kept in her car, walked about a block east to a nearby Texaco gas station, and bought a gallon of gas. At approximately 2 a.m., during the time she was at the gas station, [DD] spoke with two other customers, Lisa Bell and Johnnie Mae Harris. She asked Bell for a ride back to her car, but Bell had walked to the station and so could not give DD a ride. Bell and Harris then watched [DD] speak with a black male in a van in the station's parking lot. Harris asked the man if he was going to help [DD], and the man nodded, indicating yes. Bell later told the police that the van she saw was greenish-blue in color, while Harris said that she thought the van was burgundy. Though somewhat unsure about the van's color, Harris was certain that she saw the word "Hope" on its side. In a photo lineup and at trial, Harris identified the man she saw in the van that night as Lucious Boyd.
>
> Boyd spent the evening of December 4 with Geneva Lewis, his girlfriend, at her mother's home. Boyd left the house around 10

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follow *Muhammad v. State*, 782 So.2d 343 (Fla. 2001). *See Boyd v. State*, 910 So.2d 167, n.4 (Fla. 2005).

or 11 p.m., and Lewis did not see him again until the morning of December 5, at around 9 or 10 a.m. Lewis testified that on December 4 and 5, Boyd was driving a green church van with writing on its side and that the van belonged to Reverend Frank Lloyd of the Hope Outreach Ministry Church, for whom Boyd performed occasional maintenance work.

[DD]'s family began searching for her after she did not return home on December 5. They found her car at an I-95 exit and began circulating fliers with [DD]'s photograph, indicating that she was missing, throughout the area. Bell and Harris saw the fliers, recognized [DD] as the woman with the gas can at the Texaco station on December 5, and contacted the police with their information.

On December 7, [DD]'s body was discovered in an alley behind a warehouse on 42nd Street in Deerfield Beach. The body was wrapped in a shower curtain liner, a brown, flat bed sheet, and a yellow, flat bed sheet. A purple duffel bag and two large black trash bags covered her head. It was determined that she had been dead for between thirty-six and seventy-two hours.

At trial, it was stipulated that [DD] died due to a penetrating head wound and that the bruising on her head was consistent with but not exclusive to the face plate of a reciprocating saw. Wounds to her chest, arms, and head were consistent with but not exclusive to a Torx brand torque screwdriver, and she had defensive wounds on her arms and hands. There was bruising to her vagina that was consistent with sexual intercourse, although the medical examiner could not determine whether the intercourse was consensual or nonconsensual. [DD] had thirty-six superficial wounds on her chest, four on the right side of her head, and twelve on her right hand, some being consistent with defensive wounds and some being consistent with bite marks. One fatal

wound to the head perforated the skull and penetrated [DD]'s brain.

On March 17, 1999, while Detectives Bukata and Kaminsky of the Broward County Sheriff's Office were investigating another crime unrelated to [DD]'s death, they saw a green van in the Hope Outreach Ministry Church parking lot. The van had burgundy writing on it that read “Here's Hope.” Bell would later identify the church's van as the same van she had seen on the morning of December 5 at the Texaco station. The detectives decided to investigate, and their inquiries as to the owner of the van led them to Reverend Lloyd. When the detectives questioned Lloyd about the location of the van on the night of December 4, Lloyd's secretary, who was present at the questioning, remarked that Lucious Boyd had driven the van on that weekend. On December 4, Boyd had taken Reverend Lloyd to pick up a rental car in the church's green 1994 Ford van. Reverend Lloyd further testified that he instructed Boyd to take the van back to the church but that Boyd did not return the van until Monday, December 7. Reverend Lloyd also stated that when he left the van with Boyd, various tools owned by the church, including a set of Torx brand screwdrivers and a reciprocating saw, were in the van, as well as a purple laundry bag that the pastor used to deliver his laundry to the cleaners. When Reverend Lloyd returned on December 15, he discovered that the screwdrivers, the saw, and the laundry bag were missing.

Boyd was arrested for [DD]'s murder on March 26, 1999. Seminal fluid taken from [DD]'s inner thigh matched the DNA profile of Boyd. Tests also did not eliminate Boyd as a match for a hair found on [DD]'s chest. A DNA profile consistent with Boyd's was found in material taken from under [DD]'s fingernails. In addition, fingerprints taken from the trash bag found around the victim's head matched fingerprints of Boyd's

girlfriend, Geneva Lewis, and her son, Zeffrey Lewis. Tire marks on a sheet covering the victim's body were consistent with the tires on the church van, although trial expert Terrell Kingery, a senior crime laboratory analyst for the Orlando Regional Crime Laboratory, testified that he could not say for certain that the van's tires made the marks because over 1.5 million tires could have made the tracks on the sheet. Dr. Steven Rifkin, a private dentist and a forensic odontologist with the Broward County Medical Examiner's Office, testified that bite marks on [DD]'s arm were, within a reasonable degree of certainty, made by Boyd's teeth.

On April 1, Detective Bukata obtained a warrant to search the apartment of Boyd and Lewis, which was a block east of the Texaco station. Detective Bukata arrived at the apartment and told Lewis to leave with her children for a few days so that the officers could fully search the apartment. The investigators found blood at various locations throughout the apartment. Blood found on the underside of the carpet and on the armoire matched [DD]'s DNA profile. The shower curtain rings were unsnapped, and there was no liner to the shower curtain. Carpet fibers taken from the yellow sheet in which [DD]'s body was wrapped matched characteristics of carpet samples taken from Boyd's apartment.

