

**IN THE SUPREME COURT OF FLORIDA  
CASE NO. SC22-1221**

**MICHAEL GORDON REYNOLDS,  
Appellant,**

**v.**

**STATE OF FLORIDA,  
Appellee.**

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**ON APPEAL FROM THE CIRCUIT COURT  
OF THE EIGHTEENTH JUDICIAL CIRCUIT  
IN AND FOR SEMINOLE COUNTY  
STATE OF FLORIDA**

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**ANSWER BRIEF OF APPELLEE**

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**TABLE OF CONTENTS**

**CONTENTS**

TABLE OF CONTENTS ..... i

TABLE OF AUTHORITIES..... ii

PRELIMINARY STATEMENT ..... 1

STATEMENT OF THE CASE ..... 1

STANDARD OF REVIEW..... 16

SUMMARY OF ARGUMENT ..... 16

ARGUMENT ..... 17

    ISSUE I: THE TRIAL COURT DID NOT ERR IN DENYING  
    REYNOLDS’S SUCCESSIVE MOTION FOR POSTCONVICTION DNA  
    TESTING..... 17

CONCLUSION ..... 26

CERTIFICATE OF SERVICE..... 28

CERTIFICATE OF COMPLIANCE ..... 28

**TABLE OF AUTHORITIES**

**PAGE(S)**

**CASES**

*Bates v. State*,  
218 So.3d 426 (Fla. 2017)..... 20

*Holmes v. South Carolina*,  
547 U.S. 319 (2006)..... 25

*Mosley v. State*,  
285 So.3d 1016 (Fla. 1st DCA 2019) ..... 21

*Reynolds v. State*,  
99 So.3d 459 (Fla. 2012)..... 13

*Reynolds v. State*,  
192 So.3d 41 (Fla. 2015)..... 15, 19

*Reynolds v. State*,  
934 So. 2d 1128 (Fla. 2006)..... 7, 23

*Sochor v. State*,  
883 So. 2d 766 (Fla. 2004)..... 16

*Stephens v. State*,  
748 So. 2d 1028 (Fla. 2000)..... 16

*Topps v. State*,  
865 So. 2d 1253 (Fla. 2004)..... 20, 26

**RULES**

Fla. R. App. P. 9.210 and 9.045..... 28

Fla. R. Crim. P. 3.853..... 13, 26

Fla. R. Crim. P. 3.853(b)..... 18

## **PRELIMINARY STATEMENT**

This brief will refer to Appellant as such, Defendant, or by proper name, e.g., “Reynolds”. Appellee, the State of Florida, was the prosecution below; the brief will refer to Appellee as such, the prosecution, or the State. Citations to the trial transcript will be noted by (TT, \_\_) followed the page number; citations to the record on appeal will be noted by (R, \_\_) followed by the page number.

## **STATEMENT OF THE CASE**

Reynolds was convicted of the 1998 murders of Danny Privett, Robin Razor, and their 11-year-old daughter, Christina Razor. The death of Privett resulted in a second-degree murder conviction, the deaths of the Razors resulted in two first-degree murder convictions and two death sentences. The evidence used to implicate Reynolds in the murders was laid out by the Florida Supreme Court:

The circumstances surrounding the crimes involved in this matter and the nature of the physical evidence cause the facts established at trial to be crucial in our analysis of this case. Specifically, we note that physical evidence produced at trial placing Reynolds at the scene of the crimes, inconsistencies in Reynolds’ statements to the authorities regarding injuries he sustained on the evening the murders were committed, and evidence tending to establish his involvement in the murders are all important to our decision to affirm Reynolds’ convictions and

sentence. On August 25, 1998, the grand jury indicted the appellant, Michael Gordon Reynolds, on three counts of first-degree premeditated murder for the murders of Danny Ray Privett, Robin Razor, and Christina Razor, and for the burglary of a dwelling during which a battery upon Robin or Christina or both was committed while armed with a weapon. On July 22, 1998, the bodies of the victims were found on the property located at 1628 Clekk Circle in Geneva, Florida. Danny's body was found outside near a large pine tree, and the bodies of Robin and Christina were found inside a trailer in which the victims were living. The trial in this case began on April 21, 2003, and on May 7, 2003, Reynolds was found guilty of the lesser-included offense of second-degree murder as to the murder of Danny, and guilty as charged as to the remaining three counts of the four-count indictment.

