No. SC2026-0336

In the Supreme Court of Florida

MICHAEL L. KING ,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

ANSWER BRIEF ON THE MERITS

On Appeal from the Circuit Court of the Twelfth Judicial Circuit in and for Sarasota County, Florida
L.T. No. 2008-CF-1087

JAMES UTHMEIER
Florida Attorney General

SCOTT A. BROWNE
FLA. BAR NO. 802743
Chief Assistant Attorney General
Capital Appeals
TIMOTHY A. FREELAND
FLA. BAR NO. 539181
Special Counsel, Assistant Attorney General
Office of the Attorney General
3507 East Frontage Road, Suite 200
Tampa, Florida 33607-7013
(813) 287-7910
scott.browne@myfloridalegal.com
timothy.freeland@myfloridalegal.com
capapp@myfloridalegal.com
Counsel for the State of Florida

March 3, 2026

TABLE OF CONTENTS

TABLE OF CITATIONS

Cases

Other Authorities

ORAL ARGUMENT OBJECTION

The State opposes King's request for oral argument. The issues on appeal are straightforward, and it is against this Court's policy to grant oral argument in successive capital appeal cases. *See* Fla. S. Ct. Internal Op. Proc. II.A.3(a) (Successive capital postconviction appeals are treated "in the same manner as" cases "in which review is granted without oral argument.").

STATEMENT OF THE CASE AND FACTS

The kidnapping, sexual battery, and murder

Appellant, Michael L. King, is a Florida inmate under a death sentence imposed for the first-degree murder of Denise Lee. This Court's direct appeal opinion in *King v. State*, 89 So. 3d 209, 212-22 (Fla. 2012), recites the facts of King's convictions for the kidnapping and sexual battery of the victim, Denise Lee.

On the early afternoon of January 17, 2008, King abducted a young mother, Denise Lee, from the home where she was watching her two children, a toddler and a baby. Leaving the two children unattended, King took Mrs. Lee to his house where he bound, raped and sodomized her. After the ordeal at King's residence, King drove his car with Mrs. Lee still bound and alive in the backseat of his car,

to his cousin's house to borrow items to dispose of her body, including a flashlight, shovel and gas can. At some point during the drive, the victim obtained King's phone and begged for help to a 911 operator. On the call, Mrs. Lee is heard crying and begging to be saved so that she could see her husband and children again. As noted by this Court and the trial court, this was a rare case where a court and jury could hear the terror faced by a murder victim prior to their death. "In this case, anyone who listens to the 911 call placed by Denise Lee will hear the abject terror she was experiencing plus her panicked, frantic pleas to the 911 dispatcher (for help) and King (to be returned home). This murder was unquestionably cold and cruel." *King*, 89 So. 3d at 232.

After a prolonged and torturous ordeal, King drove the victim to a remote area and shot her in the face and buried her. The State presented an array of eyewitness and forensic testimony establishing King's guilt. King was apprehended in his car with the phone the victim called for help from, in the vicinity of the burial site. King was still wet and muddy from digging the hole in which Mrs. Lee's body was ultimately found. DNA and fingerprint evidence established that Mrs. Lee was held in King's car. The physical evidence included DNA

from blood and hair which matched conclusively to the victim,[1] and Mrs. Lee's palm print on the driver's side window. Denise Lee's wedding ring was also found on the back seat of King's car when King was apprehended. DNA testing confirmed that sperm cells inside of the victim's vagina and on her shorts found at the burial site matched King at all 13 loci, to the exclusion of all other persons on the planet, or 1 in one quadrillion Caucasians.[2] (V24/2465-67)[3].

The penalty phase

Following a penalty phase proceeding, a unanimous jury recommended that King be put to death for the murder of Mrs. Lee.

---

[1] Hair from the back seat of King's car matched Denise Lee at all 13 loci, or the odds of it coming from anyone other than Denise Lee leaving that hair was one in 110 trillion Caucasians. (V24/2472). A blanket recovered from the back seat of King's Camaro had a blood stain which matched Denise Lee's DNA profile to the exclusion of all other people on the planet. (V25/2748). Blood on the hood of King's car, also matched Denise Lee at 10 of 13 loci, sufficient to conclude that the blood came from Denise Lee. (V24/2472-73). Similarly, a swabbing of material or fluid on the bra of King's Camaro matched Denise Lee's profile at 8 of 13 loci, sufficient for the analyst to conclude it came from Denise Lee. (V24/2473-74).

[2]Mrs. Lee's boxer shorts, found a short distance from her burial site, contained a mixture stain, from which King's sperm cells were separated and positively matched to King. The DNA match yielded population statistics of "one person in 3.5 trillion individuals." (V25/2756).

[3] "V" references the direct appeal record.

The trial court agreed. "In pronouncing King's sentence, the trial court determined that the State had proven beyond a reasonable doubt the existence of four statutory aggravating circumstances: (1) the murder was especially heinous, atrocious, or cruel (HAC), *see* § 921.141(5)(h), Fla. Stat. (2007) (great weight) [fn6]; (2) the murder was cold, calculated, and premeditated (CCP), *see* § 921.141(5)(i), Fla. Stat. (2007) (great weight); (3) the murder was committed for the purpose of avoiding lawful arrest, *see* § 921.141(5)(e), Fla. Stat. (2007) (great weight); and (4) the murder was committed while King was engaged in the commission of a sexual battery or kidnapping, *see* § 921.141(5)(d), Fla. Stat. (2007) (moderate weight)." *King,* 89 So. 3d at 221.

In mitigation, "the trial court concluded that King established the existence of two statutory mitigating circumstances: (1) King's capacity to appreciate the criminality of his conduct or to conform his conduct to the requirements of the law was substantially impaired, *see* § 921.141(6)(f), Fla. Stat. (2008) (moderate weight). [fn7]; and (2) his age at the time of the offense (thirty-six years old), *see* § 921.141(6)(g), Fla. Stat. (little weight)." The trial court also found a number of non-statutory mitigators based upon King's

background and below average IQ. *King*, 89 So. 3d at 221-222. The single statutory mitigator found by the trial court (other than age [36]) was based upon evidence King had suffered from brain damage. The thrust of Dr. Joseph Wu's testimony was that frontal lobe damage can render an individual prone to impulsive acts or violent outbursts, especially during periods of stress. (V27/3190-93). Conflicting expert testimony was offered by the State through Dr. Michael Gamache. (V29/3578–V30/3605).

The trial court followed the jury's recommendation and sentenced King to death, finding the aggravating factors "substantially" outweighed the mitigation.

