

**IN THE SUPREME COURT OF FLORIDA
CASE NO: SC2026-0336
EXECUTION SCHEDULED FOR MARCH 17, 2026 at 6:00 PM**

MICHAEL KING,
Appellant,
v.
STATE OF FLORIDA,
Appellee.

**ON APPEAL FROM THE CIRCUIT COURT OF THE TWELFTH
JUDICIAL CIRCUIT IN AND FOR SARASOTA COUNTY, FLORIDA
Lower Tribunal No. 08-CF-001087**

REPLY BRIEF OF THE APPELLANT

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PRELIMINARY STATEMENT ABOUT THE RECORD

References to the record are designated as follows: The postconviction record on appeal for the current successive 3.851 motion consists of one volume and is referenced to as “PCR” followed by the page number.

References to the Initial Brief of the Appellant are listed as “IB” followed by the page number. References to the State’s Answer Brief on the Merits are designated as “AB” followed by the page number.

TABLE OF CONTENTS

Contents	Page(s)
PRELIMINARY STATEMENT ABOUT THE RECORD	ii
TABLE OF CONTENTS	iii
TABLE OF AUTHORITIES.....	iv
ARGUMENT	1
REPLY TO ARGUMENT I	1
REPLY TO ARGUMENT II	9
APPELLANT’S MOTION FOR STAY OF EXECUTION.....	12
CONCLUSION AND RELIEF SOUGHT.....	14
CERTIFICATE OF COMPLIANCE	14
CERTIFICATE OF SERVICE.....	15

TABLE OF AUTHORITIES

Cases

Arthur v. Thomas, 674 F.3d 1257 (11th Cir. 2012).....13

Cassim v. Bowen, 824 F.2d 791 (9th Cir.1987)..... 1

DeYoung v. Owens, 646 F.3d 1319 (11th Cir. 2011).....13

Estelle v. Gamble, 429 U.S. 97 (1976) 7

Hill v. State, 921 So.2d 579 (Fla. 2006).....8

Lewis v. Casey, 518 U.S. 343 (1996)7-8

Missouri v. Jenkins, 515 U.S. 70 (1995) 7

Power v. State, 992 So.2d 218 (Fla. 2008)..... 8

Trotter v. Florida, 607 U.S. ___, Case No. 25-6853 (25A926) (Feb. 24, 2026) 12-14

Other Authorities

Cornell Law Review - Seeking Sanctuary: Interviews with Family Members of Capital Defendants..... 10

Denise Amber Lee Foundation,
<https://deniseamberlee.org/collections/training-courses> 9

<https://deathpenaltyinfo.org/executions/2025>..... 3

https://www.law.cornell.edu/wex/colorable_claim 1

Oishika Neogi, Florida Continues Its Execution Spree Despite Problematic Track Record, February 27, 2026. Florida Continues Its Execution Spree Despite Problematic Track Record – Mother Jones 12

Constitutional Provisions

Art. I, § 16(b)(10), Fla. Const. 11

ARGUMENT

The Appellant, Michael King, relies on the arguments presented in the Initial Brief of the Appellant, filed on March 2, 2026, and offers the following Reply to the Answer Brief of the Appellee filed on March 3, 2026. Mr. King relies on the merits of his initial brief and any arguments not contained herein are not to be taken as waived.

REPLY TO ARGUMENT I

The trial court abused its discretion in denying King's demand for additional public records pursuant to Rule 3.852, Florida Rules of Criminal Procedure, and in summarily denying his claims without conducting an evidentiary hearing to allow King to present witnesses and evidence in support of his equal protection claim. The standard for granting a demand pursuant to Rule 3.852 Florida Rules of Criminal Procedure is whether the records relate to a colorable claim. A colorable claim is one which is not "wholly insubstantial, immaterial, or frivolous." *Cassim v. Bowen*, 824 F.2d 791, 795 (9th Cir.1987). It has also been defined as being "'strong enough' to have a reasonable chance of being valid," but does not have to result in a successful claim. https://www.law.cornell.edu/wex/colorable_claim (last accessed 3/3/26). Although the State argued King's claim was based

on speculation and conjecture, that is not the standard for granting a demand for additional records, therefore the trial court abused its discretion.

