

IN THE SUPREME COURT OF FLORIDA

CASE NO. SC2025-0371

EXECUTION SCHEDULED FOR APRIL 8, 2025 AT 6:00 PM

MICHAEL TANZI,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

**ON APPEAL FROM THE CIRCUIT COURT
OF THE SIXTEENTH JUDICIAL CIRCUIT,
MONROE COUNTY, FLORIDA**

LOWER CASE NO. 2000-CF-573-K

REPLY BRIEF OF APPELLANT

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ARGUMENT IN REPLY

REPLY TO ARGUMENT I

MR. TANZI WAS DENIED FULL AND FAIR POSTCONVICTION PROCEEDINGS IN VIOLATION OF HIS CONSTITUTIONAL RIGHT TO DUE PROCESS UNDER THE FIFTH AND FOURTEENTH AMENDMENTS TO THE UNITED STATES CONSTITUTION AND CORRESPONDING PROVISIONS OF THE FLORIDA CONSTITUTION.

“[D]ue process,’ unlike some legal rules, is not a technical conception with a fixed content unrelated to time, place and circumstances.” *Cafeteria & Restaurant Workers Union v. McElroy*, 367 U.S. 886, 895 (1961) (quoting *Joint Anti-Fascist Refugee Committee v. McGrath*, 341 U.S. 123, 168 (1951) (Frankfurter, J., concurring) (first alteration in original). Rather, it is “flexible and calls for such procedural protections as the particular situation demands.” *Morrissey v. Brewer*, 408 U.S. 471, 481 (1972). Whether, and to what extent, procedural protections are due depends on “the extent to which an individual will be ‘condemned to suffer grievous loss.’” *Goldberg v. Kelly*, 397 U.S. 254, 263 (1970) (quoting *Joint Anti-Fascist Refugee Committee*, 341 U.S. at 168 (Frankfurter, J., concurring)).

Despite acknowledging that these proceedings must be guided

by fundamental notions of due process, the State scoffs at the notion that Mr. Tanzi is due any meaningful process in the death warrant stage of his litigation. *See* (AB at 15) (citing *Asay v. State*, 210 So. 3d 1, 27 (Fla. 2016));¹ *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976)). It asserts: “Neither the Constitution of the United States nor of the State of Florida provide Tanzi the right to protest a procedural inconvenience he has brought upon himself.” (AB at 15).

Due process for a condemned inmate is not an “inconvenience.” Rather, it is demonstrative of the “high social and moral values inherent in the procedural safeguard of a fair hearing.” *Joint Anti-Fascist Refugee Committee*, 341 U.S. at 167 (Frankfurter, J., concurring). Courts may not act “without those essential safeguards for fair judgment which in the course of centuries have come to be

¹ The due process violation alleged in *Asay* did not involve the same factors present in Mr. Tanzi’s case: truncated scheduling emanating from this Court’s initial Scheduling Order resulting in unnecessarily hurried and harried proceedings. Rather, *Asay* concerned the fact no registry counsel had been appointed in Mr. Asay’s case “and had not been for over a decade.” *Asay*, 201 So. 3d at 27. This Court rejected Mr. Asay’s due process challenge, concluding that “[a]t no point was Asay not represented by counsel” and he had “notice of each postconviction proceeding and the opportunity to have counsel argue his claims before the court.” *Id.* at 28.

associated with due process.” *Id.* at 168 (Frankfurter, J., concurring).

The State’s arguments are based on a fantastical view of capital litigation that does not exist, certainly not in Florida. For example, to avoid confronting—or more apparently to belittle—the very real concerns Mr. Tanzi outlined in his brief regarding the public records litigation below, which the lower court compressed into an even shorter time period than allowed by Rule 3.852 itself, the State posits that Mr. Tanzi had more than 21 years to make public records requests. (AB at 16).² “But the State cannot dictate reality by fiat.” *Hardwick v. Singletary*, 803 F. 3d 541, 555 (11th Cir. 2015).

Rule 3.852, ***as promulgated by this Court***, expressly provides for post-warrant public records requests. See Fla. R. Crim. P. 3.852 (h)(3) (detailing public records that “collateral counsel may request” “[w]ithin 10 days of the signing of a defendant’s death warrant”).³

² The State opines that Mr. Tanzi had “ample time” to litigate his claims during his postconviction proceedings. (AB at 17). Whatever time he had to litigate his case before now is decidedly not the issue because everything changed when Governor DeSantis signed Mr. Tanzi’s death warrant on March 10, 2025.