Direct Appeal

Following his convictions and sentence of death, King filed his direct appeal to this Court, and raised the following claims: (1) the trial court erred in restricting King's right to present a defense by limiting cross-examination of a state witness; (2) the trial court erred in admitting 47 shell casings recovered from a gun range and testimony linking empty casings to those found at the crime scene; (3) the trial judge erred in failing to conduct a sufficient investigation into extraneous influences in the jury deliberations and denying

King's motion for new trial; (4) the trial judge erred by admitting a firearm examiner's testimony regarding shell casing matches and the certitude he expressed in his testimony; (5) the trial judge erred by accepting the prosecutor's race neutral reason for striking a minority juror; and (6) the death sentence was not proportionate given the mitigation evidence presented during the penalty phase.

This Court affirmed King's convictions and death sentence in an opinion dated February 9, 2012. *King v. State*, 89 So. 3d 209 (Fla. 2012). King's motion for rehearing was denied May 21, 2012, and the mandate issued on June 6, 2012. King filed a petition for writ of certiorari in the United States Supreme Court on August 9, 2012, which was denied October 15, 2012. *King v. Florida*, 568 U.S. 964, 133 S. Ct. 478 (2012).

Postconviction Proceedings

On September 4, 2013, King filed a "Motion to Vacate Judgment and Sentence," pursuant to Fla. R. Crim. P. 3.851, raising six claims. Those claims included ineffective assistance of counsel for failing to present an expert on toxic exposure in mitigation and failing to

preserve a *Batson*[4] claim. The motion also raised an Eighth Amendment challenge to lethal injection, and the confidentiality afforded the identity of execution team members. Finally, the motion alleged an allegation of cumulative error and an admittedly premature claim of incompetency to be executed. Following an evidentiary hearing on King's ineffective assistance of counsel claims, the Honorable Deno G. Economou issued his order on August 21, 2014, denying postconviction relief.

King did not file a petition for writ of habeas corpus in the Florida Supreme Court. Following briefing, including supplemental briefing addressing the application of *Hurst v. Florida*, 577 U.S. 92 (2006), and oral argument, the Florida Supreme Court affirmed the denial of postconviction relief. *King v. State*, 211 So. 3d 866 (Fla. 2017). King's motion for rehearing was denied March 13, 2017, and the mandate issued March 29, 2017.

Federal Habeas Proceedings

Following the denial of relief in state court, King filed his petition for writ of habeas corpus in United States District Court-Middle

[4] *Batson v. Kentucky*, 476 U.S. 79 (1986).

District on April 27, 2017. The district court denied King all habeas relief in its comprehensive 91-page order filed February 5, 2018, and judgment was entered on February 6, 2018. King's Motion to Alter or Amend was denied on March 6, 2018, and the district court determined that King was not entitled for a certificate of appealability (COA). *King v. Sec'y, Dep't of Corr.*, 2018 WL 10715468 (M.D. Fla. Feb. 5, 2018) (unpublished).

King's Notice of Appeal to the Eleventh Circuit Court of Appeal was timely filed on April 5, 2018, and on January 9, 2019, the appellate court granted a certificate of appealability.[5] Oral argument was held on September 26, 2019, and in an opinion released October 25, 2019, the Eleventh Circuit Court affirmed the denial of habeas relief. *King v. Sec'y, Fla. Dept. of Corr.*, 793 Fed. Appx. 834 (11th Cir. 2019).

[5] The court granted a COA on three issues: (1) whether counsel was ineffective for failing to perfect a *Batson* strike of a minority juror; (2) whether trial counsel was ineffective for failing to present evidence of King's toxic chemical exposure in mitigation; and (3) whether the district court abused its discretion in adopting large parts of the state's habeas response in its order denying relief.

King petitioned the United States Supreme Court for a writ of certiorari on June 4, 2020. The Court denied the petition in its order dated October 5, 2020. *King v. Inch*, 141 S. Ct. 303 (2020).

Successive Postconviction Proceedings Under Warrant

On February 13, 2026, Governor Ron DeSantis signed a death warrant for the execution of King, and his execution is scheduled to occur on March 17, 2026, at 6:00 p.m. As a result, this Court issued a scheduling order requiring that all proceedings in the circuit court be concluded by February 27, 2026. (R. 82-83).[6]

On February 17, 2026, pursuant to the circuit court's separate scheduling order, King filed a demand for additional public records directed to the Florida Department of Corrections (FDOC). (R. 104). The FDOC filed written objections, and after conducting a hearing, the circuit court sustained the FDOC's objections[7] (R. 271-72).

King filed his successive motion for postconviction relief on February 22, 2026, raising two claims: a method-of-execution

---

[6] "R" citations are to the record from King's active death warrant proceedings in the circuit court.

[7]The FDOC did provide five years of King's own medical and prison records (R. 172).

challenge based on alleged maladministration of the lethal injection protocol or improper record keeping and an Eighth Amendment proportionality challenge. (R. 297-318). King also contemporaneously filed a motion to stay his execution. (R. 210-23). The State filed a response to both motions (R. 428-35; 436-461), and after conducting a case management hearing, the circuit court issued an order summarily denying King's successive motion for postconviction relief and an order denying his request for a stay of execution. (R. 516-541). This appeal follows.

SUMMARY OF THE ARGUMENT

King's public records argument is meritless because he fails to demonstrate how the trial court abused its discretion when it refused to grant his public records demand of the FDOC. The postconviction court properly summarily denied King's method-of-execution claim based on the alleged maladministration of Florida's lethal injection protocol by the FDOC. As the postconviction court properly found, King's claim based on heavily redacted documents was entirely speculative and conclusory and failed to establish that Florida's method of execution presents a substantial and imminent risk that is sure or very likely to cause serious illness and needless suffering.

This Court recently rejected the identical allegations of alleged maladministration in *Heath v. State*, No. SC2026-0112, 2026 WL 320522 (Fla. Feb. 3, 2026), *cert. denied*, No. 25-6746 (U.S. Feb. 10, 2026), and *Trotter v. State*, SC2026-0214, 2026 WL 444544 (Feb. 17, 2026), *cert. denied*, No. 25-6853 (U.S. Feb. 24, 2026) and King has offered no compelling reasons to reconsider this Court's recent precedent. Additionally, King made no attempt to identify a known and available alternative method of execution that entails a significantly less severe risk of pain; a pleading failure, which standing alone, is sufficient to affirm the lower court's summary denial of his claim.

In his second claim, King alleged it would violate the Eighth Amendment's cruel and unusual clause to execute him because his sentence was not proportional in light of clemency letters reflecting continued relationships with pen pals and family members while in prison. The postconviction court properly found King's claim untimely and procedurally barred. Proportionality was already considered on direct appeal and this Court easily found King's sentence for his horrific crimes proportional.