The State, and FDOC, have repeatedly attempted to hide behind a presumption of correctness and claims of historically being able to successfully implement its protocol, without any indication of how they are defining such success. The judicial branch has a duty to King based on the Fourteenth Amendment of the United States Constitution to protect his right to equal protection. King has not presented a method of execution or Eighth Amendment claim no matter how many times the State tries to reframe his argument as such. King presented evidence to the lower court showing FDOC has not been following its self-imposed protocols regarding the chemical agents used in its lethal injection procedures. As previously argued, the courts have recognized a class of one in these proceedings, but here King has pointed to two previously executed inmates who were treated differently than other executed inmates, and differently than required by the same procedures and protocols. King's claim is for violation of his equal protection rights based on the maladministration of the lethal injection protocols specifically related to the

executions of Gudinas on June 10, 2025 and Wainwright on June 24, 2025¹ as shown at IB 23-27. As it relates to Gudinas, the following portions of the FDOC records show the logs regarding Rocuronium 100mg/10m vials.

DRUG NAME: Rocuronium 100mg/10mL Package Size: 10 x 10mL (10 per box) Page: 1

PREVIOUS BALANCE: 0

DATE	VENDOR NAME	INVOICE NUMBER	LOT#	EXP. DATE (MM/DD/YYYY)	RECEIVED/USED (+/-)	BALANCE
3/7/24				06/31/2025	+ 10	10
3/11/24				06/31/2025	+ 80	90
1/3/2025				3/31/2026	+ 30	120
3/6/25				3/31/2026	+ 100	220
3/20/25				6/31/2025	- 20	200
4/2/25				3/31/2025	+ 200	400
4/8/25				6/31/2025	- 20	380
4/16/25				6/31/2025	- 10	370
4/23/25				10/31/2026	+ 30	400
4/23/25				3/31/2026	+ 70	470
5/1/25				6/31/2025	- 20	450
5/23/25				10/31/2026	+ 100	550
6/9/25				6/31/2025	- 10	540
6/12/25				6/31/2025	- 10	530
6/12/25				3/31/2026	- 10	520
6/25/25				2/28/2026	- 10	510

¹ <https://deathpenaltyinfo.org/executions/2025>

DRUG NAME ROCURONIUM 100mg/10ml PACKAGE SIZE 10 X 10 ml

NDC# [REDACTED]

DATE	INVOICE NAME/#	LOT #	EXP. DATE	MFR	RECEIVED/USED (+/-)	BALANCE
3-07-24	[REDACTED]	[REDACTED]	JAN 2025	[REDACTED]	+ 10	10
3/11/24	[REDACTED]	[REDACTED]	JUN 2025	[REDACTED]	+ 80	90
1-3-2025	[REDACTED]	[REDACTED]	03/2026	[REDACTED]	+ 30	120
3-6-2024	[REDACTED]	[REDACTED]	03/2026	[REDACTED]	+ 100	220
3/20/25	[REDACTED]	[REDACTED]	JUN 2025	[REDACTED]	- 20	200
4-2-25	[REDACTED]	[REDACTED]	Mar 2026	[REDACTED]	+ 200	400
4-8-25	[REDACTED]	[REDACTED]	JUN 2025	[REDACTED]	- 20	380
4-16-25	[REDACTED]	[REDACTED]	JUN 2025	[REDACTED]	- 10	370
5/1/25	[REDACTED]	[REDACTED]	JUN 2025	[REDACTED]	- 20	350
4/23/25	[REDACTED]	[REDACTED]	10/2026	[REDACTED]	+ 30	380
4/23/25	[REDACTED]	[REDACTED]	3/2026	[REDACTED]	+ 70	450
5/23/25	[REDACTED]	[REDACTED]	10/2026	[REDACTED]	+ 100	550
6/9/25	[REDACTED]	[REDACTED]	JUN 2025	[REDACTED]	- 10	540
6/12/25	[REDACTED]	[REDACTED]	JUN 2025	[REDACTED]	- 10	530
6/12/25	[REDACTED]	[REDACTED]	3/2026	[REDACTED]	- 10	520
6/25/25	[REDACTED]	[REDACTED]	2/2026	[REDACTED]	- 10	510

