Filing # 245612351 E-Filed 04/09/2026 10:31:40 AM

IN THE SUPREME COURT OF FLORIDA
CASE NO: SC2026-0519

CHADWICK WILLACY,
Appellant,
v.
STATE OF FLORIDA,
Appellee.

ON APPEAL FROM THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT IN AND FOR BREVARD COUNTY, FLORIDA
Lower Tribunal No. 1990-CF-16062-A

REPLY TO STATE'S ANSWER BRIEF ON THE MERTIS

CAPITAL CASE - DEATH WARRANT SIGNED

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PRELIMINARY STATEMENT ABOUT THE RECORD

The postconviction record on appeal for the current death warrant litigation consists of one volume and is referenced to as "PCR" followed by the page number.

References to Appellant's Initial Brief filed on April 6, 2026, is cited as "IB/" followed by the page number(s).

References to the Appellee's Answer Brief on the Merits filed on April 8, 2026 is referred to as "AB/" followed by the page number(s).

INTRODUCTION

The Petitioner, Chadwick Willacy, relies on arguments presented in his Initial Brief, filed on April 6, 2026, and offers the following Reply to State's Answer Brief on the Merits filed on April 8, 2026. Any arguments not contained herein are not to be taken as waived and Willacy relies on the merits of his Initial Brief.

ARGUMENT

The State argues that Willacy's demands filed on March 6 and 18, 2026, were "legally insufficient on their face" therefore the trial "court did not abuse its discretion when it denied Willacy's public records demands and therefore the trial court was not required to

conduct in camera review." AB/14. As to claim three, the State argues that Willacy cannot demonstrate prejudice and the trial court properly denied his request for an of extension time. AB/14.

The arguments asserted by the State fail as matter of law.

I. THE FACTS IN THE RECORD, OR LACK THEREOF, SUPPORT A FINDING THAT THE TRIAL COURT ABUSED ITS DISCRETION WHEN IT SUSTAINED THE AGENCIES' OBJECTIONS AND DENIED WILLACY ACCESS TO PUBLIC RECORDS.

The State argues that Willacy has failed to establish that the trial court abused its discretion when it denied Willacy's public records demands. This Court has explained that:

> Discretion is abused only when judicial action is arbitrary, fanciful, or unreasonable, which is another way of saying that discretion is abused only where no reasonable person would take the view adopted by the trial court.

State v. Coney, 845 So. 2d 120, 137 (Fla. 2003) (*quoting*, *White v. State,* 817 So. 2d 799, 806 (Fla. 2002)). Willacy satisfied the burdens imposed by statute, rule, and judicially, to support that his public records demanded, specifically on March 6, 2026, were a focused investigation specific to the postconviction proceeding. Willacy supported his affirmations with argument that access to public records would be obtained by the general public *and* that recent logs

in *Walls* support the focused investigation and assertion for a colorable claim. The trial court heard argument from general counsel from the Florida Department of Corrections in which they failed to assert an applicable exemption to the disclosure of the records. The trial court's ruling, denying disclosure of the records and sustaining FDOC's objections, are unreasonable in such a way a reasonable person would not take the view adopted by the trial court.

Meriam-Webster's dictionary defines "unreasonable" as: "1, a: not governed by or acting according to reason; b: Not conformable to reason. 2, a: exceeding the bounds of reason, appropriateness, or moderation; b: lacking justification." The trial court did not sustain FDOC's objections based on *reason*.

First, FDOC's reliance on Florida Statute § 945.10, is misplaced. As discussed in Willacy's initial brief, § 945.10, does not preclude the discovery of the records sought. Therefore, Florida Statue § 945.10 cannot and does not provide "reason" to the trial court's denial. Next, looking at this Court's precedent regarding the disclosure of the lethal injection records, this Court has not relied

upon the plain meaning of Fla. Stat. § 945.10 to preclude the disclosure of the lethal injection records sought.

