

No. SC2026-0528

In the Supreme Court of Florida
CAPITAL CASE UNDER DEATH WARRANT

JAMES AREN DUCKETT,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

ANSWER BRIEF OF APPELLEE

On Appeal from the Circuit Court of the Fifth Judicial
Circuit in and for Lake County, Florida
L.T. No. 1987-CF-001347

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April 8, 2026

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ORAL ARGUMENT OBJECTION

The State opposes Duckett's request for oral argument. 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."). The issues on appeal are straightforward and can be resolved on the briefs.

STATEMENT OF THE CASE AND FACTS

Eleven-year-old Teresa McAbee was last seen alive on May 11, 1987, when Mascotte police officer James Duckett put her into his patrol car. DAR 513, 555, 616, 639, 896; *See generally Duckett v. State*, 568 So. 2d 891, 892–94 (Fla. 1990); *Duckett v. State*, 918 So. 2d 224, 227–29 (Fla. 2005). Teresa's body was discovered early the next morning in a lake; she had been raped, strangled and drowned. DAR 733, 789, 897; *Duckett*, 568 So. 2d at 892. Her palm and fingerprints were found commingled with Duckett's on the hood of his patrol car and showed "she had been sitting backwards on the hood and had scooted up the car." *Duckett*, 918 So. 2d at 229; DAR

1180–81, 1190–91. Tire tracks leading to the lake matched the snow tires on Duckett’s patrol car. *Id.* at 229.

Duckett was convicted and sentenced in 1988. The conviction and sentence remained undisturbed through decades of state and federal postconviction litigation. Governor DeSantis signed Duckett’s death warrant on February 27, 2026.

Post-Warrant Rule 3.853 Proceedings

On March 5, 2026, Duckett, represented by Capital Collateral Regional Counsel–Southern Region (CCRC–S), filed a motion for DNA testing under Florida Rule of Criminal Procedure 3.853, and a motion to stay his execution. R¹ 629–42, 544–50. The motion sought Single Nucleotide Polymorphism (SNP) DNA testing of the biological material on slide Q6(3) and requested that the testing be performed by Othram Inc (Othram). The State did not object to DNA testing, provided that the Florida Department of Law Enforcement (FDLE) or its designee

¹ The record on appeal from Duckett’s appeal from the denial of his fourth successive 3.851 motion under warrant (SC2026-0449) will be cited ‘R’ followed by the page number. The record on appeal from Duckett’s appeal from the denial of discovery motions during 3.853 proceedings (SC2026-0528) will be cited ‘R2’ and the supplemental record will be cited SR2, followed by the page number.

perform the testing as required by statute and rule. R 779–82, 792–96; R 611–26.

At the hearing on the Rule 3.853 motion, the parties presented testimony and argument on the issue of which methods and procedures the court should specify in the order granting DNA testing. R 798–831. Meredith McCaskill, a Senior Crime Laboratory Analyst at FDLE and Dr. David Mittleman from Othram testified. R 802–20, 821–23. Citing Rule 3.853(c)(7), the court granted DNA testing and directed that FDLE determine the appropriate testing method and laboratory. R 746–53.

After FDLE obtained quantification results, further argument and testimony on testing methods was presented to the court. R 1105–41, 1150–76. Leigh Clark, FDLE’s deputy director of forensic services, testified that the quantification results confirmed the sample was highly degraded and Short Tandem Repeat (STR) DNA testing would likely yield no result and would consume the sample. R 1113, 1119. Ms. Clark recommended SNP testing, which would also consume the sample, and explained that FDLE does not perform this type of DNA testing. R 1113–21. Ms. Clark confirmed that DNA Labs International (DLI) could complete SNP testing at their lab in

Florida within 15 days. R 1136, 1092–96. The trial court ordered SNP testing and that FDLE should send the sample to DLI. R 1125, 1132, 1092–96.