Lewis had previously lived with Boyd at his apartment but had moved out in October of 1998. While living with Boyd, Lewis had purchased a queen-size bed, which she left at the apartment when she moved. Lewis and her three children moved back in with Boyd in February of 1999 and discovered that the bed was no longer at Boyd's apartment. When she asked about it, Boyd told her that he had given it away but would get it back. When she inquired about it again, Boyd told her that she would not want that bed and

that he would get her another one. Lewis also identified the flat bed sheets, one brown and one a “loud yellow,” that were found around [DD]'s body as similar to ones she had owned while living at Boyd's apartment but that she no longer knew where they were or if they were at Boyd's apartment or at her mother's home.

A jury convicted Boyd of first-degree murder, sexual battery, and armed kidnapping. The trial court subsequently conducted a penalty phase proceeding, during which both sides presented evidence. The jury unanimously recommended that Boyd be sentenced to death. The trial court followed the jury's recommendation and imposed a death sentence, finding and weighing two aggravating factors,FN1 one statutory mitigating factor,FN2 and five nonstatutory mitigating factors.FN3 State v. Boyd, No. 99-5809 (Fla. 17th Cir. Ct. order filed June 21, 2002) (sentencing order). The trial court also sentenced Boyd to fifteen years' imprisonment for the sexual battery and to life imprisonment for the armed kidnapping charges.

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FN1. The aggravating factors were that the crime (1) was especially heinous, atrocious, or cruel (HAC) (accorded great weight), and (2) was committed while the defendant was committing or attempting to commit kidnapping and sexual battery (accorded moderate weight).

FN2. The statutory mitigating factor was that the defendant had no significant prior criminal history, to which the court accorded medium weight.

FN3. The nonstatutory mitigating factors were all accorded minimum weight and were that the defendant (1) is religious, (2) has a good jail record, (3) has family and friends who care for and love him, (4) came from a good family, and (5) expressed

remorse for the victim and her family.

Boyd, 910 So.2d at 174-77.

With respect to the claim of juror misconduct alleged by Margaret Woods-Alcide, this Court found:

> Dealing with allegations of juror misconduct is within the discretion of the trial court. . . . Before making an inquiry, a court is to determine whether the allegations of juror misconduct constitute "matters that inhere in the verdict and are subjective in nature, or are extrinsic to the verdict and objective." ... Once it is determined that the misconduct does not inhere in the verdict, the trial court may make a judicial inquiry. However, the trial court may also decide not to make an inquiry when the allegations are "frivolous or incredible." ...
>
> We hold that the trial court did not err in refusing to question the jury about Woods–Alcide's allegations. The trial court made a judicial inquiry into the alleged incident by taking testimony from Woods–Alcide. That testimony revealed that Woods–Alcide was confused about which jurors had been involved in the incident, when the incident had occurred, and why she had waited so long to come forward with these allegations. The trial court also could have concluded Woods–Alcide was not credible because the standard procedure was to prohibit the jury from mingling with the public during their breaks. The trial court continued to inquire as to whether the jurors had discussed the trial with or in the presence of third parties, or whether they had received any outside information. The jurors always responded that they had not. The trial court did not entertain any "serious doubt" as to whether juror misconduct had occurred because of the incredibility of the witness and the circumstances of the alleged

> incident. ...
>
> The trial court did not abuse its discretion in coming to this decision, because a trial court has the discretion to not make an inquiry when it concludes that misconduct allegations are not credible. ... Competent, substantial evidence supports this decision because Woods–Alcide's testimony regarding the incident was neither coherent nor credible. We therefore find no error in the trial court's denial of Boyd's motion to make an inquiry of the jury.
>
> Boyd also argues that the trial court should have granted a mistrial. A new trial may be granted following a conviction if "[n]ew and material evidence, which, if introduced at the trial would probably have changed the verdict or finding of the court, and which the defendant could not with reasonable diligence have discovered and produced at the trial, has been discovered." Fla. R.Crim. P. 3.600(a)(3). For the above-stated reasons regarding the trial court's assessment of Woods–Alcide's credibility, we hold that the trial court did not abuse its discretion in denying Boyd's motion for a mistrial.

Boyd, 910 So.2d at 178–79. This Court affirmed the conviction and death sentence.

On November 18, 2005, Boyd filed, in the United States Supreme Court, a Petition for Writ of Certiorari. Following the State's Brief in Opposition, the Supreme Court, on February 21, 2006, denied certiorari. *Boyd v. Florida*, 126 S. Ct. 1350 (2006).

Subsequently, on February 14, 2007, Boyd filed his motion for postconviction relief. (PCR.3 328-403) Public records

litigation continued, and on May 29, 2009, Boyd filed an amended motion (PCR.8 1257 – PCR.12 2188). On March 23, 2012, Boyd amended his motion for a second time (PCR.14 2545-87). The Case Management Conference was held on June 5, 2012 (PCR.30 5437-5528) and an evidentiary hearing was granted.[4]

The state evidentiary hearing record revealed that Striggles was an African-American woman who had not had any criminal difficulties for some 13-18 years before Boyd's trial. (PCR.31 5554, 5569). Dr. Ongley, Boyd's counsel, admitted that several *State v. Slappy*, 522 So.2d 18 (Fla. 1988)/*State v. Neil*, 457 So.2d 481 (Fla. 1984) challenges were made when the State sought to strike African-American jurors. (PCR.31 5684-85). Mr. Laswell, Boyd's other counsel, recognized that Striggles admitted to having a juvenile history, although her criminal history dated from the time she was in her 20's. Following that, she served in the Army. Mr. Laswell reiterated that he did not question Striggles about her history because he believed she would be biased against the state based on that history. This decision was based on his 40 years of legal experience. (PCR.31 5628-32). In fact, Mr. Laswell admitted he would take

[4] Of relevance here, the postconviction court granted Boyd an evidentiary hearing on counsel's effectiveness in questioning jurors Tonja Striggles ("Striggles") related in part to allegations of juror misconduct in failing to disclose felony convictions (PCR.15 2769-71). On January 7, 2013, collateral relief was denied.

his chances with a convicted felon on the jury. (PCR.31 5682). While Mr. Laswell admitted that had he known of Striggles' felony record he would have questioned her, he noted she had "gotten over it" and would have kept her on the jury recognizing people change over time. (PCR.31 5633).