The protocols require 4 syringes, each containing 500mg of Rocuronium to be used during a single execution by lethal injection for a total of 2,000mg. Based on these records none was “received/used” on June 10, 2025. Assuming FDOC simply employs sloppy record keeping and factoring in the amounts “received/used” on June 9, 2025 and June 12, 2025, there was a total of 600mg “received/used” around the date of Gudinas’ execution, well below the proscribed amounts in the protocols.

As it relates to Wainwright the following portions of the FDOC records show the logs regarding Potassium Acetate 2mEq/20mL vials.

DRUG NAME Potassium Acetate 2mEq/mL 20mL PACKAGE SIZE 25x20mL

DATE	INVOICE NAME/#	LOT #	EXP. DATE	MFR	RECEIVED/USED (+/-)	BALANCE
6/14/23	Balance					361
6/15/23			6/20/23		-12	249
7/19/23			06/2023		-2	347
9/3/23			12/2024		-12	335
10/3/23			10/2025		-47	288
10-3-23			12/2024		-12	276
8-29-24			12/2024		-12	264
1-3-2025			12-2024		-64	200
2-13-25			10-2025		-12	188
3/20/25			10-2025		-12	176
3/18/25			11/30/26		+25	201
3/18/25			9/30/26		+50	251
4/7/25			9/30/26		+25	276
4/7/25			4/30/27		+50	326
4/8/25			10-2025		-12	314
4/16/25			9/30/26		-25	289
5/1/25			10-2025		-12	277
5/15/25			10-2025		-12	265
6/12/25			10-2025		-7	258
6/25/25			10-2025		-17	241

DRUG NAME Potassium Acetate 2mEq/mL 20mL PACKAGE SIZE 25x20mL

NDC# [REDACTED]

DATE	INVOICE NAME/#	LOT #	EXP. DATE	MFR	RECEIVED/USED (+/-)	BALANCE
6/14/23	Balance					361
6/15/23			6/20/23		-12	249
7/19/23			06/2023		-2	347
9/3/23			12/2024		-12	335
10/3/23			10/2025		-47	288
10-3-23			12/2024		-12	276
8-29-24			12/2024		-12	264
1-3-2025			12-2024		-64	200
2-13-25			10-2025		-12	188
3/20/25			10-2025		-12	176
3/18/25			11/30/26		+25	201
3/18/25			9/30/26		+50	251
4/7/25			9/30/26		+25	276
4/7/25			4/30/27		+50	326
4/8/25			10-2025		-12	314
4/16/25			9/30/26		-25	289
5/1/25			10-2025		-12	277
5/15/25			10-2025		-12	265
6/12/25			10-2025		-7	258
6/25/25			10-2025		-17	241
7/11/25			10-2025		-12	229

The protocols require 4 syringes, each containing 120mEq of Potassium Acetate to be used during a single execution by lethal injection

for a total of 4800mEq. Based on these records none was “received/used” on June 24, 2025. Assuming FDOC simply employs sloppy record keeping and factoring in the amounts “received/used” on June 25, 2025, there was a total of 34mEq around the date of Wainwright’s execution, well below the proscribed amounts in the protocols. Even if this Court finds the protocols do not require “exact record keeping” as claimed by the State, (AB at 32), they do require exact compliance with the dosages for the chemical agents, which has been called into serious doubt by the above records. These are not mere “conclusory grievances” as claimed by the State in its Answer Brief, these are serious violations of the protocols set forth by FDOC in order to achieve:

The foremost objective of the lethal injection process is a humane and dignified death. Additional guiding principles of the lethal injection process are that it should not be of long duration, and that while the entire process of execution should be transparent, the concerns and emotions of all those involved must be addressed.²

² Ricky D. Dixon, Secretary of FDOC, 2025 in letter dated February 18, 2025 transmitting the FDOC protocols to the governor. IB App. C.