On March 25, 2026, nearly three weeks after the lower court granted his motion for DNA testing, Duckett filed a postconviction discovery motion for DLI’s protocols for SNP testing, and the underlying data obtained from the testing. R2 1–13. The next day, this Court entered a stay of execution. R2 27–35. On March 27, 2026, DLI reported inconclusive results to FDLE, who then disseminated those results. R2 43. The same day, the State filed a motion to lift the stay because the DNA results did *not* exonerate Duckett.

On March 30, 2026, this Court found that the circuit court had concurrent jurisdiction over the rule 3.853 proceedings and any possible successive claims based on the DNA results. The circuit court set hearings on Duckett’s discovery motion. R2 56–59. Hours before the first hearing, Duckett filed three public records demands under Rule 3.852(i)–on FDLE, the Office of the Attorney General (AGO) and the Office of the State Attorney for the Fifth Judicial Circuit (SAO). R2 60–82, 83–104, 105–26.

During the first hearing, the State presented Dr. Rachel Oefelin from DLI and Ms. Clark. R2 196, 206. Dr. Oefelein confirmed that the sample was consumed during SNP testing and that there was “no testing remaining to be done.” R2 203. Dr. Oefelein testified that restrictions within forensics prohibit reporting that Duckett “cannot be excluded without providing statistical weight to that.” R2 203. She noted that the only thing possibly left would be statistical analysis on the comparison of Duckett’s Y-SNP profile to the Y-SNP profile developed from the sample. R2 203–04. Ms. Clark explained that the bioinformatics component “is simply a qualitative versus quantitative type of comparison” and that “where an individual cannot be excluded or matches the data, forensic practitioners are unable to provide qualitative information unless it can be accompanied by a concomitant statistical weight which tells us how rare or common that event might be.” R 206.

After the hearing, Duckett filed a motion to conduct statistical analysis on the DNA results. R2 127–141. The circuit court ordered that the next scheduled hearing was to determine whether Duckett is entitled to the underlying data obtained from the SNP testing. R2 157.

During that hearing, Duckett presented no testimony or affidavits to demonstrate that statistical analysis of the results could yield any exculpatory evidence. R2 127–41, 163, 180–216, 264–94. After the hearing, the circuit court denied Duckett’s discovery motions for protocols and underlying data, statistical analysis, and his Rule 3.852(i) demands. R2 162–66. In the order, the circuit court found that no further testing remains, nor can any be done. R2162–36. The court further found: “Moreover, no testimony or reasoning was presented as to how the information sought by Defense could lead to Defendant’s exoneration. Even if the test results could be brought into doubt, this would not generate new evidence on which Defendant’s actual innocence claim could rest.” R2162–36. Duckett did not file a fifth successive Rule 3.851 postconviction motion. This appeal followed.

SUMMARY OF THE ARGUMENT

I. The postconviction court acted within its discretion in denying Duckett’s postconviction discovery requests where Duckett failed to make the required showing. Further discovery was not warranted.

II. The postconviction court properly denied Duckett’s speculative and overbroad Rule 3.852(i) demands seeking privileged and exempt materials that were not related to a colorable postconviction claim.

STANDARD OF REVIEW

Trial court rulings on postconviction discovery requests are reviewed for an abuse of discretion. *See Johnston v. State*, 27 So. 3d 11, 24 (Fla. 2010) (reviewing denial of discovery requesting for an abuse of discretion following the trial court granting a 3.853 motion).

ARGUMENT

I. The postconviction court acted within its discretion in denying additional discovery requests, and no due process violation occurred.

There is no federal due process right to postconviction access to DNA evidence or testing. *Dist. Attorney’s Office for Third Judicial Dist. v. Osborne*, 557 U.S. 52, 67 (2009). In Florida, limited access to postconviction discovery of DNA testing is provided for under section 925.11, Florida Statutes, and Rule 3.853. Before a court may grant DNA testing, the rule and statute place the burden on the defendant to show: (1) that DNA evidence exists, (2) the results of DNA testing would be admissible at trial, and (3) a reasonable probability that the defendant would have been acquitted if the DNA evidence had been

admitted at trial. Fla. Stat. § 925.11(2)(a), (6)(f); Fla. R. Crim. P. 3.853(b), (c). Upon completion of court-ordered DNA testing, the results must be provided to the court and the parties. Fla. R. Crim. P. 3.853(c)(8).

