

In the Supreme Court of Florida

**ACTIVE WARRANT – EXECUTION SCHEDULED FOR  
MAY 1, 2025 AT 6:00PM EST**

JEFFREY G. HUTCHINSON,

Appellant,

CASE NO.: SC2025-0590

LT. NO.: 2025-CA-0163

v.

CAPITAL CASE

STATE OF FLORIDA,

Appellee,

\_\_\_\_\_ /

ANSWER BRIEF ON THE MERITS

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## **PRELIMINARY STATEMENT**

Appellant Jeffrey Hutchinson’s Initial Brief is referred to as “IB”; the April 24, 2025 status hearing transcript is referred to as “HT”, followed by the page number(s); the Record on Appeal supporting the Fla. R. Crim. P. 3.811 motion on Hutchinson’s competency to be executed is referred to as “ROA”, followed by page number(s); the April 25, 2025 evidentiary hearing transcript is referred to as “EH”, followed by page number(s).

## **STATEMENT REGARDING ORAL ARGUMENT**

This is an appeal from proceedings under an active death warrant, Florida Rules of Criminal Procedure 3.811 and 3.812, and the circuit court’s order finding Appellant Jeffrey Hutchinson competent to be executed. Oral argument is unnecessary for appellate disposition.

## **STATEMENT OF THE FACTS AND PROCEDURAL HISTORY**

### Facts of the Case

Little more than one week ago, this Court reviewed the facts and procedural history of this nearly 27-year odyssey stemming from Appellant’s horrific capital murders of three young children and their mother. See *Hutchinson v. State*, 2025 WL 1198037, \*1-\*2 (Fla. Apr. 25, 2025) (SC2025-0517); *Hutchinson v. State*, 882 So. 2d 943, 948-49 (Fla. 2004). Briefly, after Hutchinson murdered three children and their mother with “a 12-gauge pistol-grip shotgun” that belonged to him, he called 911, confessed that “I just shot my family,” and was found by law enforcement at his home in the garage with the cordless telephone nearby. *Hutchinson*, 882 So. 2d at 948-49. Gunshot residue was found on Hutchinson’s hands, as well as the murder weapon. *Id.* Body tissue from one of the children was also recovered from Hutchinson’s leg. *Id.*<sup>1</sup>

### Procedural History

After rejecting Hutchinson’s defense that two men barged into the house and committed the murders, the jury convicted him of four

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<sup>1</sup> Additional details of the crime from the direct appeal record (SC01-500) are found at ROA 25-29.

counts of first-degree murder with a firearm, as indicted. *Hutchinson*, 2025 WL 1198037 at \*2; *Hutchinson*, 882 So. 2d at 948. Hutchinson waived his right to a penalty phase jury, but presented mitigation to the trial judge, including Gulf War Syndrome. *Id.*

On February 6, 2001, the trial court imposed three death sentences for the murders of each of the three children. *Hutchinson*, 882 So. 2d at 949. The trial court also sentenced Hutchinson to life imprisonment for the murder of the children's mother. On direct appeal, Hutchinson raised ten issues and this Court affirmed the four first-degree murder convictions, one life sentence, and the three death sentences for the children. *Id.* at 961. Because Hutchinson did not file a petition for writ of certiorari in the United States Supreme Court from his direct appeal, his death sentences became final 90 days later.

#### State Postconviction Proceedings

This Court summarized Hutchinson's unsuccessful multi-decade state and federal postconviction proceedings, beginning with his October 20, 2005, initial Florida Rule of Criminal Procedure 3.851 motion to vacate judgement and sentence ("Rule 3.851") through his April 8, 2025, fourth successive postconviction motion:

We affirmed the denial of his initial motion for postconviction relief and likewise affirmed the denial of his successive motions, including one pending when the Governor signed the death warrant. *Hutchinson v. State*, 17 So. 3d 696 (Fla. 2009) (initial state postconviction proceeding); *Hutchinson v. State*, 243 So. 3d 880 (Fla. 2018) (successive state proceeding); *Hutchinson v. State*, 343 So. 3d 50 (Fla. 2022) (successive state proceeding); *Hutchinson v. State*, No. SC2025-0497, – So.3d –, 2025 WL 1155717 (Fla. Apr. 21, 2025) (successive state proceeding). Hutchinson fared no better in federal court. His first habeas petition was rejected on timeliness grounds. *Hutchinson v. Florida*, No. 5:09-cv-261-RS, 2010 WL 3833921 (N.D. Fla. Sept. 28, 2010), *aff'd*, 677 F.3d 1097 (11th Cir. 2012). [FN3] And his second petition was dismissed as an unauthorized second or successive petition. *Hutchinson v. Crews*, No. 3:13-cv-128-MW, 2013 WL 1765201 (N.D. Fla. Apr. 24, 2013).

*Hutchinson*, 2025 WL 1198037 at \*2.<sup>2</sup> (footnote omitted).

#### Competency to be Executed and Evidentiary Hearing

On April 14, 2025, Hutchinson’s Capital Collateral Regional Counsel (“CCRC”) lead postconviction counsel informed Governor Ron DeSantis via letter of a “reasonable basis to believe” he “was insane, that he lacks the mental capacity to understand the fact of his impending execution,” citing Fla. R. Crim. P. 3.811(b), *Ford v. Wainwright*, 477 U.S. 399 (1986), and *Panetti v. Quarterman*, 551

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<sup>2</sup> Additional details of the state and federal postconviction procedural history are found at ROA 30-46.

U.S. 930 (2007). ROA 543-45. Postconviction counsel had retained Dr. Bhushan Agharkar, M.D. and Barry Crown, Ph.D., who evaluated Hutchinson for competency to be executed on April 10 and 11, 2025.<sup>3</sup> Id. at 605-18, 620-25. Both Dr. Agharkar and Dr. Cown opined that Hutchinson was not competent to be executed and he did not understand the nature and effects of the death penalty. Id.

Governor DeSantis invoked Section 922.07, Florida Statutes, via Executive Order No. 25-83, imposed a temporary stay of execution, and appointed three psychiatrists for the Commission to Determine Mental Competency of Inmate (“the Commission”) to examine Hutchinson’s mental competency. ROA 553-55. The Commission was comprised of Wade C. Myers, M.D., Emily Lazarou, M.D., and Tonia Werner, M.D. Id. at 554.

The Commission examined Hutchinson in a 90-minute clinical evaluation at the Florida State Prison (“FSP”) on April 21, 2025, to determine whether he rationally understood the nature and effect of

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<sup>3</sup> Dr. Crown was retained by postconviction counsel at least six months ago and conducted neuropsychological testing of Hutchinson on September 12, 2024 over “concerns that he has behavioral problems, neurocognitive impairments, and brain damage.” ROA 627-31.

the death penalty and why it was imposed upon him and rendered its report on April 22, 2025. ROA 19-20. In addition to Hutchinson's clinical evaluation, the Commission reviewed numerous medical, mental health, court, correctional records between 1999 to the present; investigative materials related to the murders and Hutchinson's arrest; and interviewed three Florida Department of Corrections ("FDOC") personnel. *Id.* The records provided to the Commission were also provided to postconviction counsel. *Id.* at 808-09.

The Commission found in part, according to the records reviewed, Hutchinson "has been free of symptoms and signs of serious mental illness for almost two decades [and] has consistently been graded an S1 (no psychiatric diagnoses) throughout his incarceration in the Florida Department of Corrections." ROA 19. Regarding Hutchinson's "Gulf War Syndrome" diagnosis, the Commission noted he "was briefly prescribed a variety of medications associated with the management of this disorder. He acknowledged he voluntarily discontinued the medications [and] added he felt better once he stopped these medications." *Id.*

The Commission rendered its collective opinion that after an “in-depth” discussion with Hutchinson and with a reasonable medical certainty, he “rationally understands the nature and effects of the death penalty and why it has been imposed on him.” ROA 19. Moreover, Hutchinson “demonstrated a clear understanding of these elements.” Id. The Commission noted Hutchinson’s “persistent belief” that he had a strong alibi, was wrongly convicted, and that “three individuals who were ‘bank robbers’ and acquaintances of his committed the crimes [and] [t]heir motive was to carry out a home invasion based on the mistaken belief he had a large amount of money or valuables sashed at the house he shared with the victims”. Id. at 19-20. Hutchinson acknowledged that he made this claim since his arrest. Id. at 20.