The evidence established that on July 22, 1998, Shirley Razor, the mother of victim Robin Razor, traveled to the crime scene to deliver items Danny used in the work he was doing on trailers at that location. Upon arriving at the property, Shirley noticed Danny lying on the ground outside. Shirley, being accustomed to seeing Danny drunk and passed out, proceeded to her separate trailer on the property and ate her lunch. After finishing her lunch, Shirley walked over to the trailer in which Danny and Robin were living when she noticed that Danny had a "hole in his head." After discovering that Danny was dead, Shirley ran to a neighbor's residence and called the authorities. Subsequent to the arrival of the fire department personnel, Shirley went to her daughter's trailer and upon looking inside found that her daughter, Robin, and her granddaughter, Christina, were inside and apparently dead.

At trial, a medical examiner, Dr. Sara Hyatt Irrgang, testified that the deaths had occurred at least eight hours, but probably more than twelve hours prior to her arrival at the crime scene, placing the time of death between nine

p.m. on July 21 and seven a.m. on the morning of July 22. The evidence demonstrated that Danny Ray Privett was found lying outside beneath a large pine tree on his side with his face down, surrounded by bloody pieces of concrete block and broken pieces of glass. Danny's jeans were partially unzipped suggesting that he had been in the process of urinating when the attack occurred. The autopsy of Danny Ray Privett revealed that he suffered a large depressed skull fracture with additional injuries to the head area. The wounds appeared to have been caused by three or more separate blows, with the injuries indicating that the assailant had been behind the victim. There was no indication of any defensive wounds on Danny, and examination of his major skull injury revealed that the injury was likely caused by a partially broken cinder block, based on fragments found within the wound. The medical examiner was unable to determine the order in which the injuries had been inflicted upon him. The cause of death for Danny was determined to be primarily due to blunt force trauma to the head with the large depressed skull fracture probably being the fatal blow. If this blow had been inflicted first, the medical examiner opined that the victim would have lost consciousness within a second to a minute or two.

Robin and Christina Razor were found dead inside the living room portion of the camper trailer being used as living quarters. Robin was found lying on the floor, face up. Christina was found nearby sitting on the couch and leaning to her left. The living room area was in disarray and a large amount of blood was scattered throughout this area of the trailer. Robin Razor's autopsy revealed that she suffered multiple stab wounds along with multiple blows to the side of her face and a broken neck resulting in injuries to her spinal cord. Closer examination revealed that Robin suffered ten stab wounds to the head and neck area and one to the torso area. The wounds appeared to have been inflicted with a sharp object such as a knife or scissors. Based on examination of the Robin's body and

the defensive wounds present, the medical examiner opined that she had been involved in a violent struggle. In addition to the above wounds, Robin suffered multiple superficial wounds to her torso area which the medical examiner stated to be consistent with torment wounds—wounds produced not to cause serious injury but to cause aggravation and produce fear in the victim. The medical examiner was of the opinion that because blows to the victim's head were inflicted at different angles and the presence of significant defensive wounds, it was likely that she was conscious and struggling when these wounds were inflicted. The primary cause of death for Robin was determined to be the broken neck and spinal cord injury, although bleeding from the stab wounds would have also resulted in death.

The autopsy of Christina Razor revealed that she suffered blunt force trauma to her head, a stab wound to the base of her neck that pierced her heart, and another stab wound to her right shoulder that pierced her lung and lacerated her pulmonary artery. These latter two wounds would have resulted in significant internal and external hemorrhaging and would have been fatal. The medical examiner indicated that the only sign of defense wounds to Christina was the presence of a small contusion to her left hand, which could have occurred as she attempted to block a blow from her assailant. The medical examiner opined that Christina would have lost consciousness within a minute or two of receiving the stab wounds. The primary cause of death for Christina was determined to be internal and external hemorrhaging.