Although the State claims King is asking this Court to intervene and micromanage issues within the control of FDOC, King is simply asking for the judicial oversight permitted by the United States Supreme Court in *Lewis v. Casey*, 518 U.S. 343, 349–50, 116 S. Ct. 2174, 2179, 135 L. Ed. 2d 606 (1996), where it said:

It is for the courts to remedy past or imminent official interference with individual inmates' presentation of claims to the courts; it is for the political branches of the State and Federal Governments to manage prisons in such fashion that official interference with the presentation of claims will not occur. *350 Of course, the two roles briefly and partially coincide when a court, in granting relief against actual harm that has been suffered, or that will imminently be suffered, by a particular individual or class of individuals, orders the alteration of an institutional organization or procedure that causes the harm. But the distinction between the two roles would be obliterated if, to invoke intervention of the courts, no actual or imminent harm were needed, but merely the status of being subject to a governmental institution that was not organized or managed properly. If—to take another example from prison life—a healthy inmate who had suffered no deprivation of needed medical treatment were able to claim violation of his constitutional right to medical care, see *Estelle v. Gamble*, 429 U.S. 97, 103, 97 S.Ct. 285, 290, 50 L.Ed.2d 251 (1976).

The Court went on to say:

The remedy must of course be limited to the inadequacy that produced the injury in fact that the plaintiff has established. See *Missouri v. Jenkins*, 515 U.S. 70, 88, 89, 115 S.Ct. 2038, 2049–2050, 132 L.Ed.2d 63 (1995) (“[T]he nature of the ... remedy is to be determined by the nature

and scope of the constitutional violation” (citation and internal quotation marks omitted)).

Id. at 357.

Here King is asking for a limited remedy: to be able to review the additional evidence supporting his colorable claim and to be able to present them for a full and fair determination in the trial court. King has not asked for an invalidation of the lethal injection protocols, simply an opportunity to present evidence supporting the violation of his due process and equal protection rights and, if necessary, an investigation into FDOC’s compliance with its own protocols. Which has been held permissible by this Court:

Even though the execution procedures may not be challenged through a chapter 120 proceeding, they can and have been challenged through postconviction proceedings under rule 3.851. See, e.g., Hill v. State, 921 So.2d 579, 582–83 (Fla.), cert. denied, 546 U.S. 1219, 126 S.Ct. 1441, 164 L.Ed.2d 141 (2006). In light of the exigencies inherent in the execution process, judicial review and **oversight** of the DOC procedures is preferable to chapter 120 administrative proceedings. We conclude that the statutory exemption does not give DOC “unfettered discretion” as to lethal injection procedures.

Power v. State, 992 So.2d 218, 220 (Fla. 2008)(quoting *Diaz v. State*, 945 So.2d 1136, 1143–44). It has only been after full and fair hearings, with presentation of witnesses and evidence, courts have

taken action to force compliance with properly drafted and administered regulations and protocols.

REPLY TO ARGUMENT II

King's case is not among the most aggravated and least mitigated. His unique qualities as a man of faith, filled with loving relationships point to his redemption within the walls of the FDOC. In its reply, the state, again, described the facts of King's convictions in graphic detail. AB at 40-41. King is a caring and sensitive soul who grieves for the surviving family of Mrs. Lee. The state's reply leaves out another important matter surrounding Mrs. Lee's family; Mr. Lee is saving lives in her memory, providing training courses for 9-1-1 dispatchers in her honor. There is also a website in Mrs. Lee's name, to aid others in her memory.³ As victims Mrs. Lee's family was contacted by the Office of the State Attorney about this warrant and will be supported throughout the process by the State. What about King's family? King's family is left with unbearable grief.