In “some circumstances,” a state-created right to postconviction procedures can “beget a right to procedures essential to the realization of the parent right.” *Gutierrez v. Saenz*, 606 U.S. 305, 314 (2025) (quoting *Osborne*, 557 U.S. at 68, and citing *Skinner v. Switzer*, 562 U.S. 521 (2011)). But those circumstances are limited. Unlike this case, *Osborne*, *Skinner*, *Gutierrez* all involved the denial of DNA testing by state courts. And, relying on *Osborne*, this Court also found that denial of a Rule 3.853 motion for discovery of DNA evidence does not violate substantive or procedural due process. *Gosciminski v. State*, 262 So. 3d 47, 58–59 (Fla. 2018).

Duckett was not denied DNA testing, and the postconviction court’s denial of further discovery requests were supported by the record and within its discretion.

A. Duckett’s motion for postconviction DNA testing was granted.

Duckett’s motion for DNA testing was granted. Indeed, he was granted a specialized type of DNA testing—SNP testing. And the State

did not object to DNA testing. R 779–82, 792–96; R 611–26 (citing § 925.11, Fla. Stat. (2025)).

After granting Duckett’s Rule 3.853 motion, the court held multiple hearings and entered several orders aimed at facilitating prompt DNA testing under its Rule 3.853 compliant order. R 846, 981-83, 988–92, 981–83, 1092–96, 1105–41, 1144–48, 1150-76, 1197-1222, 2071; R2 155–59, 162–66, 180–216; SR2 264–94. After receiving quantification results the court heard argument and testimony on the issue of what testing method to employ. R 1105–41, 1150–76. Ms. Clark confirmed that DLI—the only capable accredited lab located in Florida—could complete SNP testing within 15 days. R 1136, 1092–96. Ms. Clark further explained that whole genome sequencing was ‘overkill’ and that the Kintelligence Kit was perfectly appropriate for SNP comparison purposes. R 1159-62. Duckett—who had an expert, Tiffany Roy, present at the hearing—provided the court with no evidence. R 1110-11, 1105–41.

B. Discovery in postconviction requires a showing of good cause and Duckett failed to meet his burden.

A judge’s authority to permit postconviction discovery “should be used only upon a showing of good cause.” *Muhammad v. State*,

132 So. 3d 176, 204-05 (Fla. 2013) (quoting *Rodriguez v. State*, 919 So. 2d 1252, 1279 (Fla. 2005)). And any postconviction discovery is limited to matters that are relevant and material. *Kelley v. State*, 974 So. 2d 1047, 1050 (Fla. 2007); *State v. Lewis*, 656 So. 2d 1248, 1249–50 (Fla. 1994).

Similarly, where a defendant requests additional analysis after receiving DNA results, the defendant bears the burden of establishing that the results of the additional analysis would probably produce an acquittal on retrial. *Cf. Johnston v. State*, 27 So. 3d 11, 23 (Fla. 2010) (finding no abuse of discretion in denial of additional testing, where defendant did not meet his burden of showing that additional testing would probably produce an acquittal on retrial and that only speculation supported the asserted need for additional testing).

Here, the discovery sought was not relevant to any viable claim of actual innocence. As this Court has explained, before a defendant is entitled to DNA testing, much less entitled to discovery related to that testing, he must demonstrate a reasonable probability that he would have been acquitted, if the DNA evidence had been introduced at trial. *Everett v. State*, 377 So. 3d 1123, 1128 (Fla. 2024) (citing § 925.11(2)(f)3., Fla. Stat.; Fla. R. Crim. P. 3.853(c)(5)(C)). Since the

SNP DNA results did not exonerate Duckett, there was no cause for any discovery. *Zeigler v. State*, No. SC16-1498, 2017 WL 1422666, at *2 (Fla. Apr. 21, 2017) (affirming denial of a motion for discovery seeking to depose a trial witness related to a Rule 3.853 motion for DNA testing because the defendant failed to demonstrate how the discovery he sought was relevant to whether there is a reasonable probability that DNA test results would exonerate him). Here, as in *Zeigler*, Duckett has failed to demonstrate how the discovery he sought was relevant to whether there is a reasonable probability that DNA test results would exonerate him. Duckett’s speculation that statistical analysis could lead to exculpatory evidence is insufficient to support his burden. *Everett*, 377 So. 3d at 1129 (“[S]peculative claims cannot form the basis of granting a motion for postconviction DNA testing.”).