STANDARD OF REVIEW

"Summary denial of a successive postconviction motion is appropriate if the motion, files, and records in the case conclusively show that the movant is entitled to no relief." *Cole v. State*, 392 So. 3d 1054, 1060 (Fla.), *cert. denied*, 145 S. Ct. 109 (2024) (internal quotations omitted). A postconviction court may properly deny claims that are untimely, not retroactive, procedurally barred, not cognizable, or meritless as a matter of law under controlling precedent. *See, e.g.*, *Mungin v. State*, 320 So. 3d 624, 626 (Fla. 2020) (affirming summary denial of claims raised in successive postconviction motion as untimely); *Morris v. State*, 317 So. 3d 1054, 1071 (Fla. 2021) (stating that a court may summarily deny a postconviction claim that is procedurally barred); *Mann v. State*, 112 So. 3d 1158, 1162 (Fla. 2013) (holding that because defendant's postconviction claims were "purely legal claims that have been previously rejected by this Court, the circuit court properly summarily denied relief").

With respect to timeliness, "postconviction claims in capital cases must generally be filed within one year after the judgment and sentence become final." *Cole*, 392 So. 3d at 1061 (citing Fla. R. Crim.

P. 3.851(e)(2)). A claim filed outside the one-year period is untimely unless one of the following circumstances exists:

> (A) the facts on which the claim is predicated were unknown to the movant or the movant's attorney and could not have been ascertained by the exercise of due diligence, or
>
> (B) the fundamental constitutional right asserted was not established within the period provided for in subdivision (d)(1) and has been held to apply retroactively, or
>
> (C) postconviction counsel, through neglect, failed to file the motion.

Fla. R. Crim. P. 3.851(d)(2). "It is incumbent upon the defendant to establish the timeliness of a successive postconviction claim." *Mungin*, 320 So. 3d at 624.

"In reviewing a trial court's summary denial, 'this Court must accept the defendant's allegations as true to the extent that they are not conclusively refuted by the record.'" *Id.* (quoting *Tompkins v. State*, 994 So. 2d 1072, 1081 (Fla. 2008)). "However, mere conclusory allegations do not warrant an evidentiary hearing." *Id.* (citing *Anderson v. State*, 220 So. 3d 1133, 1142 (Fla. 2017); *LeCroy v. Dugger*, 727 So. 2d 236, 238 (Fla. 1998)). On appeal from the summary denial of a successive postconviction motion, this Court

"review[s] the postconviction court's decision de novo." *Id.* (citing *Marek v. State*, 8 So. 3d 1123, 1127 (Fla. 2009)).

ARGUMENT

ISSUE I

THE POSTCONVICTION COURT DID NOT ABUSE ITS DISCRETION IN DENYING KING'S DEMAND FOR ADDITIONAL RECORDS FROM THE FLORIDA DEPARTMENT OF CORRECTIONS.

The trial court did not abuse its discretion by refusing to grant King's public records demands from the FDOC. Rather than identify what specific records he was seeking and why the trial court abused its discretion, King presents this Court with a series of conclusory grievances, including a complaint about the pace of executions in Florida. (Appellant's Brief at 9-11). King failed to demonstrate why any of the records he sought were related to a colorable claim. See *Valle v. State*, 70 So. 3d 530, 548 (Fla. 2011) ("Valle has failed to establish how the production of such records relates to a colorable Eighth Amendment challenge.") King cannot even demonstrate the trial court erred, let alone that it abused its discretion in denying his demands.[8] *Tanzi v. State*, 407 So. 3d 385, 391 (Fla. 2025), *cert.*

---

[8]Of course, this is a highly deferential review of the postconviction court's ruling on records requests. *See Muhammad v. State*, 132 So. 3d 176, 200 (Fla. 2013) (noting "[d]iscretion is abused only when the judicial action is arbitrary, fanciful, or unreasonable, which is another way of saying that discretion is abused only where

denied, 145 S. Ct. 1914 (2025) (denial of records requests subject to abuse of discretion standard of review on appeal) (citing *Cole v. State*, 392 So. 3d 1054, 1065 (Fla. 2024)).

A. No abuse of Discretion Has Been Shown

King sought numerous records predicated on heavily redacted documents apparently disclosed in unrelated litigation. King relied upon those records to speculate that the FDOC may not follow its protocol in his execution. The FDOC submitted a detailed response opposing disclosure of additional records. (R. 196-217). Florida has a detailed lethal injection protocol that specifies the drugs used, and the amounts with specific directions that a team member check the expiration dates of the drugs before they are used in an execution. (R. 377, para 6). Nothing in the heavily redacted general inventory records cited by King pierces the presumption that the FDOC follows its protocol.[9]

---

no reasonable person would take the view adopted by the trial court.'") (quoting *State v. Coney*, 845 So.2d 120, 137 (Fla.2003).

[9]As the written response and argument of the FDOC attorney at the public records hearing makes clear, the FDOC denies that it failed to follow its protocol. (R. 211, fn 10).

King asserts his records request was not overly broad and was narrowly tailored to "properly investigate and litigate King's equal protection claims." (Appellant's Brief at 15). It was not narrowly tailored. It was a fishing expedition which included requests for logs, internal policies, procedures for handling chemicals, including humidity, temperature and steps to measure or assess inmates' depth and level of unconsciousness. (Appellant's Brief at 12-14).

Challenges to the constitutionality of Florida's lethal injection protocol as currently administered have been fully considered and repeatedly rejected by this Court. *Asay v. State*, 224 So. 3d 695 (Fla. 2017) (holding that use of etomidate as the first drug in Florida's lethal injection protocol did not violate the Eighth Amendment because it did not create a substantial risk of serious harm); *Long v. State*, 271 So. 3d 938, 943-46 (Fla. 2019) ("Since approving the current lethal injection protocol in *Asay VI*, we have repeatedly affirmed the summary denial of challenges to the protocol, including challenges to the use of etomidate as the first drug in the protocol."). And, this Court has repeatedly and consistently upheld lethal injection records denials under the current protocol. *See Cole v. State*, 392 So. 3d 1054, 1065 (Fla.), *cert. denied*, 145 S. Ct. 109

(2024); *Tanzi v. State*, 407 So. 3d 385, 391 (Fla.), *cert. denied*, 145 S. Ct. 1914 (2025); *Heath v. State*, No. SC2026-0112, 2026 WL 320522, at *5 (Fla. Feb. 3, 2026), *cert. denied*, No. 25-6746, 2026 WL 363902 (U.S. Feb. 10, 2026). The postconviction court did not abuse its broad discretion in rejecting King's demand for additional records.