This Court's jurisprudence regarding capital postconviction defendant's public records demands rests solely on the judicially imposed burden that capital postconviction defendants must assert a "colorable claim." As argued in Willacy's initial brief and before the trial court, Willacy has satisfied his burden of asserting a colorable claim. The Eleventh Circuit has recently defined "colorable" as "*some possible* validity." *Navarrete Alvarez v. U.S. Attorney Gen.*, No. 23-11622, 2025 WL 1564184, at *1 (11th Cir. June 3, 2025) (emphasis added) (citing, *Ponce Flores v. U.S. Att'y Gen.*, 64 F. 1208, 1217 (11th Cir. 2023)). Willacy has at the *very least* shown that the records sought have "*some possible* validity." Therefore, the trial court's denial is not reasonable and thus amounts to an abuse of discretion.

As further evidence of the trial court's abuse of discretion, the trial court failed to resolve the dispute regarding the public records with an in-camera inspection. In *Walton v. Dugger*, this Court relinquished jurisdiction to the trial court to examine the defendant's public records request, instructing:

> When, as in the instant case, certain statutory exemptions are claimed by the party against whom the public records request has been filed or when doubt exists as to whether a particular document must be disclosed, the proper procedure is to furnish the document to the trial judge for an *in camera* inspection. *See Kokal.* At that time, the trial judge can properly determine if the document is, in fact, subject to a public records disclosure. Under the circumstances of this case, the trial judge should have granted an evidentiary hearing to consider whether the exemptions applied or whether the documents requested were public records subject to disclosure.

634 So. 2d 1059, 1061–62 (Fla. 1993); see also, *State v. Coney*, 845 So. 2d 120 (Fla. 2003). The trial court in the instant case before this Court did not properly determine if the documents were in fact subject to public records disclosure or subject to the exemptions asserted by the Agencies. Instead, the trial court relied on the unreasonable arguments made by the Agencies without ever reviewing the claims for itself. Additionally, Willacy would urge this Court to hold an in-camera inspection of the records or in the alternative relinquish jurisdiction for the trial court to conduct an in-camera inspection of the records. To date, this Court has not reviewed any of the public records argued by FDOC to be exempt and confidential from public disclosure.

It is the State and the Agencies who bear the burden of establishing that they are in fact exempt from their duty to disclose public records. There is no factual basis or evidence in the record to support a finding that the State and the Agencies have done just that, met *their* burdens to establish that Willacy is *not* entitled to the records sought. Without the judiciary conducting an in-camera inspection, whether it is the trial court or this very Court itself, and the only facts relied upon for the denial of the public records are the inapplicable objections made by the Agencies themselves, the Agencies' arguments are diminished to simply, "it is because I say it is," without any facts or evidence in the record to support their proclamations. FDOC continues to assert that Fla. Stat. § 945.10 applies to the *entirety* of the records kept in accordance with the lethal injection protocol. However, the *only* support for this is FDOC's own statement. The evidence which was before the trial court and this Court from the *Walls* records, is in direct contradiction with FDOC's assertion and argument. The *Walls* records present evidence that there *is* information held by FDOC which *does not* fall within the exemption and confidentiality of Fla. Stat. § 945.10. The records in *Walls* show that FDOC can successfully redact information which

would be exempt and confidential under the statute, such as lot numbers and manufacture's information. Therefore, the records in *Walls* contradict the State's argument that the entirety of the records are exempt and confidential. The Walls records refute the State's claims of complete confidentiality, which is unsupported by actual facts.

Reliance on the State and FDOC's *ipse dixit* reasoning defies principles of sound reasonableness and the essential requirements of the law. *See*, *State v. Wooten*, 260 So. 3d 1060, 1067 (Fla. 4th DCA 2018) (finding, the state's "*ipse dixit* reasoning … insufficient to support a finding that the trial court's ruling" *requiring* the disclosure of public records, "was an abuse of discretion, much less a departure from the essential requirements of law.").