There was no abuse of discretion in considering the belated nature of the DNA motion and the fact that the defendant waited until after his death warrant was signed to pursue testing that was available before the signing of his warrant. *Spaziano v. State*, 879 So. 2d 51, 54–55 (Fla. 5th DCA 2004) (discovery within postconviction DNA proceedings is not automatic and the court “shall consider the

issues presented, the elapsed time between the conviction and the post-conviction hearing, any burdens placed on the opposing party and witnesses, alternative means of securing the evidence, and any other relevant facts”). Duckett failed to establish good cause for his post-result discovery requests and to meet his burden. Thus, the postconviction court did not abuse its discretion by denying Duckett’s discovery requests.

C. Duckett failed to meet his burden to show good cause for discovery of statistical analysis.

Dr. Oefelein, the DLI analyst who performed the SNP DNA testing in this case, appeared at the March 31, 2026, hearing. Dr. Oefelein verified that the SNP DNA testing had consumed the entire sample as expected. R2 163, 203. Dr. Oefelein stated that there was “no testing remaining to be done.” R2 203. She explained, “we have restrictions in forensics where we are not allowed to simply say a person cannot be excluded without providing statistical weight to that.” R2 203. Ms. Clark confirmed that “forensic practitioners are unable to provide that qualitative information unless it can be accompanied by a concomitant statistical weight which tells us how

rare or common that event might be.” R2 206. As a result, the SNP DNA results were reported as “inconclusive.”

Dr. Oefelein also explained that under this policy, a lab will not report that a suspect’s DNA profile ‘cannot be excluded’—meaning the profile is included—without some corresponding statistical calculations. R2 203. To label the results as anything other than “inconclusive” requires statistical analysis. Dr. Oefelein clarified that while DLI does perform SNP to SNP comparison calculations, they do not perform Y-SNP to Y-SNP comparison calculations.

The lower court denied the motion for statistical analysis of the SNP DNA results, explaining that “no testimony or reasoning was presented as to how the information sought by Defense could lead to Defendant’s exoneration.” R2 163. “Even if the test results could be brought into doubt, this would not generate new evidence on which Defendant’s actual innocence claim could rest.” R2 163.

While the State must have statistical calculations for the DNA results at trial,² this postconviction DNA proceeding is not a trial.

² *Brim v. State*, 695 So. 2d 268, 271 (Fla. 1997) (explaining that the fact that a “match” is found in the DNA testing process may be meaningless without qualitative or quantitative estimates demonstrating the significance of that match); *Darling v. State*, 808

There is an immense difference between the trial and postconviction contexts regarding the role that statistical probabilities play in DNA results. At trial, the State has the burden of proving identity beyond a reasonable doubt. *In re Winship*, 397 U.S. 358 (1970). A DNA expert's testimony at a jury trial that there was a "match" to the defendant, without explaining the "match" using statistical probabilities, could mislead lead a juror into thinking the biological evidence was a definitive and excluded everyone but the defendant.

In the postconviction context, that logic does not apply. A postconviction judge, who, no doubt, over the years has repeatedly heard various DNA experts testify, knows that the word "match" can represent a wide range of probabilities. But here, no expert or attorney told the lower court judge that there was a "match" but instead explained that the results do not exclude Duckett and therefore, do not exonerate him.

After a defendant has been convicted at trial, the burden shifts from the State to the defendant in postconviction proceedings.

So. 2d 145, 158 (Fla. 2002) (holding a DNA lab analyst, who was not a statistician, may testify as to necessary statistical analysis of the DNA results provided the expert has knowledge of the methodology and database citing *Murray v. State*, 692 So. 2d 157, 164 (Fla. 1997)).