Over the State's hearsay objection, Striggles' case files from her Florida and Georgia charges were admitted into evidence. (DE#33-7 Ex. C PCR.24 4461– DE#33-8 Ex. C PCR.25 4668; Defense Ex 2-4). Mr. Laswell stated he was unaware of the materials contained in Striggles' case files requesting a mental health evaluation, possible suicidal thoughts, and possible intelligence deficiencies. (PCR.31 5595-5602). However, no records were presented indicating any criminal troubles in Florida after 1988, 13 years before Boyd's trial. The Broward records indicated the Georgia charge was rejected as a basis for revoking probation as Striggles did not have counsel for that charge. (PCR.24 4461-PCR.25 4668). Even after being confronted with this new information, Mr. Laswell was unwilling to say he would have stricken Striggles. He saw no documents to change his mind about her. (PCR.31 5629, 5650)

On that record, relief was denied and on appeal, this Court found, the *voir dire* record revealed Striggles averred she could be impartial, follow the instruction, and render a decision based on the trial evidence. Further, it found she was not

under active prosecution, thus, there was no evidence of bias. *Boyd,* 200 So.3d at 685, 694-96. This Court also found that the mere fact that a juror who was a convicted felon sat on a defendant's case before her civil rights were restored does not "implicate the 'clear perception of unfairness'" *Boyd*, 200 So.3d at 695. It required that the defendant point "to evidence on the face of the record which exhibits the subject juror's lack of impartiality." *Id*. at 697. This Court rejected the assertion that the seating of a convicted felon on the jury required a new trial *per se*. *Id*. Instead, this Court required the defendant to show "actual bias" and defined "actual bias" as "bias-in-fact that would prevent service as an impartial juror" meaning the defendant must "demonstrate that the juror in question was not impartial-i.e., that the juror was biased against the defendant, and the evidence of bias must be plain on the face of the record." *Id*. at 698. This Court found: "Boyd has not alleged actual bias, nor has he pointed to any evidence in this record indicating that Juror Striggles [] likely did not deliberate the question of his guilt fairly and impartially." *Id*.

During the rehearing on the postconviction appeal, *Hurst v. Florida*, 136 S. Ct. 616 (2016) was decided and Boyd was permitted to supplement his motion. Eventually the rehearing was denied, but Boyd was permitted to file a successive state habeas petition raising the Hurst claim which was denied later.

Boyd v. Jones, 2017 WL 318931 (Fla. Jan. 23, 2017).

Following that denial of relief, Boyd filed a successive Rule 3.851 motion based on *Hurst v. State*, 202 So.3d 40 (Fla. 2016) and the passage of Chapter 2017-1. The postconviction court denied relief, and this Court affirmed under case number SC18-1589.

Boyd also sought federal habeas relief in case number 16-cv-62555-DPG. There he challenged the state court ruling on Juror Striggles related to her failure to disclose her prior criminal history and obtained a federal evidentiary hearing. That transcript was attached to Boyd's motion and has been made part of the instant record. The federal district court found Boyd had not carried his burden under *McDonough Power Equip. Corp. v. Greenwood*, 464 U.S. 548 (1984). Presently, the matter is on appeal to the United States Court of Appeals for the Eleventh Circuit.

During the federal evidentiary hearing[5] and of import here,

[5] With respect to the issue of her criminal history, Striggles admitted she had a criminal history and maintained it stemmed from her actions as a juvenile; she was not trying to hide her history. (3PCR 37, 58). In fact, Striggles told this Court that she did not know that her 1983-1988 cases were not juvenile cases. (3PCR 63). In her 1986 police interview, some 15 years before Boyd's trial and voir dire, Striggles told the detective that her criminal history went back to when she was a juvenile. (3PCR 59) That is how Striggles understood her contact with the criminal system, saw herself, and characterized her history. Striggles' understanding of the questions posed in voir dire regarding criminal history, "Friends or family that had

Striggles was told for the first time why she had been brought into federal court (3PCR 35). In response to collateral counsel's initial questioning as to her recollections, Striggles offered that she should never have been picked for the jury as her cousin was married to Boyd's brother at the time of trial and that she recalled reporting this during voir dire (3PCR 36-37). That answer formed the basis of Boyd's third postconviction motion where he asserted he was entitled to a new trial based on new allegations that Striggles withheld information (3PCR 1-22). Boyd wrapped the new information with the previously rejected claims in an attempt to relitigate those issues. The State asserted the defenses of procedural barred/law of the case (3PCR 113-14). Alternately it argued the new allegations were meritless (3PCR 114-26). Without holding a Case Management Hearing, the trial court denied relief summarily. (3PCR 128).

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involvement in the system?" (R.6 113), did not trigger in her the necessity of disclosing more than how she viewed her criminal history as that of a juvenile. Striggles viewed her criminal history as all stemming from her juvenile dispositions; in her mind she was disclosing her history. Striggles told the federal court judge that she did not lie intentionally to the state court or make any misstatements to the state court or parties; she just did not bring up that history and only now understands that the 1979-1980 cases are different from those committed in her 20's. (3PCR 63-64).

SUMMARY OF THE ARGUMENT

ISSUE I – The trial court's denial of relief was proper as Boyd failed to show Juror Striggles was "actually biased" against him as required under *Carratelli*. Furthermore, Boyd's reliance on issues raised and rejected previously are procedurally barred from reconsideration and are now law of the case. To the extent the trial court failed to hold a *Huff* Hearing and failed to set out its legal and factual findings, harmless error should be found.