Families of capital defendants and co-victims are linked by tragic circumstances. Yet the adversarial nature of the criminal justice process forms an immediate and detrimental divide between them. Proponents of restorative

³ Denise Amber Lee Foundation, <https://deniseamberlee.org/collections/training-courses>

justice believe that we must address the harm suffered by both co-victims and offenders' families. The criminal justice system and society as a whole must formally acknowledge the needs of capital defendants' families and must attempt to lessen the harms they suffer.

Elizabeth Beck, Brenda Sims Blackwell, Pamela Blume Leonard, and Michael Mears, *Seeking Sanctuary – Interviews with Families of Capital Defendants*, 88 Cornell L. Rev 5 (2003).⁴

Not every death row inmate has family support and bonds. This is unique to King. Execution would negatively affect the mental health of King's family:

In studying nineteen family members of capital defendants, they administered a standard psychological assessment for depression and collected information about symptoms of Post-Traumatic Stress Disorder. Using language that would be immediately recognizable to those in the fields of trauma studies and trauma treatment, they referred to the family members' experience of such symptoms as hyperarousal, numbness, and intrusive thoughts. Significantly, they found that of the twelve participants who participated in the psychological assessment phase of their study, "eleven of the respondents were diagnosed with major depression, and all of them had symptoms consistent with PTSD."⁵

⁴ Cornell Law Review - [Seeking Sanctuary: Interviews with Family Members of Capital Defendants](#)

⁵ A Texas After Violence Project Report, [Nobody To Talk To – Barriers to Mental Health Treatment for Family Members of Individuals Sentenced to Death or Executed](#), at pgs. 2-3. (2019).

King's family has suffered enough. Executing King would create more despairing victims, nothing "positive" will result from King's lethal injection for his family. King respects and appreciates the focus on victims' rights in Florida. See Art. I, § 16(b)(10), Fla. Const. (providing Florida's victims with the constitutional rights to "proceedings free from unreasonable delay" and "a prompt and final conclusion of the case and any related postjudgment proceedings"). King wants finality. A life sentence without the possibility of parole will create finality for this case, without adding more victims.

Victims of King's execution would include the correctional staff.

As poignantly addressed in his IB at 52-53:

His prayers and humanity go out to the entire staff that is caring for him on death watch, and those who may take part in his execution. He raises this important issue as a component of his Eighth Amendment rights, because he has standing as a fellow citizen, sharing in the human condition with people taking part in his tragic execution. Florida executed nineteen men in 2025 and is on pace to shatter that record this year. There are collateral effects beyond King.

King keeps all the victims in mind. These executions take a toll.

Former Florida State Prison Warden, Ron McAndrew, recently stated the following regarding the unprecedented execution spree taking place in Florida:

“To put a warden and a death team through 19 executions in one year was a horrible thing for the Governor to do,” McAndrew said. “These are the people that are going to wake up screaming in the middle of the night. These are the people that are going to suffer for the rest of their lives because the people they have killed are going to come visiting with them on a regular basis. They’re going to sit on the edge of their bed at night and talk to them.”⁶

King has love and value for the people in charge of his care and well-being on death watch. It would be a violation of King’s Eighth Amendment rights to cause him to share in more suffering at FSP. He wants the pain and death to stop, for everyone involved.