Osborne, 557 U.S. at 69 (noting a defendant found guilty at a fair trial, has only a limited interest in postconviction relief). The burden in postconviction proceedings is the defendant's burden because the conviction is presumed valid. *Wainwright v. State*, 411 So. 3d 392, 398 (Fla.) (observing that in postconviction proceedings the defendant bears the burden to establish a prima facie case based on a legally valid claim citing *Franqui v. State*, 59 So. 3d 82, 96 (Fla. 2011)), *cert. denied*, 145 S. Ct. 2789 (2025); *Cole v. State*, 392 So. 3d 1054, 1061 (Fla.) (same), *cert. denied*, 145 S. Ct. 109 (2024). But Duckett cannot meet his postconviction burden for raising a legally valid claim of newly discovered evidence based on the SNP DNA results. Regardless of the outcome of the statistical calculations, the results do not exonerate Duckett. The statistical calculations are not legally relevant to a postconviction claim of newly discovered evidence of innocence.

Neither the statute nor the rule provides for statistical analysis. *Cf. King v. State*, 808 So. 2d 1237, 1248 (Fla. 2002) (quoting with approval the lower court's observation that there "is no provision in the statute or the rule for re-testing" and affirming the denial of additional DNA testing). When the defendant requests additional

testing after receiving results, defendant still bears the burden of establishing that the results of the additional testing would probably produce an acquittal on retrial. *Swafford v. State*, 946 So. 2d 1060, 1061 (Fla. 2006) (affirming denial of post-testing motions for further testing and for evidentiary hearing).

Regardless of the exact figure, there is no new evidence of innocence based on these DNA results. There is only new evidence of his guilt. The statistical calculations would merely show the strength of new evidence of guilt. The SNP DNA results are “definitive” in the sense that matters legally to a claim of innocence as the results are not exculpatory. Duckett failed to carry his burden below and the court did not abuse its discretion in denying his request for statistical analysis.

D. The trial court did not abuse its discretion in denying postconviction discovery of DLI’s testing protocols.

As Duckett’s counsel acknowledged, DLI is an accredited laboratory as required by Rule. Fla. R. Crim. P. 3.853(c)(7). R2 4. At trial, deviations from standard protocols go to the weight of the evidence, *not* its admissibility. *Murray v. State*, 838 So. 2d 1073, 1079 (Fla. 2002). The laboratory accreditation requirement is designed to

address lab qualifications and protocols upfront. Any litigation regarding DLI's protocols would be futile at this stage because the sample was consumed. R2 203. It is futile to argue about protocols because retesting is not possible. The protocols are not relevant because the results are not exculpatory.

Because Duckett did not, and cannot, establish that the requested protocols are relevant to any postconviction claim, the court was well within its discretion in denying discovery of DLI's protocols.

E. No evidentiary hearing was necessary where Duckett failed to meet his burden, despite opportunities to present evidence.

Before an evidentiary hearing is required in a successive capital postconviction proceeding, the defendant bears the burden of establishing "a prima facie case based on a legally valid claim." *Walls v. State*, 423 So. 3d 865, 873 (Fla.), cert. denied, W (quoting *Franqui*, 59 So. 3d at 96, and affirming the summary denial of a successive postconviction motion), cert. denied, 223 L. Ed. 2d 437 (2025); *Wainwright*, 411 So. 3d at 398. Duckett cannot meet his burden based on the SNP DNA results. The results do *not* exonerate him, and he has not, and simply cannot, assert a prima facie claim of

innocence based on them. And no unauthorized discovery into tertiary matters would change that reality.

Duckett argues in his brief, as he argued below, that no expert was called by the State to say that the DNA results are inculpatory. R2 224. But it is not the State's burden to present any expert to explain that the DNA results include Duckett's DNA. Rather, it is Duckett's burden to consult and present an expert to explain how the DNA results could exonerate him.