B. Due Process, Equal Protection and Access to Records

King's contention that the postconviction court's denial of his demands for lethal injection records violated his Fourteenth Amendment right to due process is meritless. *See generally Abdool v. Bondi*, 141 So. 3d 529, 544 (Fla. 2014) ("To assess whether a violation of due process has occurred, we must first decide whether the complaining party has been deprived of a constitutionally protected liberty or property interest"). The United States Supreme Court has long rejected the notion of a constitutional right to discovery founded on access to the courts or due process. *Lewis v. Casey*, 518 U.S. 343, 354 (1996) (rejecting a constitutional claim that "the State must enable the prisoner to *discover* grievances, and to *litigate effectively* once in court") (emphasis in original); *Gray v. Netherland*, 518 U.S. 152, 168 (1996) (noting the Supreme Court's repeated admonitions that due process has "little to say regarding the amount of discovery

which the parties must be afforded" and that there is "no general constitutional right to discovery" even for criminal defendants at trial). *See also Wellons v. Comm'r, Ga. Dep't of Corr.*, 754 F.3d 1260, 1267 (11th Cir. 2014) (relying on *Lewis* to reject a due process right to lethal injection discovery and collecting cases).

King's allegations are speculative and insufficient to warrant relief. King strains mightily to avoid the directly applicable precedent governing his method-of-execution claim based on the "Walls" records. He argues that he was denied due process by FDOC's refusal to provide additional records. However, the lower court rejected his public records requests, relying upon settled precedent in sustaining FDOC's objections. (R. 271-72). Moreover, any attempt to challenge the constitutionality of Florida's well-established rules governing public records in postconviction fails as a matter of well-established law. *See Randolph v. State*, 422 So. 3d 166, 172 (Fla. 2025), *cert. denied,* 223 L. Ed. 2d 239 (2025) (noting that the court has frequently and consistently rejected constitutional challenges to Florida's governing rules for public records production) (string citations omitted); *Cole v. State*, 392 So. 3d 1054, 1066 (Fla.), *cert. denied,* 145 S. Ct. 109 (2024) (rejecting claim that "denying him access to these

(lethal injection) records violates his rights to due process and access to the courts under the Eighth and Fourteenth Amendments to the United States Constitution and the corresponding provisions of the Florida Constitution.") (citation omitted).

Similarly, King's assertion of a potential equal protection violation does not alleviate or cure his failure to establish a risk of substantial harm under the Eighth Amendment. A prisoner lodging a method-of-execution claim "faces an exceedingly high bar." *See Barr v. Lee*, 591 U.S. 979, 980 (2020) (per curiam). His allegations come nowhere near the mark. King's equal protection claim is frivolous.

King asserted vaguely below that two sex offender murderers may have been given inadequate drugs, but he failed to assert why or how he believed this to be true in his motion. (R. 302, 306). King makes an equal protection claim based on an assertion that as a sex-offender murderer, he will be treated differently from other inmates who have been executed in Florida. In support, King suggests that two executions of sex-offender murderers–Gudinas and Wainwright–were "seemingly" given insufficient dosages of "particular drugs" related to their executions. (R. 302, 306). He provided no support for

these speculative allegations, failing to identify the dosages or even the drugs in his motion below.[10] Notably, the logs King relies upon mention no names of any executed defendant. Only in the case management hearing did collateral counsel even identify the drugs for his class of "two" (sex offender murderers) equal protection claim. (R. 499). Even if this Court were to go down the speculative rabbit hole that King suggests, those drugs, Rocuronium and Potassium Acetate, are only administered after the inmate has been rendered unconscious by Etomidate. King fails to even allege how his unsupported allegation, even if true, caused those two inmates' additional pain or discomfort. King cites no evidence that either of those two executions were unusual or prolonged.

This Court has repeatedly affirmed Florida's execution protocol and relied on the fact that the massive dose of etomidate administered at the outset will render the condemned insensate for the execution. *E.g.*, *Rogers v. State*, 409 So. 3d 1257, 1268 (Fla. 2025) (noting "the well-established fact that the administration of etomidate will render him unconscious likely within one minute"). Florida's

---

[10]In his public records demand King did name Rocuronium and Potassium Acetate. (R. 107).

protocol includes safeguards and checks to ensure "the condemned is unconscious throughout the execution." *Long v. State*, 271 So. 3d 938, 945 (Fla. 2019).[11]

King makes no attempt to explain why the consciousness checks would be insufficient to either ensure he is unconscious or to alert FDOC staff of the need for more etomidate. *See Schwab v. State*, 995 So. 2d 922, 929 (Fla. 2008) ("The constitutional focus is unconsciousness, not the duration of the execution following unconsciousness."); *Baze v. Rees*, 553 U.S. 35, 64 (2008) (Alito, J., concurring) ("The first step in the lethal injection protocols currently in use is the anesthetization of the prisoner. If this step is carried out properly, it is agreed, the prisoner will not experience pain during the remainder of the procedure.").

---

[11] The administration of the second and third drugs in Florida is only made after a determination that the first drug has the desired effect and the inmate is unconscious. *See Howell v. State*, 133 So. 3d 511, 522 (Fla. 2014) (noting that a consciousness check, which included a painful pinch of the trapezius would "ensure that Howell is unable to perceive any noxious stimuli"); *Schwab v. State*, 995 So. 2d 922, 930 (Fla. 2008) (detailing the steps of a consciousness check that included a shake and shout and eyeball tap); *Valle v. Singer*, 655 F.3d 1223, 1233 (11th Cir. 2011) (noting that under Florida's protocol, a consciousness check is required and "the execution cannot proceed until the individual is rendered unconscious.").

King is being treated exactly the same as other death sentenced inmates under the etomidate protocol.[12] He is not subject to a new or changed protocol. In *Ferguson v. Warden, Florida State Prison*, 493 Fed. Appx. 22, 25–26 (11th Cir. 2012) (unpublished) the court rejected a similar equal protection challenge:

> Ferguson fails to assert that any of the alleged deficiencies will result in disparate treatment from other death row inmates. Under Florida's 2012 protocol, all death row inmates facing execution will be subject to the same sequence of drugs, the same procedures, and the same safeguards in the execution process. Ferguson has presented no evidence to substantiate his claims of disparate treatment.

Id.

King will receive the same drugs, in the same sequence with the same consciousness check as other inmates. As noted, his allegations fall far short of establishing any deviations in the past, much less one that will be "sure" or "very likely" applicable to him in the future. *See generally DeYoung v. Owens*, 646 F.3d 1319, 1328 (11th Cir. 2011) (rejecting inmate's equal protection claim based

---

[12]"The Equal Protection Clause of the United States Constitution protects classes and individuals from being treated arbitrarily without a legitimate justification." *Abdool v. Bondi*, 141 So. 3d 529, 545 (Fla. 2014) (citing *Clements v. Fashing*, 457 U.S. 957, 963 (1982).

upon the assertion that Georgia deviates from its protocol because inmate failed to show a substantial likelihood of success in the underlying action to support a stay of execution).