³ Rule 3.852 (i) provides a mechanism for requesting “public records in addition to those provided under subdivisions (e), (f), (g),

Obviously, 21 years ago, there was no active warrant and Mr. Tanzi could hardly have made public records requests under a provision of Rule 3.852 that explicitly applies *only* in the *post-warrant period*.

In a similar vein, the State argues that Mr. Tanzi has been “death eligible” for decades and accuses Mr. Tanzi of “confession through projection” due to his own alleged “stalling” of some unidentified proceeding. (AB at 17). Mr. Tanzi had nothing to do with the lapse of time between his federal habeas litigation and the signing of his death warrant. Likewise, he had no say in how long the warrant period would be, when his execution would be scheduled or how truncated the filing dates would be in this Court’s Scheduling Order, which was released just hours after the warrant was signed.⁴

and (h). While it does set out the requirements for a request under that subdivision, it places no time constraints on doing so.

⁴ The lower court itself expressed concern about the shortness of the time period allowed by this Court’s Scheduling Order. See 3-PCR. 479, 481 (acknowledging that due to “tight schedule” set out in Scheduling Order “we’re a bit under the gun in terms of what we’re required to accomplish in that regard”), 491 (acknowledging, after scheduling public records hearing to commence within 2 hours of the deadline for agencies to file objections, “I know that’s a little tight. But that’s what we’re going to do”), 495 (“I mean, we’re all up against that hard deadline from the Supreme Court”); 498 (“well, the Court wants to enter its order following the *Huff* hearing pretty quickly . . . you know, I think, again, given the timeframe we’re all dealing with,

The State accuses Mr. Tanzi of misconstruing the “notice calculus” regarding his death eligibility in an additional attempt to place blame on Mr. Tanzi for some unidentified “stalling.” (AB at 19). This argument, too, is premised on an imaginary view of Florida’s process. For example, the State argues that Mr. Tanzi “knew” that the Governor “could complete the clemency process and sign a death warrant at any time” after October 15, 2015. (AB at 19). This is like saying that, because a district court of appeals litigant would “know” that the court “could” issue a decision at any time in her case, she must go ahead and file paperwork seeking this Court’s review of the yet-to-be decided case just in case the lower court decides to rule at some undetermined point in the future. This, of course, is a fatuous argument.

Despite its feigned ignorance, the State well knows that in Florida the clemency process must be completed before the Governor can sign a death warrant. The State also knows that litigants like Mr.

you will have a couple hours [to review the State’s response to the Rule 3.851 motion], and we’ll get into the hearing . . . but we need to all continue to work to meet this deadline, so the Court’s going to do that as well”).

Tanzi would have no reason to challenge the clemency process until clemency is denied and that the Governor's practice is to simultaneously sign death warrants and deny clemency. *See Barwick v. Governor of Fla.*, 66 F.4th 896, 902 (11th Cir. 2023) (finding "the record shows that the Board did not make a decision on Barwick's clemency candidacy until April 3, 2023, when the Governor issued the death warrant . . . [u]ntil that point, Barwick had no reason to challenge the State's executive clemency process") (emphasis added).

Mr. Tanzi was not notified of clemency counsel's appointment until May 2023. Nearly two more years elapsed before Governor DeSantis determined clemency was not appropriate and signed Mr. Tanzi's death warrant. Unlike the State, Mr. Tanzi had no way to know about the behind-the-scenes activities, secretive clemency process or extent of the investigation that was being undertaken into his case and his background. As betrayed by its immediate and coordinated multi-agency litigation, the only party here with any advance knowledge of this death warrant or the denial of clemency, seemingly, was the State.

The State's arguments about the due process concerns involved in the public records litigation and their impact on Mr. Tanzi's ability

to present his lethal injection challenge vary little from its arguments about the truncated schedule.⁵ To the extent that the State makes specific arguments about Mr. Tanzi's entitlement to particular documents from his Rule 3.852 requests, that will be addressed *infra* when Mr. Tanzi addresses his public records claim. Aside from more baseless accusations of some sort of unidentified delay attributable to "convoluted" public records requests made pursuant to the very rules approved by this Court in Rule 3.852, the State offers nothing

⁵The State contends that Mr. Tanzi's brief "mischaracterizes" the record about whether the trial court had refused to hear argument on a number of Mr. Tanzi's motions. (AB at 20 n.6). Mr. Tanzi's brief did no such thing. As the record bears out, when Mr. Tanzi's counsel indicated at the start of the case management hearing that she would be addressing a number of motions that had been filed in addition to the Rule 3.851 motion, the trial court stated:

But, Ms. Lacy, with all due respect, the only thing noticed and the only thing set is the successive motion. And the Defense doesn't get to determine what motions will be heard or in what order. The controlling scheduling order indicates what's to be heard at this hearing.