During his investigation of the crimes, Investigator John Parker of the Seminole County Sheriff's Department made contact with Reynolds and requested that he submit to an interview, to which Reynolds voluntarily agreed. During this interview, Investigator Parker also inquired about injuries that he observed on Reynolds' hand and ankle. In response to inquiries made about these injuries, Reynolds

advised the investigator that at approximately five a.m. on the morning that the victims' bodies were discovered, he was taking his dog outside and slipped on the exterior step of his camper, twisting his ankle. Reynolds stated that the cut on his hand occurred when he caught his hand on a burr on the aluminum door frame of his trailer as he attempted to break his fall by grabbing the door frame. Reynolds advised the investigator that approximately thirty or forty minutes after sustaining the injuries he cleaned the cut to his hand and proceeded to an emergency room for treatment. Reynolds stated that while on his way to the emergency room he suffered a flat tire and borrowed a jack from a convenience store to change his tire and after doing so he proceeded to the emergency room. After receiving treatment for his injuries, Reynolds informed the investigator that he returned to his residence and removed the burr from the trailer door frame with a pair of channel-lock pliers.

In addition to the discussion concerning the injury, Reynolds also discussed an altercation in which he was involved with Danny Ray Privett regarding a trailer that was allegedly given to Reynolds by his landlord. According to Reynolds, the argument with Danny was centered upon Danny removing the trailer from Reynolds' property without permission. Upon discovering that Danny had removed the trailer, Reynolds indicated that he confronted Danny and a heated argument ensued. Reynolds stated that after exchanging words with Danny, he left Danny's property but returned a short while later to apologize and advise Danny that he could keep the trailer. Significantly, during this interview Reynolds advised the investigator that he had never been inside the trailer in which the victims were living. Subsequent to this interview, Reynolds gave permission for the search of both his trailer and his vehicle, and he also agreed to provide hair and blood samples for DNA analysis. Additionally, pursuant to a search warrant certain evidence was seized from Reynolds' vehicle and residence.

At trial, a neighbor of the victims testified that on the night prior to the discovery of the bodies he observed a car similar to that of Reynolds parked at the victims' residence. Fingerprint and shoe pattern analysis of the crime scene and items collected from the scene revealed several prints of value, but none of them connected Reynolds to the scene. However, extensive evidence with regard to DNA analysis resulting from testing of items of evidence recovered from the crime scene was presented. Several of the items recovered from the crime scene inside the trailer and on the exterior of the trailer contained a DNA profile matching that of Reynolds. There was no eyewitness testimony offered by the State and, other than the concrete block allegedly used to strike the victims, no other weapon was recovered.

The defense attempted to establish mishandling and contamination of the evidence, along with suggesting that other individuals had committed the crimes with which Reynolds had been charged. The defense elicited testimony from Danielle Privett, Danny and Robin's other daughter, indicating that her parents had been having an ongoing disagreement regarding rent payments with a man by the name of Justin Pratt, a friend of Pratt's, Alan Combs, and Pratt's girlfriend, Nicole Edwards. In addition to this testimony, Reynolds presented evidence consisting of portions of an interview conducted by the Sheriff's Department with Pratt wherein Pratt discussed the disagreement and admitted that he had left a note at the victims' residence indicating that "it was war, ... conventional weapons." After hearing all the evidence, the jury rendered a verdict finding Reynolds guilty of second-degree murder as to the death of Danny Privett, two counts of first-degree murder as to the deaths of Robin and Christina Razor, and burglary of a dwelling during which a battery was committed while Reynolds was armed with a weapon.

*Reynolds v. State*, 934 So. 2d 1128, 1135-7 (Fla. 2006).

The most substantial evidence tying Reynolds to the murders was DNA evidence, mostly consisting of his blood, found near and in the crime scene, a trailer that he told investigators he had never entered.

Reynolds's DNA was found at seven locations in and around the trailer where the three murders occurred. On sample TC-50, stain D1 from a Rugrats blanket found inside the trailer, a swab of blood matched Reynolds at five out of six markers in a restriction fragment length polymorphism (RFLP) DNA test, which would be a match to only one out of every twenty-eight billion people, four times more than currently live on Earth. (TT, 11776-8)<sup>1</sup>. Sample TC-55B, stain C, from a pillow found inside the trailer, contained a blood swab that matched Reynolds at all 6 markers in an RFLP test, which would match only one in 7.4 trillion people. (TT, 1781-3). Sample TC-64d, a swab from a switch plate above a cabinet in the camper, was a mixed profile, but the primary profile matched Reynolds at all thirteen loci in a short tandem repeat (STR) DNA test, which would only match one in thirty-two *quintillion* people. (TT, 1949-51). Sample

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<sup>1</sup> Citations to the trial transcript will be denoted by "TT" followed by the page number or numbers.