King's reliance on Justice Sotomayor's discussion of a similar public records demand in *Trotter v. Florida*, 607 U.S. ---, Case No. 25-6853 (25A926) (Feb. 24, 2026) does not further his claim here. It has no precedential value. No other Justice of the United States Supreme Court joined Justice Sotomayor's concurrence in the denial of a stay of execution and in the denial of certiorari for Mr. Trotter whose execution was carried out on February 24, 2026. In fact, Justice Sotomayor agreed that Trotter did not "show that Florida's administration of its lethal-injection protocol is 'sure or very likely to cause serious and needless suffering' as the Court's Eighth Amendment precedents require." *Id.*

King had no due process right to demand sensitive and confidential lethal injection records in search of a claim.[13] And for

[13]King's fishing expedition for lethal injection records has no foundation in due process or the Eighth Amendment. *See Jones v. Comm'r, Georgia Dept. of Corr.*, 812 F.3d 923, 925 (11th Cir. 2016) (Circuit judges, Marcus, Carnes, Tjoflat, Hull, Pryor (William) (statement on the denial of rehearing en banc):

the reasons argued by the State below, King did not present a colorable method-of-execution claim. *See* Fla. R. Crim. P. 3.852(k) (limiting the scope of production of public records under any sub-section of rule 3.852 to those that are "either relevant to the subject matter of the proceedings under rule 3.851 or are reasonably calculated to lead to the discovery of admissible evidence"). Therefore, the postconviction court did not abuse its discretion when it denied King's demand for lethal injection records. *E.g.*, *Tanzi*, 407 So. 3d at 391 (applying the abuse of discretion standard to the denial of a demand for additional records and concluding that the postconviction court did not abuse its discretion or violate due process in denying a demand for such records because the records did not relate to a colorable claim). This Court should affirm.

By insisting that he has a right to discovery in the absence of presenting a well-pleaded complaint, Jones travels on the novel idea that the law will (or should) allow discovery first, and only then require him to meet the standards prescribed by the Supreme Court in *Baze v. Rees*, 553 U.S. 35, 50, 52, 128 S. Ct. 1520, 170 L. Ed. 2d 420 (2008) (plurality opinion), and *Glossip v. Gross,* —— U.S. ——, 135 S. Ct. 2726, 2737, 192 L. Ed. 2d 761 (2015).

C. King's Speculative Eighth Amendment Claim

Perhaps knowing he comes nowhere close to the mark on the Eight Amendment challenge to lethal injection,[14] King simply asks this Court to delay his execution for an investigation and potential evidentiary hearing. However, no matter how he tries to spin it, King relies on the same records that were soundly rejected by this Court as a basis for Eighth Amendment challenges in two recent cases under death warrant. *Trotter v. State*, No. SC2026-0214, 2026 WL 444544, at *3 (Fla. Feb. 17, 2026); *Heath v. State*, No. SC2026-0112, 2026 WL 320522, at *3 (Fla. Feb. 3, 2026), *cert. denied,* No. 25-6746, 2026 WL 363902 (U.S. Feb. 10, 2026). His slightly different spin on the same speculative factual basis does not make his claim any stronger. He cites the same expert affidavit which this Court rejected as the basis for an Eighth Amendment claim in *Trotter*. Dr. Buffington, as cited in King's motion, opined that FDOC needs better record keeping having "an organized, accurate and effective tracking model to ensure that the correct substances, as approved within the

[14] King candidly admits that "[b]ased on this Court's prior rulings, King has not raised an Eighth Amendment claim regarding cruel and unusual punishment." (Appellant's Brief at 9).

FDOC, have been properly acquired and that product dating and aging are being tracked for substances that are awaiting future executions." (R. 303, citing Attachment D).

King relied upon Attachment B to his motion to support these allegations. (R. 331-370). However, none of these pages in the appendix contain any executed defendant's name or indicate that the drugs were used during any execution. They simply contain lines for "drug name," "package size," and "NDC#," and columns for "date," "invoice name/#," "Lot #," "Exp. Date," "MFR," "Received/Used (+/-)," and "balance." The "Received/Used (+/-)" column contains numbers with either the + or - symbol.

The postconviction court had little trouble determining that King was presenting a method-of-execution challenge. The court stated:

> Like *Heath* and *Trotter*, in the instant action, none of the heavily redacted FDOC logs contain any executed defendant's name or indicate that any of the drugs listed were used during any execution. Even taking into account the dates of execution for Gudinas (June 10, 2025) and Wainwright (June 24, 2025) and the particular drugs (Rocuronium and Potassium Acetate, respectively) referenced by defense counsel during the *Huff* hearing,[33] and comparing that information to the various amounts of drugs reflected in FDOC's heavily redacted logs as

> having been "received/used" on adjacent dates *subsequent to* the executions of Gudinas and Wainwright-a great deal of speculation is required to conclude that FDOC is maladministering its lethal injection protocols. The speculation required to reach that conclusion is underscored by the fact that "FDOC has successfully implemented its etomidate protocol more than thirty times since its adoption in 2017. *See* https://www.fdc.myflorida.com/institutions/death-row/executionlist-1976-present."[34] Moreover, as the State avers in its responsive Answer, "FDOC's protocol does not require contemporaneous or exact record keeping for the pharmaceuticals used on condemned inmates."[35] Further highlighting the conclusory and speculative nature of his claims is King's failure to acknowledge, much less foreclose, reasonable alternative interpretations of the heavily redacted FDOC logs. For example, it is possible that the reason FDOC's logs reflect varying amounts of drugs being "removed" was *for the purpose of discarding or destroying drugs* rather than using them for any particular execution.
>
> Based on the foregoing, and especially the binding precedent in *Heath* and *Trotter,* the Court first concludes that Defendant King's allegations in Claim One regarding an alleged violation of the Eighth Amendment are conclusory and speculative.

(R. 528-30) (footnotes omitted).