Despite his innocence claim, the Commission determined that Hutchinson

is fully aware he has been convicted by a Jury of his peers of the murder of four individuals and was sentenced to the death penalty for three of those same murders. He was also fully aware that should the death sentence be carried out as scheduled on May 1, 2025, the result would be his death. He was aware this would be carried out by lethal injection. When asked if there was anything he had not told the evaluation team he felt was important . . . he

stated, “I don’t want to die.” Thus, fully acknowledging the ramifications of the death penalty.

ROA 20. The Commission summarized its opinion that, with a reasonable medical certainty, Hutchinson “(1) has no current mental illness, (2) has Antisocial and Narcissistic Personality Traits, and (3) fully understands the nature and effect of the death penalty and why it is to be imposed on him.” *Id.* The stay of execution was lifted on April 23, 2025. *Id.* at 17-18.

An evidentiary hearing was set for April 25, 2025, in the Eighth Judicial Circuit, Bradford County, Florida (04-2025-CA-000163) and assigned to Circuit Court Judge James Colaw. ROA 14. Hutchinson moved to stay the execution and to continue the evidentiary hearing, asserting that “rushed proceedings” violated state and federal due process requirements and did not provide for reliable, non-arbitrary capital punishment, primarily citing *Ford* and *Panetti*. *Id.* at 531-40, 570-74. Judge Colaw denied both motions. *Id.* at 790, 792.

The evidentiary hearing was held on April 25, 2025. EH 1-352. Hutchinson presented two expert witnesses and seven lay witnesses. Hutchinson’s lay witnesses were comprised of his current and former state and federal postconviction counsel and investigators, who

represented him in various capacities between 2004 and the present.<sup>4</sup> Id. at 7-64, 94-209, 337-43. Their collective testimony was unremarkable and consistently and uniformly testified on two fronts, that Hutchinson was 1) focused on the United States Government framing him for the murders to silence him about Gulf War Syndrome; and 2) either two or three masked men entered his house and killed his family. See ROA 961-65.

Notably, CCRC Attorney Dawn Macready's testimony seemed to contradict or at least call into question that of Dr. Agharkar regarding Hutchinson's behavior during the respective evaluations. Dr. Agharkar testified Hutchinson was "thought disorganized," it was

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<sup>4</sup> Hutchinson's lay witnesses: 1) Monica Jordan, a private investigator and mitigation specialist, who worked on the case in 2007. ROA 961, EH 7-17; 2) Daniel Ashton, Chief Investigator, Federal Public Defender's Office, who worked on the case 2005-2006. ROA 962, EH 24-54; 3) Nels Roderwald, investigator with the Federal Public Defender's Office, who worked on the case in 2017 and visited Hutchinson approximately "two dozen times." ROA 963, EH 57-64; 4) Jeff Hazen, former CCRC who represented Hutchinson 2004-2008. ROA 963-64, EH 94-103; 5) Terri Backus, former Federal Public Defender's Office – Capital Habeas Unit, who represented Hutchinson beginning 2021/2022. ROA 964, EH 105-27; 6) Stacy Biggart, former CCRC attorney, who was retained to work on the appeal of Hutchinson's Rule 3.851 motion in 2021. ROA 961-62, EH 17-24; and 7) Dawn Macready, CCRC attorney who attended the Commission's competency evaluation of Hutchinson. ROA 965-65, EH 337-43.

difficult to keep him on task. EH 183-84. However, Ms. Macready, who was present at the Commission team's evaluation, testified that Hutchinson was calm and "answered their questions." Id. at 338. Further, Dan Ashton, Chief Investigator for the Federal Public Defender's Office, testified that on one occasion in 2005-2006, he played "devil's advocate" with Hutchinson and asked, why the "masked men" or the government "would eliminate your family to silence you as opposed to . . . just silencing you." EH 32. Mr. Ashton's question "stunned him in a way where he hadn't necessarily thought about it from someone else's perspective" and went back to his conspiracy theory. Id. at 33.