After dissemination of the results of the SNP DNA testing, Duckett had two opportunities to present expert testimony at either hearing the postconviction court noticed and held. R2 56–59, 155–159, 180–216; SR2 264-94. But Duckett did not do so at either hearing even though the results Duckett received included a preliminary explanation by FDLE Director Clark and included parts of DLI's case file.

Defense expert Dr. Mittleman testified at the initial 3.853 motion hearing and defense expert Tiffany Roy had appeared at pre-result hearings. Yet Duckett presented no testimony from anyone at either post-result hearing. Duckett at least could have presented an affidavit supporting his position. But Duckett made no attempt to

meet his burden or support his position with anything other than argument. Although one could speculate as to why Duckett failed to support his position with expert testimony or an affidavit—the fact remains that he did not. Duckett failed to meet his burden.

After the quantification stage of testing was completed by FDLE and those results were disclosed to the defense, they did not object to SNP DNA testing. Although defense expert Roy was present at multiple hearings, Duckett presented no testimony from her nor an affidavit. Duckett was provided notice and opportunity to be heard and thus due process was satisfied. But Duckett failed to meet his burden so the court's denial of discovery was not an abuse of discretion.

F.Duckett's delay in seeking DNA testing is further evidence of guilt.

As the United States Supreme Court does, this Court should also consider the delay on the part of the defendant as further evidence of his guilt. A truly innocent man would have sought SNP DNA testing as soon as it was available rather than waiting over four years and until a warrant for his execution was signed before filing a Rule 3.853 motion for SNP DNA testing. *McQuiggin v. Perkins*, 569

U.S. 383, 399 (2013) (stating that an “unexplained delay” in presenting new evidence bears on the determination whether the petitioner has made the requisite showing for a gateway claim of actual innocence). Indeed, Duckett’s delay in seeking DNA testing is more evidence of his guilt. *South Dakota v. Neville*, 459 U.S. 553, 561 (1983) (observing that refusal to take a potentially incriminating test is like other circumstantial evidence of consciousness of guilt; citing Justice Traynor’s opinion in *People v. Ellis*, 65 Cal.2d 529, 55 Cal.Rptr. 385, 421 P.2d 393 (1966)).

Duckett waited until after a warrant was signed to seek DNA testing for a murder he committed over 38 years ago, where he knew about the slide at least since the relinquishment in 2003. His current counsel wrote a letter, dated January 14, 2004, stating that they would seek DNA testing as soon as the science of DNA advanced further. IPCR³ 1172. But Duckett did not seek DNA testing as soon as science was sufficiently advanced.

Duckett could have sought SNP DNA testing years ago. The ForenSeq® Kintelligence Kit that DLI used in this case has been

³ Initial postconviction appeal record on appeal.

available since 2021. *Evaluation of the ForenSeq® Kintelligence Kit and the FORensic Capture Enrichment Panel for Unidentified and Missing Persons Casework*, 139 Int. J. Legal Med. 2047-2062 (April 7, 2025) (comparing the *Kintelligence* Kit with another type of DNA testing kit and concluding, that while both were accurate, the *Kintelligence* kit was more sensitive).⁴

This Court should affirm the lower court’s denial of the discovery motions.

II. The postconviction court properly denied Duckett’s demands for additional public records because the demands were speculative, overly broad and sought privileged and exempt materials.

⁴ The State may rely on scientific articles published in law reviews, such as the International Journal of Legal Medicine, to establish basic facts, such as the date that a particular DNA testing method became available, under the reasoning of this Court’s caselaw. *Cf. Hadden v. State*, 690 So. 2d 573, 579 (Fla. 1997) (stating an appellate court should consider the issue of general acceptance at the time of appeal rather than at the time of trial citing *Hayes v. State*, 660 So. 2d 257 (Fla. 1995)); *Brim*, 695 So. 2d at 274 (explaining that an appellate court may consider any subsequent scientific material in its determination of general acceptance within the relevant scientific community); *State v. Sercey*, 825 So. 2d 959, 979 (Fla. 1st DCA 2002) (noting a court “may examine scientific and legal writings, and judicial opinions in making its determination” regarding reliability and admissibility of scientific testing).