APPELLANT’S MOTION FOR STAY OF EXECUTION

This Court can put a stop to the pain and suffering. King renews his request for a stay of these proceedings. Considering the maladministration concerns based on evidence provided by the FDOC, King’s meritorious claims regarding his right to be treated equally and fairly to other similarly situated condemned inmates demand a stay. Unlike in *Trotter*, King is not raising an Eighth Amendment argument regarding Issue I. His claim is based on Fourteenth Amendment equal protection concerns and following the Eleventh Circuit

⁶ Oishika Neogi, Florida Continues Its Execution Spree Despite Problematic Track Record, February 27, 2026. [Florida Continues Its Execution Spree Despite Problematic Track Record – Mother Jones](#)

precedent from *DeYoung v. Owens*, 646 F.3d 1319 (11th Cir. 2011) and *Arthur v. Thomas*, 674 F.3d 1257 (11th Cir. 2012) an evidentiary hearing is required.

Justice Sotomayor concluded her comment regarding the cert denial in *Trotter* as follows:

Going forward, I hope that Florida and its courts will recognize the paramount importance of ensuring that it conducts executions consistently with its approved protocol, and assuring all involved that it is preventing any infliction of needless suffering on those being executed in the State. By continuing to shroud its executions in secrecy, Florida undermines both the integrity of its own execution process and, potentially, this Court's ability to ensure the State's compliance with its constitutional obligations.

Trotter v. Florida, 607 U.S. ___, Case No. 25-6853 (25A926) (Feb. 24, 2026) (Sotomayor, J., respecting the denial of the application for stay of execution and denial of certiorari). Distinguished from *Trotter*, King has also raised and preserved the issue of the circuit court denying King's request for additional records pursuant to Rule 3.852. See Justice Sotomayor's footnote:

"In earlier proceedings in this case, Trotter also challenged the denial of his own public-records request before the Florida courts, arguing that he was entitled to records relating to the administration of executions that have recently taken place in Florida. He does not raise any claim

in this Court relating to the denial of his request for additional records.”

Id. King preserves this records issue for this Court’s review. A stay is necessary so that a thorough factual basis can be established regarding this issue of great importance.

CONCLUSION AND RELIEF SOUGHT

In light of the facts and legal arguments presented above, King contends his constitutional rights to due process and equal protection under the Fourteenth Amendment of the Constitution of the United States, and corresponding provisions of the Florida Constitution, have been violated. King respectfully requests that his death sentence be vacated.

CERTIFICATE OF COMPLIANCE

Counsel certifies that this Appeal is produced in Bookman Old Style 14-point font in compliance with the requirements of Florida Rules of Appellate Procedure 9.100.

Counsel further certifies that this entire Brief contains 2,586 words.

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY on this 4th day of March, 2026, the foregoing document has been electronically filed with the Clerk of the Circuit Court using the Florida Courts e-portal filing system which will send a notice of electronic filing to the following: the Honorable Thomas Krug, 2002 Ringling Boulevard, Sarasota, Florida 34237, through Judicial Assistant Jenn Peters, jpeters@jud12.flcourts.org, General Counsel Mary Ann Floyd, mfloyd@jud12.flcourts.org; State Attorney's Office, Twelfth Judicial Circuit, 1112 Manatee Avenue West, Bradenton, Florida 34205, State Attorney Ed Brodsky, ebrodsky@sao12.org, and Assistant State Attorney Suzanne O'Donnell, sodonnell@sao12.org; the Office of the Attorney General, 3507 East Frontage Road, Suite 200, Tampa, Florida 33607-7013, Scott Brown, scott.browne@myfloridalegal.com, Timothy A. Freeland, timothy.freeland@myfloridalegal.com, Paula Montlary, paula.montlary@myfloridalegal.com, Stephanie Tesoro, stephanie.tesoro@myfloridalegal.com, Elizabeth Bueter, elizabeth.bueter@myfloridalegal.com, Marilyn Muir, marilyn.muir@myfloridalegal.com, and capapp@myfloridalegal.com; Florida Department of Corrections, 501 South Calhoun Street,

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WE HEREBY FURTHER CERTIFY that a copy has also been furnished via U.S. mail, this 4th day of March, 2026, to Michael King, DOC #132245, at Florida State Prison, P.O. Box 800, Raiford, Florida 32083.

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