TC-27, a swabbing from outside the trailer on a wall near the door, was a single source match at all 13 loci in an STR test, again which would match only one in thirty-two quintillion individuals. (TT, 1930-3). Sample TC-53a was a swab of blood that was found on a pair white panties on the floor of the trailer presumed to have belonged to Christina Razor, and a test of that blood showed a mixed profile, with a primary profile that was a 13-loci match in an STR test to Reynolds, and minor profile that excluded Danny Privett and Robin Razor as contributors, but could not exclude Christina as a contributor. Sample TC-74 was a swabbing from a piece of wood over an AC unit inside the trailer which revealed another mixed source with a primary profile that matched Reynolds at all 13 loci. (TT, 1944-5). Finally, was sample Q-118, which was a pubic hair that was discovered during a sweeping of a pillow and towel found in the trailer. (TT, 1967). The pubic hair still had the follicle attached and could be tested for DNA, which once again was a single source profile that was a complete match to Reynolds. (TT, 1971-2).

These results did not show degraded, low-level partial, or inconclusive matches to Reynolds. His full DNA profile was found in blood through the trailer and on a pubic hair with the follicle still

attached. The least definitive source still was a match at five out of six markers in an RFLP test which would only match one in twenty-eight billion people. Despite defense counsel's best efforts, it strains credulity to suggest this amount of DNA evidence, especially complete matches found in blood, were the result of mishandling evidence and faulty testing procedures, which is why the very same arguments counsel makes in this motion were rejected by the jury at trial and by this Court in previous postconviction proceedings.

Defense counsel attempted to put doubt on the validity and credibility of the DNA results. At trial, Lieutenant Terry Creswell, who collected evidence at the scene, admitted she had inadvertently comingled two pieces of evidence, a towel and a pillow, into one bag, and had only initially noted the pillow in her crime scene report. (TT, 988-9); Defense Motion Exh. D at 5. At trial, Sabrina Gayer, an FDLE analyst, also admitted she made a mistake by sweeping TC-55, the pillow and blanket, in the same room on the same day that she swept clothing and other items from Reynold's residence. (TT, 1485). In addition, she had the following exchange with defense counsel:

Q: So, the end result of TC-55 that sits in front you, is that it came to contaminated, yes?

A: Yes, sir.

Q: And that it was at least subject to further contamination at FDLE by virtue of the fact that it was swept in the same room where the suspect sweepings had been, yes?

A: Yes, sir.

(TT, 1485-6).

Defense counsel also attempted to cast doubt on the results by getting FDLE analyst Charles Badger to admit on cross-examination that FDLE's database for DNA comparison contained duplicate DNA results. (TT, 2077-8). He agreed that such duplicates are not ideal because they could cause some matches of DNA to appear more common than is statistically supported. *Id.* As a result of discovering these duplicates, FDLE did in fact stop using their own database and switched to the FBI's. (TT, 2077). It should be noted, however, there were only two duplicates in the database, one in a sample of eight hundred individuals, who were used for matching the six markers in RFLP testing, and one in a sample of two hundred and two that were used for matching the thirteen loci in STR testing. (TT, 2085-7). Badger testified this small number of duplicates would not have had a statistically significant impact on the DNA results. (TT, 2089).

Despite their efforts, defense counsel's attempt at trial to convince the jury at to discount the DNA evidence due to mismanagement and faulty procedures was clearly unsuccessful, as he was ultimately convicted of all three murders.

Reynolds has since tried and failed to attack the DNA evidence and unsuccessfully petitioned the trial court for permission to perform postconviction DNA testing. In 2010, the trial court held an evidentiary hearing pursuant Reynolds's motion for postconviction relief, presenting additional witnesses who gave testimony describing why the DNA results in this case are untrustworthy. A defense expert, Candice Zuleger, had concerns about the way the evidence was stored at the sheriff's office. She could not determine what time the evidence came in; whether the evidence was already bagged; whether the bag was sealed; or whether the evidence was wet. She also noted that Reynolds' blood sample was in the same room with the other evidence, raising concerns about contamination and how the blood sample was packaged. Zuleger was aware of an FDLE case in Jacksonville in which blood leaked out onto samples. That is one reason buccal swabs are now used instead of liquid blood. In Zuleger's opinion, evidence TC-55-A and TC-55-B were not swept

properly. There should be a 7-day wait period between working on items, and these items were worked the same day in the same room. This raises issues of contamination. The hairs on TC-55-A and TC-55-B would be the biggest concern because hairs in one package could “float around” and get onto another piece of evidence.