As found by the postconviction court, King's method-of-execution claim is legally insufficient. The Eighth Amendment provides that "cruel and unusual punishment" shall not "be inflicted." U.S. Const. amend. VIII. An Eighth Amendment method-

of-execution claim requires the defendant to "(1) establish that the method of execution presents a substantial and imminent risk that is sure or very likely to cause serious illness and needless suffering and (2) identify a known and available alternative method of execution that entails a significantly less severe risk of pain." *Randolph v. State*, 422 So. 3d 166, 173 (Fla. 2025); *Bucklew v. Precythe*, 587 U.S. 119, 134, 140 (2019) (holding that "*all* Eighth Amendment method-of-execution claims" must "meet the *Baze-Glossip*[15] test") (emphasis added).[16]

Both this Court and the United States Supreme Court have held that prison staff are entitled to a strong presumption that they follow their method-of-execution protocol. *See e.g.*, *Baze*, 553 U.S. at 53-

---

[15] *Baze v. Rees*, 553 U.S. 35 (2008) (plurality opinion); *Glossip v. Gross*, 576 U.S. 863 (2015).

[16] As the *Bucklew* Court noted, the Eighth Amendment does not require "the avoidance of all risk of pain" in any method of execution. *Bucklew*, 587 U.S. at 134. How the Eighth Amendment applies to methods of execution "tells us that [it] does not guarantee a prisoner a painless death–something that, of course, isn't guaranteed to many people, including most victims of capital crimes." *Id.* (citing *Glossip*, 576 U.S. at 868-69). That is most certainly true here as King's victim suffered a prolonged and agonizing death.

54; *Cole*, 392 So. 3d at 1065.[17] As a result, claims asserting that FDOC fails to follow its protocol must also allege legally sufficient facts to pierce that presumption before any evidentiary hearing. *Hannon v. State*, 228 So. 3d 505, 509 (Fla. 2017) (affirming summary denial of a claim that FDOC is "inconsistent with its protocol" because the allegations were insufficient to overcome the presumption that FDOC complies with the protocol).

Knowing full well this Court has rejected this claim under two recent warrants, King attempts to raise this claim under the guise of Equal Protection. But this Court has made clear that no matter how the inmate attempts to frame his argument, it still must pass through an Eighth Amendment analysis. *Trotter*, 2026 WL 444544, at *3 ("While Trotter contends that his lethal injection claim is not a traditional "method-of-execution claim," the gist of his argument remains that executing him by lethal injection–given the allegations he raises–constitutes cruel and unusual punishment.").

King's nod to equal protection does not salvage his claim. There

---

[17] *See also Valle v. State*, 70 So. 3d 530, 545-49 (Fla. 2011); *Davis v. State*, 742 So. 2d 233, 236 (Fla. 1999); *Provenzano v. State*, 739 So. 2d 1150, 1153 (Fla. 1999).

is no such thing as a standalone failure-to-follow-protocol Eighth Amendment claim exempted from these requirements.[18] Where an Eighth Amendment claim alleges the risk of future harm at an execution, "the conditions presenting the risk must be '*sure or very likely* to cause serious illness and needless suffering,' and give rise to 'sufficiently *imminent* dangers.'" *Baze*, 553 U.S. at 50 (quoting *Helling v. McKinney*, 509 U.S. 25, 33, 34–35 (1993)); *Wellons v. Comm'r, Ga. Dep't of Corr.*, 754 F.3d 1260, 1265 (11th Cir. 2014) (noting that mere speculation "cannot substitute for evidence that the use of the drug is sure or very likely to cause serious illness and needless suffering").

Accordingly, King's allegations must be legally sufficient to prevail on both prongs of the *Baze-Glossip* test and pierce the strong presumption that FDOC will follow its written protocol for this Court to grant an evidentiary hearing. *See Cole*, 392 So. 3d at 1065

---

[18] *E.g., Lightbourne v. McCollum*, 969 So. 2d 326, 341 (Fla. 2007) (noting, despite concerns FDOC repeatedly failed to follow protocol in prior executions, the court refused to stay an execution when nothing established the prior executions "caused unnecessary and wanton pain" or involved "torture or a lingering death"); *Jordan v. Mississippi State Executioner*, No. 25-70013, 2025 WL 1752391, at *2 & n.2, *3 (5th Cir. June 24, 2025) (denying a stay of execution despite officials admitting they had not performed required consciousness checks in prior executions).

(speculative lethal injection allegations insufficient to meet the *Baze-Glossip* test).

FDOC's protocol does not require contemporaneous or exact record keeping for the pharmaceuticals used on condemned inmates during an execution. It does require that drugs used in an execution not be beyond their expiration date and designates a team member for this task. (R. 377 para. 6*)* (lethal injection protocol requires that a designated execution team member "ensure that the lethal chemicals have not reached or surpassed their expiration dates" and FDLE monitors should be responsible for maintaining "a detailed log" of execution chamber occurrences but not of the pharmaceuticals used); *Troy v. State*, 57 So. 3d 828, 839 (Fla. 2011) (holding the protocol's failure "to require adequate record-keeping" did not give rise to an Eighth Amendment claim). Nor is FDOC required to reduce every aspect of its protocol to writing. *Sims v. State*, 754 So. 2d 657, 666, 668 (Fla. 2000). Florida courts cannot "micromanage the executive branch in fulfilling its own duties relating to executions." *Troy*, 57 So. 3d at 839.

Since the protocol does not require the record keeping King relies on, his speculative reliance on ambiguous and heavily redacted

records provides even less reason to believe FDOC actually deviated from its protocol.[19] Since inmates have raised speculative claims about FDOC records, two additional executions have been carried out without reported incident.

There is nothing presented by King that requires this Court to reconsider the etomidate protocol or its prior precedent affirming denial of public records claims relating to FDOC's administration of the protocol. The trial court's decision below was not an abuse of discretion. Accordingly, this Court should affirm the lower court's ruling.

D. King fails To Name An Alternative Execution Method

Finally, King does not even attempt to identify a "known and available alternative method of execution that entails a significantly less severe risk of pain" and thus fails the second prong of the *Baze-Glossip* test as a matter of law. This Court recently rejected a similar records-based claim in *Trotter,* squarely rejecting the notion that the

---

[19] *Baze,* 553 U.S. at 53–61 (rejecting claims regarding the inadequate administration of the lethal injection protocol, including the risk that the procedures will not be properly followed by the department of corrections).

defendant did not have to name an alternative method of execution. *Trotter*, No. SC2026-0214, 2026 WL 444544, at *3 ("Moreover, because Trotter incorrectly maintains that the *Glossip* requirements do not apply to his claim, he fails to identify an alternative method of execution."). King makes no attempt to distinguish *Trotter.* Rather than allege a "feasible and readily implemented alternative method of execution that would significantly reduce a substantial risk of severe pain" as required, *Bucklew*, 587 U.S. at 134, King simply ignores that well established requirement. As noted, "*all* Eighth Amendment method-of-execution claims" are controlled by *Baze-Glossip*. *Bucklew*, 587 U.S. at 134 (emphasis added); *Baze*, 553 U.S. at 50 (quoting *Helling v. McKinney*, 509 U.S. 25, 33, 34-35 (1993)). The postconviction court correctly concluded that King's motion also failed because he did not name an alternative method of execution. (R. 530).