So let's proceed with the successive motion.

(3PCR-914). At the conclusion of the hearing, the trial court reiterated that "spending time arguing what is in the papers takes away from my time to devote to the consideration of the successive motion, which is one of the reasons I indicated on the front end of this hearing that I was not inclined to do that" (*Id.* at 931-32).

concrete to in response to Mr. Tanzi's arguments. (AB at 20 et seq.). Mr. Tanzi's Initial Brief adequately addresses the remainder of the State's specific arguments concerning the applicability and scope of Rules 3.852 (h)(3) and (i) and he will not repeat them in this reply.

Finally, the State argues that Mr. Tanzi's counsel was able to provide minimal representation (they found two experts!) even under the exigencies of the unreasonably truncated schedule. (AB at 26). Of course, that assessment is completely detached from any applicable standard. The efforts involved in litigating a case under warrant have no bearing on Mr. Tanzi's right to meaningful process. Even while the State seemingly lauds Mr. Tanzi's counsel, it repeatedly complains that Mr. Tanzi's motion contained nothing but claims that are "dilatatory," "meritless," "untimely," "tired," "specious," "convoluted," "flawed," "circular," (AB at 15, 16, 18, 19, 20, 27), and that he was unable to muster any showing of "good cause" for the timing of his public records requests or "what colorable claim" related to his public records requests. (AB at 23-24). These complaints simply highlight the extent to which the due process violations that occurred in this case adversely affected Mr. Tanzi's ability to adequately investigate and plead his claims.

The bottom line is that this Court’s scheduling order resulted in a violation of due process.

REPLY TO ARGUMENT II

THE LOWER COURT ABUSED ITS DISCRETION IN DENYING MR. TANZI ACCESS TO PUBLIC RECORDS IN VIOLATION OF THE FIFTH, EIGHTH AND FOURTEENTH AMENDMENTS TO THE UNITED STATES CONSTITUTION AND THE CORRESPONDING PROVISIONS OF THE FLORIDA CONSTITUTION.

The State avers that the lower court did not abuse its discretion by rejecting Mr. Tanzi’s “untimely, overbroad, and irrelevant public records demands” and that Mr. Tanzi’s “conclusory grievances” on appeal fail to “demonstrate why any of the records he sought were related to a colorable claim.” (AB at 29). These arguments misconstrue the record and applicable law.

- a. The lower court abused its discretion in denying Mr. Tanzi’s Rule 3.852(h)(3) demands to investigative agencies in his case.**

As Mr. Tanzi stressed in his Initial Brief, “access to public records is an essential ingredient in any meaningful postconviction review”—including under warrant. *Sims v. State*, 753 So. 3d 66, 71 n.10 (Fla. 2000) (Anstead, J., concurring). This Court clearly

recognized this reality when it promulgated Florida of Criminal Procedure 3.852 and subsection (h)(3), which explicitly provides for the production of public records when a capital defendant faces imminent execution. See Fla. R. Crim. P. 3.852(h)(3) (permitting collateral counsel to “request in writing the production of public records from a person or agency from which [he] previously requested public records” and, in turn, requiring the production of “any public record: (A) that was not previously the subject of an objection; (B) that was received or produced since the previous request; or (C) that was, for any reason, not produced previously”).

Nonetheless, the State contends that Mr. Tanzi has made “no effort” to show how his Rule 3.852(h)(3) demands to the Miami-Dade Sheriff’s Office (Miami-Dade SO), the Office of the State Attorney, 16th Judicial Circuit (SAO-16), the District 16 Medical Examiner’s Office (MEO-16), and the Florida Department of Law Enforcement (FDLE) are related to “any colorable postconviction claim.” (AB at 29-30). In doing so, the State boldly points to the number of years (“a quarter of a century”) since the crime to suggest that it would be impossible for Mr. Tanzi to do so, “particularly when” he “confessed to the murder”; “led law enforcement to the body of the victim”; “pled

guilty to the charges”; and “has already exhausted his initial and successive postconviction remedies.” (AB at 30) (internal citations omitted). This argument feigns pure ignorance of the realities of capital postconviction litigation, and any adoption of the State’s position here would constitute a concession by this Court that public records production under warrant is just a *pro forma* exercise in futility.