ARGUMENT

ISSUE I

THE SUMMARY DENIAL OF BOYD'S SUCCESSIVE POSTCONVICTION MOTION CLAIMING JUROR MISCONDUCT WAS PROPER.

Boyd asserts that he should have received a new trial based on Juror Striggles failure to report that her cousin was married to Boyd's brother. This information is combined with prior allegations of misconduct raised on direct appeal and in the original postconviction litigation and an assertion Striggles was on medication at the time of trial to gain a new trial. To the extent Boyd is relitigating rejected claims, the matter is procedurally barred and with respect to the new allegations, they are without merit as actual bias has not been shown on the face of the record. The summary denial was proper.

A. STANDARD OF REVIEW – This Court has announced that:

> Rule 3.851(f)(5)(B) provides that a circuit court may summarily deny a successive postconviction motion if "the motion, files, and records in the case conclusively show that the movant is entitled to no relief." A summary denial of a postconviction claim is subject to *de novo* review. *Long v. State*, 183 So.3d 342, 344 (Fla. 2016) (quoting *Hunter v. State*, 29 So.3d 256, 261 (Fla. 2008)).

Sweet v. State, 45 Fla. L. Weekly S76 (Fla. Feb. 27, 2020)

B. Procedural Bar/Law of the Case – This Court has held that a claim of juror misconduct is procedurally barred in collateral review because such claim could have been raised on direct appeal. *Diaz v. State*, 132 So.3d 93, 104-05 (Fla. 2013). In *Diaz*, this Court held procedurally barred a claim of juror misconduct for failing to disclose a prior arrest on domestic violence charges, enrollment in a pre-trial diversion program, and bias in favor of victims of domestic violence in a case where the defendant shot his ex-girlfriend and killed her father as part of a domestic dispute. Furthermore, Boyd is not entitled to relitigate the Woods-Alcide and Striggles' felony conviction issues. This Court agreed with the trial judge in finding Woods-Alcide not credible. *Boyd*, 910 So.2d at 178-79. As such, Woods-Alcide's non-credible account regarding a black juror may not be used to call into question Juror Striggles here. Striggles was not identified as the actual juror Alcide-Woods was reporting. Likewise, this Court's determination that Striggles' failure to

disclose more fully her convictions did not rise to the level of "actual bias" cannot be relitigated. It is inappropriate to use a different argument to re-litigate the same issue. *State v. Riechmann*, 777 So.2d 342, 353 n.14 (Fla. 2000) (finding claims procedurally barred because defendant was couching them in terms of ineffective assistance when they had been raised and rejected on direct appeal); *Medina v. State*, 573 So.2d 293, 295 (Fla. 1990) (holding "postconviction proceedings cannot serve as a second appeal"); *Harvey v. Dugger*, 656 So.2d 1253, 1256 (Fla. 1995). Moreover, this Court's resolution of those challenges are law of the case and should not be disturbed.

C. *HUFF* HEARING - Boyd asserts it was error for the trial court to deny relief summarily without holding a case management hearing under *Huff v. State*, 622 So.2d 982 (Fla. 1993). A *Huff* hearing is not required for a successive postconviction motion and moreover, the claim was in part procedurally barred, and was meritless as explained more fully below. As a result, under *Rivera v. State*, 260 So.3d 920 (Fla. 2018), *cert. denied*, 140 S. Ct. 175 (2019), the trial court did not err. In *Rivera*, this Court explained:

> . . . in *Groover v. State*, 703 So.2d 1035 (Fla. 1997), we elaborated that our holding in *Huff* was limited to initial death penalty postconviction motions. *Id*. at 1038. We noted that, although *Huff* hearings are preferred in order to allow the parties to present their legal arguments, one was not

> required in Groover's case because his successive postconviction motion was without merit. *Id*. "[E]ven if a *Huff* hearing had been required in [*Groover*], the court's failure to do so would be harmless as no evidentiary hearing was required and relief was not warranted on the motion." *Id*. Moreover, we have repeatedly upheld our holding in *Groover* with regard to *Huff* hearings on legally insufficient or meritless successive postconviction motions. *See Marek v. State*, 14 So.3d 985, 999 (Fla. 2009) (holding that the failure to hold a Huff hearing on Marek's fourth successive postconviction motion that was legally insufficient on its face and without merit was harmless, stating that "[t]he failure to hold a hearing on a successive postconviction motion that is legally insufficient on its face is harmless error" (*citing Davis v. State*, 736 So.2d 1156, 1159 n.1 (Fla. 1999); *Groover*, 703 So.2d at 1038)); *Davis*, 736 So.2d at 1159 n.1 ("In view of the fact that the instant motion is successive and legally insufficient on its face, we find this error harmless." (citing *Groover*, 703 So.2d at 1038)); see also *Mordenti v. State*, 711 So.2d 30, 32 (Fla. 1998) (holding a failure to hold a *Huff* hearing on Groover's fourth successive postconviction motion was harmless error whereas the same lack of *Huff* hearing on Mordenti's first motion for postconviction relief was not). Therefore, we have repeatedly emphasized that the failure to hold a *Huff* hearing on legally insufficient or meritless successive postconviction motions is harmless error.

Rivera, 260 So.3d at 926. *See also, Taylor v. State*, 260 So.3d 151, 157–58 (Fla. 2018).