King's reliance on historical execution incidents and protocol reviews fares no better. Past events do not establish a present constitutional violation. Further, following the Angel Diaz execution, Florida revised its lethal injection protocol, which this Court later upheld. *Lightbourne v. McCollum*, 969 So. 2d 326, 352-53 (Fla. 2007);

see also Asay v. State, 224 So. 3d 695 (Fla. 2017) (upholding Florida's current lethal injection protocol).[20] And earlier electric chair litigation likewise resulted in investigation and procedural modifications, not invalidation of executions. *See Buenoano v. State*, 565 So. 2d 309 (Fla. 1990). Finally, out-of-state executive suspensions are legally irrelevant. The Eighth Amendment does not require uniform national practices or the elimination of all risk. *Baze*, 553 U.S. at 51; *Glossip*, 576 U.S. at 869.

Indeed, it is unclear what relief King seeks from this Court. Rather than identify a known and available alternative, King asks this Court to stay his execution and order an independent investigation, or in the alternative, order the release of FDOC records so that he can pursue this claim, presumably without an active warrant. This approach, however, is not what the *Baze-Glossip* test mandates. The *Baze-Glossip* test requires the defendant point to a

---

[20] Notably, FDC has successfully implemented its etomidate protocol more than thirty times since its adoption in 2017. *See* https://www.fdc.myflorida.com/institutions/death-row/execution-list-1976-present. And, since the FDOC investigated and revamped its lethal injection protocol following the Angel Diaz execution, Florida has successfully implemented its lethal injection protocol some 63 times without mishap.

readily-implemented alternative execution *method* that the State can quickly carry out, not provide a wish-list of abstract reforms and investigations.[21] *See id.* King's failure to plead an alternative execution method that would significantly reduce his risk of a painful death is fatal to his claim. *See Randolph v. State*, 422 So. 3d 166, 173 (Fla. 2025) (affirming summary denial of a lethal injection claim where the defendant failed to propose a "readily implemented" execution method that "in fact significantly reduces" the "substantial risk of severe pain").

For all these reasons, this Court should affirm summary denial of King's challenge to Florida's lethal injection protocol.

ISSUE II

KING'S CLAIM THAT NEWLY DISCOVERED EVIDENCE ESTABLISHES THAT HIS SENTENCE IS NOT PROPORTIONAL IS UNTIMELY, PROCEDURALLY BARRED, AND MERITLESS.

---

[21]King's nebulous suggestion of an inquiry into FDOC's protocol administration runs afoul of the Supreme Court's admonition that a prisoner cannot succeed on a method-of-execution challenge by merely showing a marginally safer alternative, and that courts should not be transformed into "boards of inquiry" charged with determining "best practices" for executions. *Baze*, 553 U.S. at 51; *see also Muhammad v. State*, 132 So. 3d 176, 197 (Fla. 2013).

King asked the lower court to conduct a proportionality review of his death sentence under the Eighth Amendment. Here, his claim morphs beyond that and King argues that his life has value and that he should be given an evidentiary hearing to establish evidentiary support for his claim. (Appellant's Brief at 32). This claim is plainly meritless, untimely and procedurally barred. It was properly denied without evidentiary hearing.

The postconviction court had little trouble finding this claim untimely. The court provided:

> The Court agrees that this claim is untimely and procedurally barred. None of the correspondence compiled in Defendant's "Appendix E" constitutes true "newly" discovered evidence. King offers no explanation why neither he nor his attorney could have ascertained his "humanity" and collected the supporting correspondence from each of the above-referenced contributors at least two or three years ago and certainly prior to the signing of his death warrant. *See Windom v. State*, 416 So. 3d 1140, 1151 (Fla. 2025) (holding a claim "untimely because the allegedly 'new' information was ascertainable long ago by the exercise of due diligence").

(R. 535).

King's conviction and sentence became final on direct appeal in

2012.[22] Postconviction claims raised more than a year after the judgment and sentence become final are untimely and must "meet an exception to the time-limit rule–otherwise, the claim" should be summarily denied. *Davis v. State*, 417 So. 3d 242, 247 (Fla. 2025) (citing Fla. R. Crim. P. 3.851(d)(2), (e)(2)). King's postconviction 'evidence' upon which his motion relies consists of prison pen-pal letters, a letter from his brother, and articles criticizing the death penalty. While these materials are irrelevant to a cognizable postconviction claim, King nonetheless did not explain why they could not have been generated and presented years earlier. His failure to exercise diligence operates to bar his claim on timeliness grounds. King certainly could have raised this proportionality claim before his death warrant was signed. *See Kearse v. State*, No. SC2026-0250, 2026 WL 523132, at *2 (Fla. Feb. 25, 2026) (observing that any newly discovered evidence claim "must be brought within one year of the date such evidence was discovered or could have been discovered through the exercise of due diligence.") (quoting *Glock v.*

[22]The Supreme Court denied certiorari review on August 9, 2012. *King v. Florida*, 568 U.S. 964 (2012).

Moore, 776 So. 2d 243, 251 (Fla. 2001)). *See Windom v. State*, 416 So. 3d 1140, 1151 (Fla. 2025), *cert. denied,* 146 S. Ct. 66 (2025) (rejecting as untimely victims view of the appropriateness of the death penalty where "Windom offers no convincing argument why either he or his attorney could not have attempted to ascertain those views at least a decade before his death warrant was signed."). And, the articles he cited in this claim below, although irrelevant, had no date on them. Therefore, King failed to establish the timeliness of his claim. [23]

To the extent King is asking this Court to expand the Eighth Amendment and prohibit his execution, this claim too, is time barred. *Windom*, 416 So. 3d at 1147 (holding "Windom cannot use the timeliness exception in rule 3.851(d)(2)(B) to affirmatively establish a new and retroactive constitutional right"); *Carroll v. State*, 114 So. 3d 883, 886 (Fla. 2013) ("What Carroll is seeking is the recognition of a

---

[23]The opinion pieces cited in King's motion are clearly not relevant to any postconviction claim. Moreover, most appear to have been generated years earlier. For example, a former assistant warden, Dennis O'Neill. and his expression of "regret" referred to in King's motion dates to a St. Petersburg Times, article from 2006. Appellant's Brief at 52 n. 11. Similarly, the NPR cite for an article working on prison executions, dates to 2022. (Appellant's Brief at 53, n. 12).

new fundamental constitutional right, which is not properly pled under rule 3.851(d)(2)(B)."); *Waterhouse v. State*, 82 So. 3d 84, 97 (Fla. 2012) (holding a claim which does not rely on a case in which an "established fundamental right" has previously been recognized does not satisfy any subdivision of rule 3.851(d)(2)), *cert. denied*, 565 U.S. 1187 (2012)").