II. WILLACY'S PUBLIC RECORD DEMANDS ARE FACIALLY SUFFICIENT UNDER RULE 3.852.

The State's Answer Brief asserts that Rule 3.852 "establishes a claim-driven framework" thus requiring that the records sought must be demonstrated to related to a "colorable claim." AB/18. Whether the State uses the term "claim-driven framework" or "colorable claim," the State continues to assert an additional burden not found

in rule or statute. Although the State does not define "claim-driven framework," the only interpretation that is consistent with the rule would be to conclude that "the additional public records are either relevant to the subject matter of the postconviction proceeding or are reasonably calculated to lead to the discovery of admissible evidence." If this is the definition of "claim-driven framework," Willacy did in fact satisfy his burden. Specifically looking at the March 6, 2026, demand, Willacy provided statements which support that the records sought were not a mere fishing expedition but rather a focused investigation regarding FDOC's competency to carry out lethal injection executions.

The State references this Court's decisions in *Damas v. State*, 423 So. 3d 811, 823 (Fla. 2025) and *Allen v. State*, 416 So. 3d 291, 307 (Fla. 2025), presumably because each touch on pre-warrant public records demands. AB/18. However, neither *Damas* nor *Allen*, are of legal consequence to Willacy's claim for relief presented to this Court. In *Damas,* the public records demanded are factually distinguishable from the FDOC records demanded by Willacy on March 6, 2026. Damas requested "all documents regardless of form

regarding the control and treatment of Defendant." *State of Florida v. Mesac Damas*, 09-CF-2298, Twentieth Judicial Circuit in and for Collier County, Florida, "Order on Defendant's Demands for Additional Public Records" p. 4. So, while the overall holding is consistent with this Court's precedent finding capital postconviction defendants are not entitled to additional public records, the factual basis for which that holding flows, is distinguishable from Willacy because unlike the facts in *Damas*, Willacy has presented and articulated that the public records sought are relevant to the post-conviction proceedings and/or would reasonably lead to admissible evidence and was a tailored focused request.

Like *Damas v. State*, the State's reference to *Allen v. State* also fails. The records sought were regarding mitigation that would be presented to a jury or trial court, not related to the postconviction proceeding. 416 So. 3d 291, 308 (Fla. 2025). Unlike *Allen v. State*, the records sought by Willacy are directly related to the postconviction proceeding and would lead to admissible evidence because the records sought are directly related to Willacy's execution and not pre-trial or trial matters.

Willacy's claims are factually sufficient. Therefore, Willacy having established the threshold requirement that his demands were legally sufficient, the State's argument concerning no need for an in-camera inspection fails.

III. THE STATE'S ARGUMENT THAT WILLACY'S MARCH 6TH PUBLIC RECORDS DEMAND "FALLS WELL SHORT" FROM THE REQUIREMENTS BECAUSE THE "DEMAND WAS NOT CONFINED TO ANY SPECIFIC EXECUTION, DID NOT IDENTIFY A PROTOCOL DEVIATION, AND DID NOT PROVIDE A DISCRETE FACTUAL PREDICATE" IS DISINGENUOUS AND INSINCERE. [AB/19]

First, as a matter of distinction, this argument by the State was not argued by FDOC as a basis for its objection. FDOC's argument rested on the assertion that the records were exempt and confidential in their entirety. Significantly, Willacy did in fact identify and relate his demand to a specific protocol deviation: whether the reliability and effectiveness of the drugs used and procedure compliance or incompliance subjects Willacy to cruel and unusual punishment. PC/55-62. Additionally, in recent cases *this year*, defendants have in fact identified protocol deviations and provided discrete factual predicates, and the Attorney General's Office, has aggressively argued that the identified deviations were "illusory," "conjecture,"

"speculative," and "intentional misreadings of the records in *Walls*." The State's arguments continue to move the goalpost further and further from what is *actually required by law*, which is that defendants are entitled to records which are either related to the postconviction proceedings **or** reasonably calculated to lead to admissible discovery. One could argue that FDOC's and the State's concerted effort to prevent transparency is an attempt to conceal incompetence.