Hutchinson also presented Dr. Crown, a board certified neuropsychologist; and psychiatrist Dr. Agharkar.

The State presented expert testimony of Dr. Werner, Chief Medical Officer at Meridian Behavioral Healthcare, who is board certified in general and forensic psychiatry and a part of Hutchinson's evaluation team appointed by Governor DeSantis; and Dr. Myers, Professor of Psychology at Brown University, a licensed medical doctor, and board certified in general, forensic, and child

adolescent psychiatry.<sup>5</sup> The State also presented three officers, including one sergeant, with the FDOC, working at the FSP and Union County Correctional Institution (“UCI”).

Judge Colaw issued a comprehensive Order on April 27, 2025, finding Jeffrey Hutchinson Competent to be Executed on April. ROA 958-77. While the circuit court’s particular factual and credibility findings and bases thereof are discussed in the arguments, it concluded:

- I. Jeffrey Hutchinson does not meet the criteria for incompetency at the time of execution.
- II. Jeffrey Hutchinson does not lack the mental capacity to understand the fact of the pending execution.
- III. Jeffrey Hutchinson does not lack the mental capacity to understand the reason for the pending execution.
- IV. Jeffrey Hutchinson understands that his execution is imminent and the reason why he is to be executed.

Id. at 975-76. Hutchinson now appeals this Order.

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<sup>5</sup> The State also filed *numerous* supporting records and documents generated throughout the past 20+ years including trial testimony of mental health professionals, competency reports, competency hearing transcripts, and the federal “actual innocence” litigation. See ROA 21-24, 49-516.

## **SUMMARY OF ARGUMENT**

**ISSUE I:** Hutchinson baselessly asserts the circuit court applied an incorrect legal standard to determine sanity to be executed. The circuit court’s order finding he did not satisfy his burden under Rule 3.811(e), to establish by clear and convincing evidence that he is insane, barring his execution in light of the Eighth Amendment’s prohibition against cruel and unusual punishment. *See Madison v. Alabama*, 586 U.S. 265, 275 (2019) (“the Eighth Amendment’s ban on cruel and unusual punishments precludes executing a prisoner who has ‘lost his sanity’ after sentencing,” quoting *Ford v. Wainwright*, 477 U.S. 399, 406 (1986)).

Moreover, this Court recently confirmed the appropriate legal standard to determine a prisoner’s sanity to be executed in *Owen v. State*, 363 So. 3d 1035 (Fla. 2023), to determine whether Hutchinson had a “‘rational understanding’ of the fact of his pending execution and the reason for it,” and is “aware that the State is executing him for the murders he committed and that he will physically die as a result of the execution.” *Owen*, 363 So. 3d at 1038.

The circuit court entered a detailed and meticulous order applying this standard and included factual and credibility findings

in the wake of the evidentiary hearing to reject Hutchinson's *Ford* claim, supported by competent, substantial evidence. Hutchinson inexcusably ignored this Court's *Owen* opinion, relied upon by the circuit court. Further, Hutchinson was afforded a full and fair evidentiary hearing and availed himself to the adversarial process, quashing any possible due process violation claim.

**ISSUE II:** The trial court did not abuse its discretion denying Hutchinson's motion to continue the April 25, 2025, evidentiary hearing on his competency to be executed. The timeline was not unreasonable so as to contravene state or federal due process. Hutchinson not only has been aware of this issue for decades, but he was also evaluated by his own experts on April 10 and 11, 2025, two weeks prior to the evidentiary hearing. Because Hutchinson was afforded a full and fair hearing, no reversible error occurred, and this Court should affirm.

**ISSUE III:** The trial court did not abuse its discretion denying Hutchinson's motion for discovery, as there is no unqualified general right to engage in postconviction discovery, it is limited and to be granted upon a showing of good cause, and his counsel either did or should have possessed the available relevant records.