D. MERITS - In the federal hearing and unprompted, Striggles offered that she should not have been picked for the

jury as her cousin is married to Boyd's brother. Striggles stated she had disclosed this to the trial court/parties before being picked for the jury, although the record does not reflect that disclosure. (3PCR 36-37) Continuing, Striggles advised that she was "not really" familiar with the Boyd family and she does not believe her family discussed the murder case, but she does not know. (3PCR 54). While Striggles had heard of the murder as it was near her home, she "didn't know it was related to the guy I was on the jury for." Striggles "didn't find out until I got to court what the case was about. When I found out, I called my mom and told my mom, guess what, you know the body they found in Oakland Park, that's the same person. It's Lucious Boyd, and she told me I couldn't do the case because . . . my cousin is married to his brother, but I still got picked anyway." (3PCR 55) Striggles explained she had called her mother not during jury selection, but "when I went out" and her mom admitted knowing Boyd and his father, James. Striggles had no knowledge or discussions regarding whether Boyd's father had gotten Boyd out of trouble previously. In fact, she stated she did not know the Boyds well and "didn't know anything about Boyd until I ended up on the jury for this case." (3PCR 55-56)

Striggles offered that she had not wanted to be selected for the jury and was on heavy medication (3PCR 57). After returning from the Gulf War, she was given prescriptions for

seizures and depression. Those initial medications made her feel lethargic and made it difficult for her to stay awake and focus, thus, the doctors kept switching her medications. As she was going through jury selection, the prescriptions made her feel stoned, however, that did not stop her from understanding the judge's voir dire questions. (3PCR 62-63)

Also, Striggles explained she was not trying to get on the jury (3PCR 58), and her "decision (verdict) was not based on anything but what was facts that was given to me" "[i]n the courtroom. I know nothing else about it. All I know is that what was given to me in the courtroom and me and the other jurors, we based our decisions on that." Striggles did not enter the case with the intent to convict Boyd and she "didn't know the man." (3PCR 60-61).

Boyd uses Striggles' federal evidentiary hearing testimony in addition to the Woods-Alcide allegations and non-disclosed felony convictions together to suggest Striggles was "actually biased" necessitating a new trial. He points to *McDonough Power Equip. Corp. v. Greenwood*, 464 U.S. 548 (1984) to suggest Striggles was a biased juror and that had she disclosed her cousin's marriage to Boyd's brother and the effects of her medication a valid for cause challenge could have been raised, or at a minimum a peremptory challenge would have been made. However, neither the familial relationship (more than three

degrees of consanguinity difference) nor the medication side-effects establish a for cause challenge, thus, the motion should be denied. Alternately, Boyd relies on *De La Rosa v. Zequeira*, 659 So.2d 239 (Fla. 1995), however, Boyd has not met his pleading burden. The best he offers is a purely speculative argument that had counsel known of this new information, "[i]n ***all likelihood***," would have formed the basis for a peremptory challenge. (IB 34)

The matter was resolved properly by the trial court on the record as it existed including the federal evidentiary hearing testimony. No further interview/testimony of Striggles is required; she gave her account in federal court which was not required under Florida law. At common law, the Lord Mansfield Rule imposed an absolute ban against jurors attempting to impeach their verdict. *Devoney v. State*, 717 So.2d 501, 503, n.1 (Fla. 1998). While the Rule usually is applied to deliberations, the same damage is done in challenging the verdict on collateral review, thus, the same interests are present regarding claims of a juror's failure to disclose some facts during voir dire necessitating the application of the Rule to those situations.

There are exceptions to the no-impeachment rule,[6] and

[6] Presently, the case of *David James Martin v. State*, case No. SC18-896, is before the Florida Supreme Court where one issue

Florida courts as well as the United States Supreme Court have placed limits on how a verdict may be impeached.

> Exceptions to the common law rule were recognized only in situations in which an "extraneous influence" ... was alleged to have affected the jury.... In situations that did not fall into this exception for external influence, however, the Court adhered to the common law rule against admitting juror testimony to impeach a verdict. *McDonald v. Pless*, 238 U.S. 264 [35 S. Ct. 783, 59 L.Ed. 1300] (1915); *Hyde v. United States*, 225 U.S. 347, 384 [32 S. Ct. 793, 808, 56 L.Ed. 1114] (1912).

United States v. Griek, 920 F.2d 840, 843 (11th Cir. 1991). Those exceptions do not present themselves in this successive postconviction claim. The facts of this case do not allow for such impeachment as no racial animus has been suggested. In fact, none is present as Boyd, his victim, and Striggles are all African-American. Compare *Wagner v. Shauers*, 135 S. Ct. 521 (2014) with *Pena-Rodriguez v. Colorado*, 137 S. Ct. 855 (2017); *Marshall v. State*, 854 So.2d 1235, 1239 (Fla. 2003).

Allegations of failure to disclose a familial relationship and use of prescription medications are insufficient to warrant postconviction inquiries. However, if impeachment is permitted, the standard of review is under *Carratelli v. State*, 961 So.2d 312 (Fla. 2007) and *Boyd*, 200 So.3d at 694-95, not *De La Rosa* or

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involves the propriety of a juror interview and hearing on the claim of the juror's failure to disclose information during voir dire. Oral argument has been held and the parties await that Court's decision.

McDonough as Boyd suggests as there is no evidence of actual bias on the face of the record. Moreover, neither *McDonough* nor *De La Rosa* apply here as this is a postconviction matter. Rather *Carratelli* controls; and contrary to Boyd's position, the facts on the face of the record and relevant case law support the summary denial of relief and that decision should be affirmed.

Carratelli controls as this is a postconviction matter and as such different and more stringent standards of review may be imposed. Also, in *Carratelli*, this Court cited *Purvis v. Cosby*, 451 F.3d 734, 739 (11th Cir. 2006) and rejected the reasoning in *Davis v. Sec'y, Fla. Dept. of Corrections*, 341 F.3d 1310 (11th Cir. 2003). *Carratelli*, 961 So.2d at 321-23. Hence, there was a recognition that a different standard of review would be utilized in collateral cases as opposed to case on direct appeal. This was based on the need for finality and recognition that not having a higher standard in the postconviction context would result in courts ordering new trials based on "unpreserved non-fundamental error." *Id*. at 325. Further, this Court feared that matters would be made worse if the higher standard were not imposed on collateral review as new trials might be provided years after the original adjudication. *Id*. This Court noted that if it adopted the same direct appeal standard, it would "eliminate the contemporaneous objection requirement and this

Court was "not willing to begin a journey down that dangerous path." *Id*. Important here, different standards of review for direct and collateral appeals was adopted by the United States Supreme Court in *Weaver v. Mass*, 137 S. Ct. 1899 (2017). *See also Whatley v. Warden, Georgia Diagnostic & Classification Ctr.*, 927 F.3d 1150, 1187 (11th Cir. 2019) (finding defendant could not use direct appeal "presumed prejudice" standard on collateral review, but must show "actual prejudice" as demanded by *Strickland v. Washington*, 466 U.S. 668 (1984) Given this, *Carratelli*, and not *McDonough* or *De La Rosa*, applies.