Notwithstanding the State’s allegations, Mr. Tanzi asserts that his demands to each of these four agencies who investigated and prosecuted his case satisfy “the colorable claim” threshold in that the records he sought could support newly discovered evidence claims based on violations of, *inter alia*, *Brady v. Maryland*, 373 U.S. 83, 87 (1963) (holding that “the suppression of evidence by the prosecution of evidence favorable to an accused upon request violates due process where the evidence is material *either to guilt or to punishment*, irrespective of the good faith or bad faith of the prosecution” (emphasis added)), *Giglio v. United States*, 405 U.S. 150 (1972), and/or *Napue v. Illinois*, 360 U.S. 264 (1959). Mr. Tanzi cited to instances where claims of this nature resulted from the production of previously undisclosed records under warrant as examples of

“colorable claims” that could have resulted from his Rule 3.852(h)(3) demands in his Initial Brief. (IB at 45, 51). Having to identify “a colorable claim” with a certain degree of factual specificity prior to actually requesting public records under Rule 3.852(h)(3) presents an impossible Catch-22, particularly where the rule’s plain language contemplates the production of “any public record . . . that was, *for any reason*, not produced previously.” Fla. R. Crim. P. 3.852(h)(3)(C) (emphasis added).⁶ The State improperly clings to this Catch-22 as a means to dismiss Mr. Tanzi’s (h) demands as “the very definition of an improper, speculative, fishing expedition.” (AB. at 31).

The State’s additional assertion that the four agencies at issue “*did* conduct a search to locate whatever updated materials were in their possession” does nothing to assuage the lower court’s denial of access to records that were, for any reason, not previously produced under Rule 3.852(h)(3)(C). (AB at 30) (emphasis in original). In fact,

⁶ This Catch-22 runs afoul of the prohibition against games of “hide and seek” and “scavenger hunts” by the prosecution. *See Banks v. Dretke*, 540 U.S. 668, 696 (2004) (“A rule thus declaring ‘prosecutor may hide, defendant must seek,’ is not tenable in a system constitutionally bound to accord defendants due process.”); *id.* at 695 (finding no support for “the notion that defendants must scavenge for hints of undisclosed *Brady* material when the prosecution represents that all such material has been disclosed”).

the State inaccurately posits that FDLE conducted such a search, as any representation to that effect is wholly absent from the record. (PCR-3. 398-405; 770-81). This contention is all the more troubling considering that FDLE blatantly failed to provide records to the postconviction records repository in compliance with the circuit court's 2008 order expressly overruling its objections to Mr. Tanzi's original Rule 3.852 demand—a fact that the State completely, and conveniently, omits from its Answer.

The State lastly accuses Mr. Tanzi of failing to “address the [lower] court's finding that his requests were overly broad and unduly burdensome” in “the quibbles . . . [he] now raises on appeal.” (AB at 31). In doing so, the State cites to three pages of the lower court's order denying Mr. Tanzi's demands for public records pursuant to Rule 3.852(h)(3). (AB at 31 citing (PCR-3. 552-54)). Contrary to the State's supposition, the order, which “memorialize[d] the Court's rulings,” is devoid of any reference to the phrase “unduly burdensome” or any findings to that effect. (PCR-3. 552-54). While the lower court did find that Mr. Tanzi's demand to the SAO-16 was “overly broad,” the fact remains that the lower erroneously deprived him of access to the files and records to which is explicitly entitled

pursuant to Rule 3.852(h)(3).⁷

b. The lower court abused its discretion in denying Mr. Tanzi's Rule 3.852(i) demands for records concerning Florida's lethal injection process.

The State asserts that Mr. Tanzi has “[p]rovide[d] no sound reason” for this Court “to depart from [its] precedent” establishing that lethal injection records requests are unrelated to a colorable claim for relief. (AB at 33). To this end, Mr. Tanzi reiterates that he has challenged the constitutionality of Florida’s lethal injection protocol as applied to him due to his morbidly obese body composition and severe physical impairments, *see* Argument III *infra*, and that his appeal is not an “attempt[] to forestall execution.” (AB at 33).