Also, the postconviction court properly found the claim procedurally barred. King asked the postconviction court to revisit the proportionality of his death sentence under the Eighth Amendment. But that is not a postconviction court's function. Indeed, King was simply recasting his previously rejected direct appeal proportionality claim in light of new clemency letters and generally available opinion pieces related to the death penalty. This claim is procedurally barred. *Lukehart v. State*, 70 So. 3d 503, 524–25 (Fla. 2011); *Ferrell v. State,* 918 So. 2d 163, 178 (Fla. 2005).

King challenged the proportionality of his death sentence on direct appeal, a claim unanimously rejected by this Court in light of the facts of this heavily aggravated case. This Court stated:

> King abducted a young mother from her home, leaving her two children–an infant and a toddler–unattended. He transported her to his house where she was bound with

> duct tape, raped, and sodomized. He then acquired a shovel, drove her to an abandoned construction sight, and shot her in the head. Given the angle of the entrance wound, and the fact that a substance appearing to be ocular fluid was found on the car, it is logical to conclude that Lee was not blindfolded at the time of her shooting, and she saw the gun as it was placed against her head. Furthermore, because Lee was abducted from her home between 1 and 2 p.m. on the 17th, and her 911 call was made at 6:14 p.m., it can be deduced that Lee was held captive by King for over four hours. As noted in the sentencing order, rarely is a court able to experience first-hand what a deceased victim encountered. In this case, anyone who listens to the 911 call placed by Denise Lee will hear the abject terror she was experiencing plus her panicked, frantic pleas to the 911 dispatcher (for help) and King (to be returned home). This murder was unquestionably cold and cruel.
>
> **We are in complete agreement with the trial court that the death sentence is proportionate in this case.**

King, 89 So. 3d at 232 (emphasis added)

King's attempt to revisit proportionality considering what looks like clemency letters or submissions, is inappropriate. The claim remains procedurally barred. *See Covington v. State*, 348 So. 3d 456, 480 (Fla. 2022) (rejecting as procedurally barred and meritless claim that the court conduct another proportionality analysis in light of newly discovered evidence). Another proportionality review would be doubly inappropriate here as this Court does not conduct proportionality review on direct appeal. *Lawrence v. State,* 308 So. 3d

544, 548-52 (Fla. 2020) (finding United States Supreme Court's Eighth Amendment jurisprudence does not require proportionality review and that Florida's conformity clause precludes comparative proportionality in Florida capital cases). Because it could have been raised in pre-warrant proceedings, but it was not, it is procedurally barred. *See Gudinas v. State*, 412 So. 3d 701, 714 (Fla. 2025) ("Post-warrant claims that could have been raised in a prior proceeding are procedurally barred.").

To the extent King argues in general that the Eighth Amendment should prohibit his execution, he provides no statutory or case authority in support of that proposition. To the contrary, the law in this state and the United States Constitution clearly allows it. *See Bucklew*, 587 U.S. 119 at 130 (capital punishment is plainly constitutional and "the judiciary bears no license to end a debate reserved for the people and their representatives."). *Baze*, 553 U.S. at 47 ("We begin with the principle, settled by *Gregg*, that capital punishment is constitutional") (internal citation omitted); *see also Glossip*, 576 U.S. at 869 ("it is settled that capital punishment is constitutional"). King committed a heavily aggravated murder and his

sentence was obtained, imposed, and will be executed within the framework of the law.[24]

King's appeal below was a thinly veiled attempt to argue he warranted clemency relief. However, clemency in Florida derives "solely from the Florida Constitution." *Davis v. State*, 142 So. 3d 867, 877 (Fla. 2014). The Florida Constitution vests "sole, unrestricted, unlimited discretion exclusively in the executive in exercising this act of grace." *Sullivan v. Askew*, 348 So. 2d 312, 315 (Fla. 1977). Clemency cannot be granted without the Governor's assent. Art. IV § 8(a), Fla. Const. Clemency can also be reviewed and rejected "*at any time,* for any reason." *See* Fla. R. Exec. Clem. 4 (emphasis added). Upon completing the final federal habeas proceedings, the Governor can complete the executive clemency process and issue a death warrant. *See* § 922.052(2)(a)-(c), Fla. Stat. That is what happened

[24] Under Florida's conformity clause, this Court is bound by the United States Supreme Court's interpretation of the Eighth Amendment. Art. I, § 17, Fla. Const. This Court has repeatedly held that the Supreme Court's Eighth Amendment jurisprudence establishes both the floor and the ceiling for protection against cruel and unusual punishment in Florida. *See* e.g. *Barwick v. State*, 361 So. 3d 785, 794 (Fla. 2023) *Gudinas*, 412 So. 3d at 714.

here and there is no reason in law or fact to question the Governor's clemency decision in this case.

This claim is completely devoid of merit and was properly denied without hearing below.

CONCLUSION

Based on the authorities and arguments presented herein, this Court should affirm the summary denial of King's successive motion for postconviction relief.

JAMES UTHMEIER
Florida Attorney General

SCOTT A. BROWNE
Fla. Bar No. 802743
Chief Assistant Attorney General
Capital Appeals
TIMOTHY A. FREELAND
Fla. Bar No. 539181
Special Counsel, Assistant Attorney General
Office of the Attorney General
3507 East Frontage Road, Suite 200
Tampa, Florida 33607-7013
(813) 287-7910
scott.browne@myfloridalegal.com
timothy.freeland@myfloridalegal.com
capapp@myfloridalegal.com

Counsel for the State of Florida

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on March 3, 2026 I electronically filed the foregoing with the Clerk of the Court using the e-portal filing system, which will send a notice of electronic filing to the following: Ali A. Shakoor and Debra R. Bell, Assistants CCRC-M, Capital Collateral Regional Counsel-Middle Region, 12973 North Telecom Parkway, Temple Terrace, Florida 33637, **shakoor@ccmr.state.fl.us**, **bell@ccmr.state.fl.us**, **support@ccmr.state.fl.us**; and the Florida Supreme Court, **warrant@flcourts.org, canovak@flcourts.org**.

CERTIFICATE OF COMPLIANCE

I HEREBY CERTIFY that the size and style of type used in this brief is 14-point Bookman Old Style, in compliance with Florida Rule of Appellate Procedure 9.045(b). This brief contains 8,771 words, in compliance with Florida Rule of Appellate Procedure 9.210(a)(2)(B).

/s/ Scott A. Browne
Counsel for State of Florida