From *Carratelli*, 961 So.2d at 323-24, to succeed on a postconviction claim raising juror bias, Boyd must establish that an actually biased juror against the defendant served. In *Owen*, this Court stated:

> as set forth in *Carratelli*, while the standard for obtaining a reversal upon the erroneous denial of a cause challenge on direct appeal is relatively lenient, ***consideration of a postconviction claim must be more restrictive***. 961 So.2d at 320. To be entitled to postconviction relief, Owen must demonstrate that juror Griffin was actually biased, not merely that there was doubt about her impartiality.

Owen v. State, 986 So.2d 534, 550 (Fla. 2008), as revised on denial of reh'g (July 10, 2008) (emphasis supplied). Additionally, the standard for "establishing prejudice during postconviction claims must be more restrictive in order to

recognize the fundamental differences between review on appeal and review on postconviction." *Mosley v. State*, 209 So.3d 1248, 1266 (Fla. 2016) (rejecting a claim of ineffectiveness for failing to strike a juror because the juror's comments did not demonstrate actual bias).[7] This Court commented that "holding otherwise would mean that a defendant asserting ineffective assistance for failing to preserve a cause challenge would have no greater burden than a defendant asserting preserved error on appeal, a result that would lead to the elimination of the contemporaneous objection requirement." *Id*. at 1266. This Court applied the *Carratelli* standard in Boyd's original challenge to the actions of Striggles, *Boyd*, 200 So.3d at 694-95, and should do so again.

To the extent that Boyd points to the federal district court granting an evidentiary hearing under *McDonough*, such does

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[7] *See Patrick v. State*, 246 So.3d 253, 262-63 (Fla. 2018) (remanding for an evidentiary hearing of a claim of ineffectiveness of counsel regarding one juror using the *Carratelli* standard); *Abdool v. State*, 220 So.3d 1106, 1113 (Fla. 2017) (rejecting a claim of ineffectiveness of counsel for failing to question the jurors regarding religion using the Carratelli standard); *Caylor v. State*, 218 So.3d 416, 423-24 (Fla. 2017) (rejecting a claim of ineffectiveness of counsel for failing to strike a juror because there was "no evidence that she was actually biased" using the *Carratelli* standard), *cert. denied, Caylor v. Jones*, 138 S. Ct. 563 (2017); *Hall v. State*, 212 So.3d 1001, 1014-16 (Fla. 2017) (rejecting unanimously a claim of ineffectiveness of counsel for using a peremptory challenge to remove a prospective juror using the *Carratelli* standard and explaining that "mere doubt" about a juror's impartiality is insufficient in the postconviction context).

not require the same result here. First, the district court erred as it did not appreciate the fact that different standards apply between direct appeal and collateral review. *McDonough* is a direct appeal case. Second, the district court did not give the proper deference to the factual findings made by this Court on collateral review and the requirement that "actual bias" must be found on the face of the record. The district court's ruling is at odds with *Landers v. Warden, Atty. Gen. of Ala.*, 776 F.3d 1288 (11th Cir. 2015) wherein the Eleventh Circuit Court of Appeals recognized that an evidentiary hearing is not a requirement for deference under the Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA) for all disputed factual issues in a state court proceeding. As such, this Court's findings regarding Striggles should have been given deference by the district court irrespective of whether she had testified. The fact an evidentiary hearing was granted in federal court does not require an evidentiary hearing under state law now.

The trial court did not err in denying relief summarily. Under either *Carratelli*, or the cases of *McDonough* and *De La Rosa* offered by Boyd, that order denying relief was proper.[8]

[8] At issue in the *David James Martin v. State*, case no. SC18-898 postconviction appeal is the State's suggestion the Florida Supreme Court should reconsider *De La Rosa* and require juror bias been proven in all cases. *Robert G. Loewy, When Jurors Lie: Differing Standards for New Trials*, 22 Am. J. Crim. L. 733, 748 (1995) (noting that Florida was one of only four states that

Given that this is a postconviction case, a successive one as well, *Carratelli* controls and "the defendant must demonstrate that the juror in question was not impartial – i.e., that the juror was ***biased against the defendant*** and the evidence must be ***plain on the face of the record***." *Id.*, 961 So.2d at 324 (emphasis supplied). This Court explained that "actual bias means bias-in-fact that would prevent service as an impartial juror." *Id*. (citing *United States v. Wood*, 299 U.S. 123, 133-34 (1936)). In Florida the defendant must demonstrate that "the juror was biased against the defendant" and "the evidence of bias must be plain on the face of the record." *Id*. at 324 (emphasis added). This means that Florida will not allow jurors to be called to testify regarding jury selection or service in postconviction proceedings except under the most limited of

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grant a new trial simply based on the right to the intelligent exercise of peremptory strikes being denied by the juror's failure to disclose information during jury selection); *McDonough Power Equip., Inc. v. Greenwood*, 464 U.S. 548 556 (1984) (requiring that the information the juror failed to disclose supply a basis for a for-cause challenge not merely a possible basis for a peremptory challenge); *Farina v. State*, 191 So.3d 454, 457 (Fla. 2016) (Canady, J., dissenting) (concluding that allegations regarding the two jurors were insufficient using the *McDonough* standard). As the Fourth District has noted, there has been a growth of post-trial juror interview requests based upon juror non-disclosure due in large part to *De La Rosa*. *Hillsboro Mgmt., LLC v. Pagono*, 112 So.3d 620, 625 (Fla. 4th DCA 2013). The Fourth District believes that the time has come to "rethink" how Florida courts handle juror non-disclosure "to prevent so much litigation over the issue and so many retrials of cases to the detriment of the entire judicial system." *Id*. at 625.

circumstances not at issue here.