“[D]eath is a punishment different from all other sanctions in kind rather than degree,” *Woodson v. North Carolina*, 428 U.S. 280, 303-04 (1976), and the foreclosure of any discovery on materials relating to lethal injection preempts any kind of meaningful litigation

⁷ The only other instance where the lower court found Mr. Tanzi’s request for public records to be “overly broad” was in response to the Miami-Dade SO’s objection to producing records related to its retention, collection, and storage policies, which is laughable. (PCR-3. 553-54).

in violation of Mr. Tanzi's rights under the Eighth and Fourteenth Amendments.

REPLY TO ARGUMENT III

THE CIRCUIT COURT ERRED IN SUMMARILY DENYING MR. TANZI'S CLAIM THAT FLORIDA'S LETHAL INJECTION PROCEDURES RAISE A SUBSTANTIAL RISK THAT MR. TANZI WILL NEEDLESSLY SUFFER SEVERE PAIN, CONSTITUTING CRUEL AND UNUSUAL PUNISHMENT, IN VIOLATION OF THE EIGHTH AND FOURTEENTH AMENDMENTS TO THE UNITED STATES CONSTITUTION AND THE CORRESPONDING PROVISIONS OF THE FLORIDA CONSTITUTION.

a. Mr. Tanzi's As Applied Challenge Is Timely.

The State argues that Mr. Tanzi's as applied lethal injection claim is untimely because he has known for years that he suffers from health conditions and is overweight and "[t]here is no reason in law or fact for Tanzi to wait years to raise this claim now under an active death warrant." (AB at 36-37). This argument ignores several indisputable facts.

Mr. Tanzi had no way to know what protocol would be in effect when the Governor chose to sign his death warrant. Indeed, Mr. Tanzi had no way to know whether he would be executed by lethal injection

or some other means. For years, botched executions, lethal injection challenges, and the unavailability of lethal injection drugs have caused many, including those in the courts and the Legislature, to question lethal injection's continued viability. As recently as this week, the Legislature considered a bill that would amend sections 922.10 and 922.105, Florida Statutes, "to allow for an inmate who has received the death sentence to be executed by a method not deemed unconstitutional, if electrocution and lethal injection are deemed to be unconstitutional or if the acquisition of chemicals necessary for lethal injection becomes impossible or impractical." 2025 FL S.B. 1604 (NS).

The State claims that Mr. Tanzi must base this claim on facts that were "unknown to him or his attorneys and could not have been ascertained by the exercise of due diligence." (AB at 41). But no exercise of due diligence would have allowed Mr. Tanzi or his attorneys to divine which lethal injection protocol DOC would actually use to kill him or, for that matter, whether another method entirely might be used. Both depended on if and when the Governor chose to sign Mr. Tanzi's death warrant.

Even assuming that Mr. Tanzi could predict when the Governor

would order him killed or how DOC would kill him, he still would not know what health conditions he would have when the time came. Despite the State’s characterization of *Cole v. State*, 392 So. 3d 1054 (Fla. 2024), as “similar circumstances,” (AB at 37-38), Mr. Tanzi could not have known years ago that he would be suffering from the health problems he faces today. Like the circuit court, the State fails to distinguish degenerative and incurable diseases, like Mr. Cole’s Parkinson’s Disease, from variable and treatable conditions, like Mr. Tanzi’s obesity, sciatica, and cervical disorders. The State is correct that “obesity does not just happen overnight.” (AB at 39). What the State fails to recognize is that obesity is treatable with proper medical care, diet, and lifestyle changes. Mr. Tanzi’s weight has fluctuated throughout his life. Indeed, DOC records indicate that Mr. Tanzi’s weight has fluctuated by more than 20 pounds in just the last month. Unlike Mr. Cole, who knew he would always suffer from Parkinson’s Disease, Mr. Tanzi had no way to know that he would be suffering from his current conditions when the Governor chose to sign his death warrant.