Janice Johnson, a forensic specialist, testified as well and was qualified as an expert in crime scene reconstruction. Johnson would not sweep evidence from both the victims and the defendant in the same room. The potential for contamination exists because hair and fiber evidence is transient. FDLE normally waited 5-7 days between sweepings during which time the room is cleaned and remains sterile. Further, analysts will change clothes, gloves and hair nets between sweepings. Wet items should always be packaged separately, preferably in brown paper bags. If they need to be air dried, they should be in separate drying chambers. In Reynolds’s case, all the evidence was in one room drying.

Hairs that were collected could have been contaminated by sweeping them all “in the same room at the same time.” Johnson would have advised defense counsel to examine FDLE’s policies and

procedures and potential contamination issues; in her opinion, “the procedures were unacceptable.”

Despite this additional testimony meant to disparage the sheriff’s office’s and FDLE’s handling of the evidence and DNA testing, all of Reynolds’s claims were dismissed, and those findings were upheld by this Court on appeal. *Reynolds v. State*, 99 So.3d 459 (Fla. 2012).

On December 5, 2013, Reynolds filed a motion for postconviction DNA testing pursuant to Fla. R. Crim. Pro. 3.853 requesting several items be tested:

1. A pair of white panties found at the residence.
2. The Blanket
3. The pillows
4. Slippers
5. Paring knife
6. An apple
7. Concrete block
8. Towel
9. Switch plate
10. Pubic hair
11. Piece of wood
12. A belt loop
13. Sofa cushion
14. Any flooring or floor covering retrieved from trailer
15. Sink trap
16. Door knobs
17. Ashtray
18. The trailer door and doorframe
19. Reynolds’s clothes which were seized

20. All clothing of the victims
21. The hands of the victims
22. The hair in the hands of the victims

He argued, much as he does now, that testing technology had advanced for more accurate results, and that the results in his trial were tainted by improper storing and mishandling of the evidence. He specifically requested testing for skin cell DNA, which had not been done for the trial. He argued that since there was evidence of a struggle, the “real” killer’s DNA could be found through epithelial testing. He claimed such testing would point to a different killer, singling out Justin Pratt, someone he has consistently held to be an alternate suspect, but whose DNA does not appear to be on file anywhere. He argued, as he does here, that the panties found in the trailer with his blood on him were not actually Christina Razor’s. He also claimed the bodies of the two female victims were mislabeled at the morgue, and so any DNA evidence tying either one of them to any evidence cannot be trusted.

The trial court found that Reynolds’s motion was legally insufficient, but decided to address the merits, or rather, lack thereof, of his arguments anyway. This Court’s analysis illustrated the strength of the DNA evidence against Reynolds, despite any alleged

mishandling detailed above, which the Court was well aware of and clearly did not find availing, and the pointlessness of any further testing:

Evidence that a strand of the Defendant's pubic hair was located inside the trailer and the Defendant's blood was found throughout the trailer is much more probative than evidence that might show that Justin Pratt had been inside the trailer at some point. Despite the Defendant's claims, much of the evidence was previously tested by a defense expert, but the results did not favor the Defendant. Moreover, the method of DNA testing had not changed since the material were tested prior to the guilt phase. Evidence that the Defendant's DNA was present on the door to his own trailer would have no probative value. The alleged irregularity to the mislabeling of the bodies was disclosed during discovery, so it was or should have been discovered by the trial attorneys and 3.851 counsel. Any confusion at this point would not be rectified by further DNA testing. ... Under the totality of the circumstances, there is no possibility that further DNA testing would reveal any exculpatory evidence, so there is no possibility that such testing would result in an acquittal or a lesser sentence.

Order Denying Defendant's Verified Motion for Post-Conviction DNA Testing, filed March 24, 2014. This Court affirmed the denial of relief on appeal. *Reynolds v. State*, 192 So.3d 41 (Fla. 2015).