As provided in *State v. Monserrate-Jacobs*, 89 So.3d 294, 296 (Fla. 5th DCA 2012):

> While Florida Rule of Criminal Procedure 3.575 authorizes a party to seek an order permitting a juror interview where there is "reason to believe that the verdict may be subject to legal challenge," the motion must set forth allegations that are not merely speculative, conclusory, or concern matters that inhere in the verdict itself. *Orange Cnty. v. Fuller*, 502 So.2d 1364 (Fla. 5th DCA 1987).

See also, Rule Regulating The Florida Bar 4–3.5(d)(4) (precluding juror interviews). The Fourth District Court of Appeal has noted:

> Juror interviews are not permitted relative to any matter that inheres in the verdict itself and relates to the jury's deliberations. *Reaves v. State*, 826 So.2d 932, 943 (Fla. 2002). "To this end, any jury inquiry is limited to allegations which involve an overt prejudicial act or external influence, such as a juror receiving prejudicial non record evidence or an actual, express agreement between two or more jurors to disregard their juror oaths and instructions." *Id*. (footnote omitted).

Gray v. State, 72 So.3d 336, 337 (Fla. 4th DCA 2011). This is due to a concern regarding juror harassment. *Tanner v. United States*, 483 U.S. 107, 120 (1987) (noting "Jurors would be harassed and beset by the defeated party in an effort to secure from them evidence of facts which might establish misconduct sufficient to set aside a verdict"). The *Tanner* Court in a

direct appeal of a federal prosecution refused to permit juror interviews and reasoned:

> There is little doubt that postverdict investigation into juror misconduct would in some instances lead to the invalidation of verdicts reached after irresponsible or improper juror behavior. It is not at all clear, however, that the jury system could survive such efforts to perfect it. Allegations of juror misconduct, incompetency, or inattentiveness, raised for the first time days, weeks, or months after the verdict, seriously disrupt the finality of the process.

Tanner, 483 U.S. at 120.

In the instant case, the harassment would be even greater as the murder was in December 1998, the conviction was in 2002, the case has been final for over fourteen years, and Striggles has testified once already in Federal Court. The recent disclosures, as noted above, would not have prompted for cause challenges, which is the criteria under *McDonough* to show "actual bias against the defendant." *Boyd*, 200 So.3d at 694-95. In *Boyd*, this Court quoted *McDonough*, 464 U.S. at 556 when it addressed Striggles' prior non-disclosure stating "'the motives for concealing information may vary, but only those reasons that affect a juror's impartiality can truly be said to affect the fairness of a trial.'" (*citing United States v. Carpa*, 271 F.3d 962, 967 (11th Cir. 2001). The bias Boyd must show is "actual bias against the defendant." *Boyd*, 200 So.3d at 967.

Relief is not required under *Carratelli* or *McDonough*. Boyd suggests that juror dishonesty is a strong indication of bias. *See United States v. Carpa*, 271 F.3d 962, 967 (11th Cir. 2001)(failing to reveal juror on probation during trial); *United States v. Perkins*, 748 F.2d 1519, 1532 (11th Cir. 1984)(failing to disclose knowing defendant and having other criminal cases). The juror in *Perkins* was involved in a similar case as *Perkins* as both concerned misapplication of funds and where the juror's credibility in his second non-disclosed court case was impeached and in *Perkins* the juror was being asked to assess Perkins' credibility. *Perkins*, 748 F.2d at 1533. There the federal court found "inferences of actual bias" given "the fact that juror Goad felt compelled to misrepresent himself, the fact that he knew the defendant, and the fact that he had been involved in similar litigation."

The record shows that the situation involving Striggles is distinguishable. The federal hearing reveals she did not know Boyd and did not know that her cousin was married to his brother when she was answering *voir dire* questions. Striggles testified that she did not know of the familial connection until her mother revealed it to her. At best for Boyd, Striggles did not find out about this until after Striggles gave her *voir dire* responses and was no longer in court for *voir dire*. Such is quite different from the juror in *Perkins* who knew Perkins from

having been on the same committee with Perkins but failed to disclose and failed to report his prior involvement in criminal matters even when asked directly. Likewise, the allegation of juror misconduct in *Capra* is distinguishable. There, the juror failed to disclose he was on felony probation ***while*** he was a juror. Again, Striggles was unaware of her familiar relationship and was not asked directly about medications she took. As such, Striggles' situation is different and does not rise to the level of actual bias against Boyd.

Further, the familial relationship does not show bias against Boyd but lends itself to the suggestion of bias against the State and in Boyd's favor. Moreover, there was overwhelming evidence of Boyd's guilt including his driving the van that picked up DD, DD's DNA in Boyd's residence, Boyd's DNA under DD's fingernails, Boyd's DNA, hair, seminal fluid and teeth marks in and on DD's body, linen/shower curtain from his home, fingerprint of Boyd's girlfriend's child on bag in which was wrapped around DD's head. *Boyd*, 910 So.2d at 174-77. Sleeping through portions of such evidence of guilt hardly show bias against the defendant. However, as noted above, none of the trial participants noticed Striggles sleeping and she testified in federal court that she made her decision based on the evidence she heard at trial.