The State’s reliance on *Dillbeck v. State*, 304 So. 3d 286 (Fla. 2020), is equally problematic. As the State rightly points out,

“Dillbeck and his counsel knew that Dillbeck had brain damage related to fetal alcohol exposure even before he was sentenced, and because the new diagnosis of ND-PAE was first recognized in 2013, it could have been discovered by the exercise of due diligence as early as 2013.” (AB at 38-39). Here again, the State fails to recognize that, unlike Mr. Dillbeck, whose condition existed before he was even born, Mr. Tanzi had no way to know what health conditions he might have if and when the Governor signed his death warrant. This is true not only because Mr. Tanzi’s health conditions vary with time, but also because he had no way to know when the Governor would choose to kill him.

The State’s assertion that Mr. Tanzi was on notice that he was “eligible” for a death warrant in 2015 when the Attorney General filed its “notice of finality,” (AB at 7), is simply false. Governors cannot sign death warrants until the clemency process is concluded. *See* § 922.052(b), Fla. Stat. Ann. (“Within 30 days after receiving the letter of certification from the clerk of the Florida Supreme Court, the Governor shall issue a warrant for execution *if the executive clemency process has concluded*, directing the warden to execute the sentence within 180 days, at a time designated in the warrant.”) (emphasis

added). Because the Governor denies clemency by signing the warrant, and the defendant is not eligible for a warrant until the clemency process is concluded, the first indication that one is eligible for a death warrant is the issuance of the death warrant.

Moreover, the Attorney General has given notice of finality in scores of cases, many of which have been final much longer than Mr. Tanzi's. There is no way for any death sentenced prisoner to know when their warrant will issue. Simply put, there is no notice of what execution protocol, or even execution method, one must challenge until a death warrant issues.

b. Executing Mr. Tanzi Using The Existing Lethal Injection Protocol Creates A Substantial And Imminent Risk Of Serious Illness And Needless Suffering.

The State points out that the Eighth Amendment does not require “the avoidance of all risk of pain” in any method of execution. (AB at 16) (citing *Bucklew v. Precythe*, 587 U.S. 119, 134 (2019)). In arguing that Mr. Tanzi is not entitled to a painless death, the State, like the lower court, overlooks that the pain Mr. Tanzi will suffer is not merely the pain associated with the use of the existing lethal injection protocol. Rather, the State seeks to subject Mr. Tanzi—*who*

is already in severe pain and has been for years—to a protocol that will no doubt cause him additional and extreme suffering. In addition to the pain inherent in the injection, Mr. Tanzi will suffer superadded pain due to his obesity, sciatica, and cervical conditions when DOC straps him to a gurney and immobilizes him in a supine position for an indeterminate amount of time. What is more, this procedure will likely require an extended time for the placement of IV lines given Mr. Tanzi’s weight and vein access.

Mr. Tanzi’s sciatic pain is chronic, debilitating, unrelenting, and severe. It is also well documented. DOC medical records indicate that Mr. Tanzi has suffered from back pain since at least 2009, which has gone largely untreated. As recently as February 17, 2025, DOC records note that Mr. Tanzi is unable to walk upright due to his sciatica. Another record from March 12, 2025—two days after the signing of his death warrant—notes that Mr. Tanzi has an “antralgic gait,” an altered walking pattern caused by pain in one or more joints. There can be little doubt that strapping Mr. Tanzi to a gurney for an unknown length of time will be needlessly and extremely painful.

ARGUMENT IV

THE GOVERNOR'S AUTHORITY TO DETERMINE THE TIMING OF DEATH WARRANTS AND THE LENGTH OF WARRANT LITIGATION UNCONSTITUTIONALLY EMPOWERS HIM TO CONTROL THE AVAILABILITY AND RELIABILITY OF JUDICIAL RELIEF FROM HIS OWN UNCONSTITUTIONAL CONDUCT.

In reply to the State's Answer to Argument IV, Mr. Tanzi relies on the arguments set forth in his Initial Brief.

CONCLUSION AND RELIEF SOUGHT

Based upon the foregoing, the arguments presented in the Initial Brief, and the record, Mr. Tanzi respectfully urges this Court to reverse the lower court's order summarily denying relief, stay his execution, and remand to the circuit court for a full and fair opportunity to be heard at an evidentiary hearing, and grant such other relief as the Court deems just and proper.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE AND FONT

Counsel certifies that this Reply Brief is produced in Bookman Old Style 14-point font in compliance with the requirements of Florida Rules of Appellate Procedure 9.210. Counsel further certifies that this Reply Brief contains 4,418 words.

/s/ Paul Kalil
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing has been furnished by electronic service using the State of Florida E-Filing Portal, to the following this 28th day of March, 2025.

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