Relevant to this appeal, Reynolds filed yet another motion for DNA testing on May 10, 2022. (R, 248-451). In it, Reynolds argued that advances in technology and testing of previously untested items

of evidence will exonerate him of these crimes and provide proof that someone else is the real killer. He pointed to Justin Pratt, who owned the trailer where the murders occurred, as the real culprit, due to previous threats from Pratt to Privett for nonpayment of rent. He requested STR and Y-STR testing, including testing for skin cells or touch DNA, for various pieces of evidence. His motion was summarily denied on August 18, 2022. (R, 482-502).

This appeal follows.

### **STANDARD OF REVIEW**

The standard of review is de novo. *Stephens v. State*, 748 So. 2d 1028, 1032 (Fla. 2000). The lower court's legal rulings are reviewed de novo and deference is given to factual findings supported by competent and substantial evidence. *Sochor v. State*, 883 So. 2d 766, 772 (Fla. 2004).

### **SUMMARY OF ARGUMENT**

The trial court did not err in summarily denying Reynolds's successive motion for postconviction DNA testing. He argues that the presence of foreign DNA on some of the items he requests testing would implicate a third party and exonerate him, or at least mitigate

his culpability in the crimes. Much of what he wants tested either has already been tested or requests for testing them have already been denied, so he is procedurally barred from further requests on those items. His requests for some other items would only reveal the presence of a third party, or their handling of an object, at some point in time, not necessarily during the murders, and therefore would do nothing to either exonerate him or mitigate his sentence. Even if testing were able to prove the presence of another attacker, no amount of testing will get rid of the reality that his blood is found outside of and throughout the trailer, along with one of his pubic hairs, and that he confessed to the murders. Testing wouldn't show he wasn't involved in the attacks or that someone else actually landed the killing blows, and so does nothing to mitigate his sentence. The fact someone else may have accompanied him in these crimes does not change the fact that he committed a triple homicide.

### **ARGUMENT**

#### **ISSUE I: THE TRIAL COURT DID NOT ERR IN DENYING REYNOLDS'S SUCCESSIVE MOTION FOR POSTCONVICTION DNA TESTING**

Fla. R. of Crim. Pro. 3853 is the mechanism for defendants to pursue postconviction DNA testing. The rule creates a high bar for such a motion to be granted:

**(b) Contents of Motion.** The motion for postconviction DNA testing must be under oath and must include the following:

- (1) a statement of the facts relied upon in support of the motion, including a description of the physical evidence containing DNA to be tested and, if known, the present location or last known location of the evidence and how it originally was obtained;
- (2) a statement that the evidence was not previously tested for DNA, or a statement that the results of previous DNA testing were inconclusive and that subsequent scientific developments in DNA testing techniques likely would produce a definitive result establishing that the movant is not the person who committed the crime;
- (3) a statement that the movant is innocent and how the DNA testing requested by the motion will exonerate the movant of the crime for which the movant was sentenced, or a statement how the DNA testing will mitigate the sentence received by the movant for that crime;
- (4) a statement that identification of the movant is a genuinely disputed issue in the case and why it is an issue or an explanation of how the DNA evidence would either exonerate the defendant or mitigate the sentence that the movant received;

Fla. R. Crim. Pro. 3.853(b).

The trial court found Reynolds’s new motion was “essentially a refile of that 2013 motion” and therefore he was not entitled to retesting of items already tested. (R, 482). The trial court agreed with the State’s argument that, at best, Reynolds could only reveal a codefendant, which would not exonerate him. (R, 483). Reynolds claims that such a finding could at least mitigate his sentence, but as explained further, he cannot make such a showing.

The critical flaw in Reynolds’s appeal is that none of the testing he requests, even if it reveals foreign DNA, would exonerate him or lessen his sentence. As this Court has already pointed out in affirming the denial of his previous, largely similar request, any evidence that Justin Pratt was at some point in the trailer—which cannot be proven without a sample of his DNA for comparison anyway—does nothing to overcome the fact Reynolds’s blood was found in 6 separate areas in and around the trailer he claims to have never entered, along with one of his pubic hairs, and that he confessed the crimes to two different cellmates. *Reynolds v. State*, 192 So.3d 41, 41 (Fla. 2015).