On March 31, 2026, *eighteen days after* the order directing the sample be sent to DLI for SNP testing, Duckett demanded additional public records under to rule 3.852(i). The demands were served on FDLE, AGO, and the SAO. R2 60–73, 83–93, 105–15. The timing of Duckett’s second round of post-warrant public records demands is significant and illustrates Duckett’s execution delay strategy involving belated meritless filings. The postconviction court properly exercised its discretion and denied Duckett’s belated demands for additional public records.

Florida Rule of Criminal Procedure 3.852 permits limited public records requests, but this Court has explained that the rule “is not intended to be a procedure authorizing a fishing expedition for records unrelated to a colorable claim for postconviction relief.” *Cole*, 392 So. 3d at 1066 (*quoting Asay v. State*, 224 So. 3d 695, 700 (Fla. 2017)). The defendant bears the burden of demonstrating how the requested records relate to a colorable claim for postconviction relief. *Tanzi v. State*, 407 So. 3d 385, 391 (Fla. 2025). A colorable postconviction claim must be supported by specific factual allegations entitling the defendant to relief under established postconviction law, and not merely speculation. *See Freeman v. State*,

761 So. 2d 1055, 1061 (Fla. 2000). Courts generally view such post-warrant demands with extreme caution. *See, e.g., Sims v. State*, 753 So. 2d 66, 70 (Fla. 2000) (observing that Rule 3.852 was not intended to be used as “an eleventh-hour attempt to delay the execution rather than a focused inquiry into some legitimate area of inquiry”).

Duckett asserts that records from DLI and interagency communications since March 5, 2026, *might* support a claim of newly discovered evidence of innocence. The sweeping scope—seeking all communications between multiple agencies across multiple platforms—demonstrates the speculative nature of Duckett’s demand. And Rule 3.852(i)(2)(d) expressly prohibits “overly broad or unduly burdensome” requests.

Post-warrant communications between the AGO and SAO are not relevant to Duckett’s newly discovered evidence claim. And post-warrant records and communications between the AGO and SAO involve work product and interagency deliberations, which are statutorily exempt. *See* § 119.071(1)(d)1, Fla. Stat.; *Braddy v. State*, 219 So. 3d 803, 820 (Fla. 2017).

With regards to DLI’s records and protocols, Duckett asserts boiler plate claims of due process and equal protection violations

based on pure speculation that DLI did not do a good enough job while conducting SNP testing on the 38-year-old sample. Duckett is not entitled to review DLI's protocols and cherry-pick how their lab would have done testing differently. The records he demands are not relevant to any valid claim. Duckett fails to accept that SNP DNA testing was conducted by an accredited lab and the results are not exculpatory. The timing of Duckett's demands is also suspect. Duckett could have sought DLI's protocols after DLI was selected to complete the testing. R1 1166–75. Instead, he chose to focus on his core strategy of achieving a stay of execution. R1 1169, 1172–74.

Despite Duckett's attempt to spin the inconclusive result into evidence of innocence, the *test results* do not exonerate him of the rape and murder of Teresa. Duckett has not met his burden. He did not show that statistical analysis of the DNA data would provide any newly discovered evidence of innocence. So, his demands amount to nothing more than a fishing expedition.

It bears repeating that Dr. Oefelein testified that there are “restrictions in forensics where we are not allowed to simply say a *person cannot be excluded* without providing statistical *weight* to that.” R2 203. If a person cannot be excluded, they are included.

Instead of attempting to meet his burden with substance, Duckett focuses on mischaracterizing Ms. Clark's statements. And Duckett never provided an affidavit to support his speculation that the data could lead to exonerating evidence.

The trial court properly denied Duckett's demand because it was unrelated to any colorable postconviction claim, rested on speculation, sought broad categories of records, and was directed at privileged and exempt materials. This Court should affirm the trial court's denial.

CONCLUSION

Based on the authorities and arguments presented herein, the judgment below should be affirmed.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on April 8, 2026, I electronically filed the foregoing with the Clerk of Court by using the Florida Courts E-Portal Filing System which will send a notice of electronic filing to

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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).

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