The State argues that the "rule does not authorize discovery aimed at discovering whether possible claims exist, and a defendant must do more than speculate that records might reveal a defect." AB/20. As discussed on pages 24 through 31, the legislative and rule history support that Fla. Stat. § 27.0781 and Rule 3.852, were not intended to limit a capital postconviction defendant's constitutional and statutory rights to production of public records. The plain reading of the rule and the statute explicitly state "the additional public records are either relevant to the subject matter of the postconviction proceeding **or are reasonably calculated to lead to the discovery of admissible evidence**." The State fundamentally

misunderstands Rule 3.852 and Fla. Stat. § 27.0781. Plain meaning of Rule 3.852 and Fla. Stat. § 27.0781 unequivocally support that the rule in fact authorizes discovery aimed at discovering whether possible claims exist.

While Rule 3.852 has all the trappings to suggest that it imposes only reasonable, constitutionally permissible limitations on a postconviction defendant's access to public records, a peak behind the curtain of the actual application of the rule shows we have run far astray from what was legislated and this Court's intent. Willacy's claim for relief is yet another example where the State of Florida has argued for 26 years to prevent defendants, like Mr. Willacy, from reviewing FDOC's lethal injection protocol compliance, which could not be more relevant to the subject matter of Willacy's postconviction proceedings.

CONCLUSION AND RELIEF SOUGHT

Willacy has established that his Demands are reasonably calculated to lead to the discovery of admissible evidence, rebutting the presumption that FDOC does and will comply with its own protocols, and that his demands are neither overly broad nor unduly

burdensome upon the State that seeks to end his life. The requested records are necessary for Willacy to support a timely claim that the FDOC's failure to follow Florida's lethal injection protocols is unconstitutional. The Circuit Court should do an in-camera inspection and release records that are not exempt and/or confidential according to the statute, redacting any portions necessary to exclude information that would suggest identity of the executioners and the suppliers of the lethal injection drugs.

WHEREFORE, Willacy asks this Court for an Order directing the lower court to grant Defendant's Demands. [PCR 55-62, 150-177]

If this matter cannot be resolved before April 21, 2026, Willacy asks this Court to stay his execution until the requested records have been received, Willacy has a reasonable amount of time to review and file a successive postconviction motion and the circuit court and/or this Court have a reasonable amount of time to rule on the postconviction motion.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

Counsel certifies that this Initial Brief is produced in Bookman Old Style 14-point font in compliance with the requirements of Florida Rules of Appellate Procedure 9.100. The word count is 2,465.

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that on this 9th day of April, 2026, the foregoing brief has been electronically filed with the Clerk of the Circuit Court by using the Florida Courts e-portal filing system which will send a notice of electronic filing to the following: the **Florida Supreme Court**, warrant@flcourts.org, and canovak@flcourts.gov; the **Honorable Judge Kathryn Speicher**, Circuit Judge, 2825 Judge Fran Jamieson Way Viera, Florida 32940, Lisa.Baumhover@flcourts18.org; the **State Attorney's Office Eighteenth, Judicial Circuit,** 2725 Judge Fran Jamieson Way, Building D Viera, Florida 32940, wscheiner@sa18.org; ledmiston@sa18.org; eservice@sa18.org; the **Office of the Attorney General**, 3507 East Frontage Road, Suite 200, Tampa, Florida

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WE HEREBY FURTHER CERTIFY that a copy has also been furnished via U.S. mail, this 9th day of April 2026, to Chadwick Willacy, DOC #707742, at Florida State Prison, P.O. Box 800, Raiford, Florida 32083.

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