In his appeal, Reynolds simply relitigates arguments that have previously been denied. Collateral estoppel bars that claim. In

Florida, the doctrine of collateral estoppel bars relitigation of the same issues between the same parties in connection with a different cause of action. See, *Topps v. State*, 865 So. 2d 1253, 1255 (Fla. 2004); *Bates v. State*, 218 So.3d 426, 427 (Fla. 2017) (“Because Bates seeks to relitigate questions of law already decided by this Court, his claims as to these seven items are procedurally barred.”). In his 2013 motion, as in this one, Reynolds requested that the concrete block, white panties, piece of wood, switch plate, clothing of Reynolds, Christina, and Robin, the hands of the victims, and the hair in the hands of the victims all be tested. Those requests were denied, and so he is barred from further requests for testing.

The only items he adds are recovered hairs Q6, Q10-14, Q15-19, Q30-34, and Q72, TC57, swabbing from a ring with hair, and the swabbings from the victims’ bodies. Several of the hairs, Q17, Q18, Q19, Q30, Q31, and the swab from Q30, have all already been tested. The hairs either were not suitable for DNA testing or all came back with female gender markers or definitive matches to either Christina or Robin. (TT, 2053-66). The swab from Q30, despite Reynolds denial, was in fact tested before trial and was a blood stain that matched Robin at all 13 loci. (TT 2067-8).

Even if mitochondrial DNA testing is done on the previously untested hairs, and hairs unrelated to any of the victims or Reynolds are present, that is not enough for Reynolds to show that there is a reasonable probability that he would have been acquitted or had his sentence mitigated. *Mosley v. State*, 285 So.3d 1016 (Fla. 1st DCA 2019). First, the fact there are foreign hairs do not prove that the hairs are therefore Pratt's. The victims lived in a trailer without indoor plumbing and often had multiple people over, including Pratt, in addition to having animals either in or near the trailer; some of the hairs Allen found were animal and not human. (TT, 1524). These facts, and the photos of the crime scene, show that the trailer was not the cleanest of locations, and it is completely expected for there to be foreign DNA inside. Without being able to match that to a specific person, or do more than show its presence, the idea that there is a reasonable probability that Reynolds would have been acquitted or had his sentence mitigated does not hold up. His blood and pubic hair were found at the scene of crime in a location he says he had never entered, and he had a large injury to his hand that the medical examiner testified was too deep to have been caused the way

he claims. (TT 1251-9). Additionally, he confessed the crimes to two different individuals.

Second, even saying for the sake of argument that DNA could show Pratt had been at the trailer at some previous time, that does not implicate him in the murder anywhere close to Reynolds's DNA found throughout the trailer. Pratt owned the trailer and was known to have been by on multiple occasions. There is evidence of Pratt having a motive, but other than that there is nothing to connect him to the murders. By contrast, in addition to the DNA evidence, there is a lot connecting Reynolds:

[T]he State also introduced expert testimony from a medical examiner demonstrating that the injury to Reynolds' hand was inconsistent with his explanation of the injury; testimony from a neighbor of the victims who saw Danny Privett sitting on Reynolds' car, which was parked at the victims' residence the night the crimes were committed; microscopic and DNA analysis of a pubic hair found at the crime scene matched a hair sample taken from Reynolds; Reynolds' admission during an interview with law officers that he had a heated argument with Danny Privett; eyewitness testimony corroborating the circumstances surrounding the argument between Reynolds and Danny Privett; evidence that Reynolds denied ever being in the victims' residence—a statement that was clearly inconsistent with the considerable DNA evidence presented at trial which placed him inside the trailer; testimony from Reynolds' neighbor who saw him washing clothes at 5:30 a.m. on the morning the bodies were discovered; clothes found hanging on Reynolds'

clothesline the morning the bodies were discovered that appeared to have been strongly bleached; and the testimony of two prisoners who had previously been incarcerated with Reynolds that Reynolds admitted to them that he had in fact committed the crimes.

*Reynolds v. State*, 934 So. 2d at 1146.

Reynolds's arguments about the concrete blocks fail for the same reason. These were concrete blocks out in the open that could have been handled by anyone at any time. The existence of foreign DNA, if it could even be extracted, does not definitively prove that was who wielded the blocks when they were used on the victims. It just means that person touched the blocks, which were out in the open accessible to anyone, at some point in time. Compared to the evidence outlined above, that is not nearly enough to overcome the jury's verdict and show a reasonable probability of acquittal or mitigate his sentence. Reynolds's argument about relative culpability is irrelevant while no other defendant exists who has been tried and received a lesser sentence.