Boyd also asks this Court to follow *De La Rosa*, however, as

explained above, that is not the proper standard. Yet, even under *De La Rosa*, Boyd has not carried his burden. Boyd must show from the face of the record that Striggles would be actually biased against her cousin's husband's brother, i.e., Boyd. It must be noted that Striggles and her cousin are related in the fourth degree, thus, Striggles is not statutorily disqualified from the jury. *Jenkins v. State*, 380 So.2d 1042 (Fla. 4d DCA 1980) (noting no basis for a for cause challenge under section 913.03(9)). Further, Striggles did not even know of the familial relationship until her mother advised her sometime after she had sat though some portion of *vior dire*. As such, the federal hearing showed that Striggles did not know Boyd and clearly did not know her cousin well enough to know her cousin was married to Boyd's brother. Moreover, Striggles testified that she did not base her verdict on anything not provided to her in the courtroom. Bias, let along actual bias against Boyd, has not been shown on the face of the record. He has not shown that Striggles, when answering the *voir dire* questions knew her cousin was married to Boyd's brother and that she was asked directly whether she was on medications that would impair her ability to perform her jury duty.

Moreover, there is nothing on the face of the record indicating Striggles was sleeping or not paying attention. Neither the defense attorneys, prosecutor, nor trial judge noted

Striggles not paying attention to the proceedings or sleeping in court. From the federal hearing, Striggles averred she believed she understood the *voir dire* questions posed and stated she made her decision based only on the information she was given in the courtroom.

Similarly, the effects of Striggles' medication does not establish a basis in order to impeach the verdict. *Tanner*, 483 U.S. 107, 126 (finding allegations of "falling asleep all the time during the trial" and where alcohol affected juror's "own reasoning ability" insufficient allegations "to bring this case under the common-law exception allowing post-verdict inquiry when an extremely strong showing of incompetency has been made"). This should be especially true where neither the State, defense team, or the trial judge noted any jurors sleeping or not paying attention. Given that there is no showing on the face of the record that Striggles' familiar relationship with Boyd, separated by four or more degrees of consanguinity, or that her use of prescription medication rendered her actually biased against Boyd relief was denied properly. Surely, Striggles' additional disclosures do not rise to the level of actual bias against Boyd where her status as a convicted felon whose civil rights were not restored were concealed, yet it was determined she was not actually biased under *Carratelli; Boyd*, 200 So.3d at 697-97, or her answers were not "materially false

or dishonest" under *McDonough*. *Boyd v. Inch*, 16-62555-CIV, 2019 WL 3002922, at *20–21 (S.D. Fla. July 10, 2019).[9]

Boyd also suggests a peremptory challenge could have been raised under either circumstance. (IB 31). This Court should note that at the close of jury selection, the defense had used only five of its peremptory challenges. (R.7 348) However, this Court also will recall trial counsel's testimony that he was raising *Neil/Slappy* objections and that he would take his chances with a juror who had a criminal record sitting on the jury. (PCR.31 5628-33, 5682, 5684-85). It is interesting that now Boyd asks this Court to assume that the same defense team would have stricken a black juror who had a cousin married to the defendant's brother. Based on the above analysis, the trial court denied relief properly based on the legal issues raised and the record facts.

In summary, the information revealed in federal court shows Striggles did not know the Boyd family well, she did not know Boyd at all, did not know that her cousin had married Boyd's brother until reminded by her mother sometime "when she went out" from jury selection, and she did not know about Boyd until she ended up on his jury. Also, her prescription medications did not preclude her from understanding the judge, she was not

[9] The federal habeas case is not final as it on appeal before the United States Court of Appeals for the Eleventh Circuit.

trying to get on the jury and she rendered her decision based on the facts given to her in court; she knew nothing else about the case and she did not know Boyd (3PCR 55-56, 58, 60-63). This Court should find no actual bias against Boyd has been shown on the face of the record as required under *Carratelli* and that there was no error in denying relief summarily. Boyd has not carried his burden and is not entitled to an evidentiary hearing or postconviction relief.

E. HARMLESS ERROR – The State recognizes that the trial court did not include factual findings, legal analysis, or record citations in its order denying relief summarily (3PCR 128). However, based on the analysis above and given the *de novo* review on appeal of summary denials, *Long v. State*, 183 So. 3d 342, 344 (Fla. 2016), harmless error should be found. Such harmless error is akin to the failure to conduct a *Huff* hearing. As noted above, harmless error will be found for the failure to conduct a *Huff* hearing on a successive motion where the claims raised were meritless. *Rivera*; 260 So.3d at 926; *Groover*, 703 So.2d at 1038. Here, as a matter of law, Striggles' familial relationship with Boyd did not disqualify her under the statute from sitting on the jury, *Jenkins*, 380 So.2d at 1042, and no actual bias was shown on the face of this record for either disclosure inadequacy under *Carratelli*. However, if error is found due to a deficiency in the trial court's order, then the

remand should be for the limited purpose of requiring the trial court to produce an order setting forth its factual and legal conclusions. Neither an evidentiary hearing nor a new trial are required under the facts of this case as explained above. This Court should find harmless any deficiency in the trial court's order.

CONCLUSION

Based upon the foregoing, the State requests respectfully this Court affirm the denial of postconviction relief.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via the e-portal filing system to: Suzanne Meyers Keffer, Chief Asst. Capital Collateral Regional Counsel at keffers@ccsr.state.fl.us and Scott Gavin, Assistant Capital Collateral Regional Counsel at gavins@ccsr.state.fl.us this 20th day of April 2020.

CERTIFICATE OF FONT COMPLIANCE

I HEREBY CERTIFY that the size and style of type used in this brief is 12-point Courier New, in compliance with Fla. R. App. P. 9.210(a)(2).

Respectfully submitted,

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