The swabs of the victims' bodies would be similarly unhelpful to Reynolds. Foreign DNA found in those would, at best, reveal a potential *additional* attacker. All of the evidence, but most especially the DNA evidence linked directly to Reynolds, is far more probative

than the existence of some unknown, additional third party. It also would do nothing to support his story that he is innocent, it just gives him a codefendant, which is completely contradictory to his theory of innocence. He argues both that he didn't do it, but that if he was involved it was to a lesser degree. He also argues that the injuries to Robin make it clear there were multiple attackers because she could not get hit in the back with a concrete block and stabbed at the same time. There is no evidence those injuries happened at the exact same time, only that they happened during the course of her struggle, and they easily, and of course did, happen at different times with different weapons.

He claims that testing would at least show he was not the one who actually committed the killing blows even if he was involved in the attack. It would not. Testing would, at best, show another person was possibly involved in the attacks; it would do nothing to show that he wasn't the one who did the stabbings, an idea that is belied by the cut wound on his hand that appears to have been the result of a knife in his hand slipping.

Reynolds requested the trial court to permit testing of three items which have all already been tested and definitively linked to

him. As has already been mentioned, since he has previously asked for these retests and been denied, he is procedurally barred from more requests. More importantly, Reynolds is incorrect that there is confusion about whose panties his blood was found on. The medical examiner testified that the only clothing Christina came in with was a nightgown, while Robin had several items of clothing on, including panties. (TT, 1094-5). This is supported by the medical examiner's report, which say Christina was only wearing a nightgown. (R, 162).

Reynolds continues to make the same arguments about the questionable handling and testing of the evidence in this case that revealed his DNA at the scene. He made the argument at trial and it was rejected by the jury, and he has made those arguments in subsequent postconviction motions and appeals to this Court. Each time they have been rejected, and he is simply trying to relitigate an issue that has been exhaustively decided by multiple courts.

Reynolds's final argument is that *Holmes v. South Carolina*, 547 U.S. 319 (2006) entitles him to this testing because he is attempting to implicate a third party. *Holmes* held that it was unconstitutional for states to bar a defendant from introducing evidence of possible third-party guilt, merely because the State's evidence of guilt

appeared to be strong and when it included inculpatory forensic evidence. *Id.* at 1734-5. *Holmes* has no implications on Reynold's case. *Holmes* was addressing the admissibility of third-party guilt evidence in a trial context, not the search for possible evidence of codefendants in the postconviction, DNA testing context after he has already been proven guilty beyond a reasonable doubt. The two scenarios are completely distinguishable and allowing DNA testing regardless of any other factors just because the testing is meant to implicate a third-party would be an unreasonable extension of *Holmes*. The entire point of postconviction DNA motions is for the defendant to try to implicate someone other than himself and accepting his argument would mean virtually every motion for testing would be granted as a matter of course under *Holmes*, which would defeat the purpose of rule 3.853.

### **CONCLUSION**

No amount of additional DNA testing will do anything to eliminate the incredibly inculpatory testing that already occurred. Reynolds simply has no rational explanation for his blood and pubic hair being found throughout and outside of the trailer and that he

confessed, other than the one the jury reached: that he killed Danny Privett, Robin Razor, and Christina Razor. Additionally, much of the items he wants tested have already been tested and either made his case worse, or done nothing to help him, and the majority of what he asked to be tested has already been denied by the trial Court, a denial affirmed by this Court, and so those requests are procedurally barred.

Based upon the foregoing, the State respectfully requests this Court affirm the denial of this successive motion for DNA testing.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on December 5th, 2022, a true and correct copy of the foregoing has been furnished by email to **Nicholas M. Bedy**, Assistant Capital Collateral Counsel-Middle, 12973 N. Telecom Parkway, Temple Terrace, FL 33637, bedy@ccmr.state.fl.us; support@ccmr.state.fl.us; **Julissa R. Fontán**, fontan@ccmr.state.fl.us; support@ccmr.state.fl.us.

**CERTIFICATE OF COMPLIANCE**

I HEREBY CERTIFY that the size and style of type used in this response is 14-point Bookman Old Style, and word count is 6292 in compliance with Fla. R. App. P. 9.210 and 9.045.

s/PATRICK BOBEK  
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