## ARGUMENT

### **ISSUE I: The Circuit Court's Finding that Hutchinson Was Competent to be Executed Following an Evidentiary Hearing Was Supported by Competent, Substantial Evidence.**

Hutchinson asserts the circuit court's order finding he did not satisfy his burden under Rule 3.811(e) to establish by clear and convincing evidence that he is insane, barring his execution in light of the Eighth Amendment's prohibition against cruel and unusual punishment. *See Madison v. Alabama*, 586 U.S. 265, 275 (2019) (“ . . . the Eighth Amendment's ban on cruel and unusual punishments precludes executing a prisoner who has ‘lost his sanity’ after sentencing,” quoting *Ford v. Wainwright*, 477 U.S. 399, 406 (1986)).

The circuit court presided over Hutchinson's full and fair evidentiary hearing pursuant to Rule 3.812, to determine whether or not he was sane to be executed on May 1, 2025. After the circuit court heard from nine defense witnesses, including two mental health experts, and reviewed written materials and evidence presented, it found Hutchinson had not met his burden of establishing by clear and convincing evidence he was not sane to be executed. This decision was supported by competent, substantial evidence and should be affirmed.

### Applicable Legal Standards

The proper standard of review of a circuit court's determination that a prisoner is sane to be executed is whether it is supported by competent, substantial evidence. *Gore v. State*, 120 So. 3d 554, 556 (Fla. 2013), citing *Ferguson v. State*, 112 So. 3d 1154, 1156 (Fla. 2012). See also, *Provenzano v. State*, 760 So. 2d 137, 140 (Fla. 2000). As long as the trial court's findings are supported by competent substantial evidence, "this Court will not substitute its judgment for that of the trial court on questions of fact, likewise of the credibility of the witnesses as well as the weight to be given to the evidence by the trial court." *Cruz v. State*, 320 So. 3d 695, 712 (Fla. 2021) (quoting *Blanco v. State*, 702 So. 2d 1250, 1252 (Fla. 1997)).

As defined by Rule 3.811(b), "A person under sentence of death is insane for purposes of execution if the person lacks the mental capacity to understand the fact of the impending execution and the reason for it." See also *Provenzano v. State*, 751 So. 2d 37, 38 (Fla. 1999). Under Rule 3.812(e), Hutchinson had the burden to prove by clear and convincing evidence that he was insane to be executed. Only upon that finding would the circuit court enter an order continuing the stay of the death warrant.

This Court recently confirmed the standard by which a prisoner is deemed sane for execution in order to pass muster under the Eighth Amendment's ban on cruel and unusual punishment, a case remarkably similar to this one. In *Owen v. State*, 363 So.3d 1035 (Fla. 2023), quoting *Panetti v. Quarterman*, 551 U.S. 930 (2007) and *Madison v. Alabama*, 586 U.S. 265, 275 (2019), this Court stated,

. . . sanity for execution depends on whether a “prisoner's concept of reality” prevents him from grasping “the link between his crime and the punishment.” *Panetti* 551 U.S. at 958, 960, 127 S. Ct. 2842. “What matters is whether a person has the ‘rational understanding’ of why the State seeks to execute him, “not whether he has any particular memory or any particular mental illness.” *Madison*, 139 S. Ct. at 727.

*Owen*, 363 So.3d at 1038. *See also*, *Ferguson v. State*, 112 So. 3d 1154, 1156 (Fla. 2012). The circuit court employed this standard to find Hutchinson competent to be executed.

*Owen* addressed and rejected the same *Ford* claim that Hutchinson now raises. In fact, Owen's evidentiary hearing was held before the same Eighth Judicial Circuit Court Judge James Colaw, who and after hearing the evidence, determined that Owen was sane to be executed. The three psychiatrists appointed by the Governor examined Owen and concluded that he understood “the nature and

effects of the death penalty and why it has been imposed on him.” *Owen*, 363 So. 3d at 1037. An evidentiary hearing before Judge Colaw about “Owen’s sanity to be executed” took place over two days in June 2023. It was incumbent upon Judge Colaw to determine “whether [Owen lacked] the mental capacity to understand the fact of the pending execution and the reason for it.’ Fla. R. Crim. P. 3.812(b).” *Id.*

Two mental health experts and three of Owen’s former and present attorneys testified on his behalf. *Owen*, 363 So. 3d at 1037. In response, the State presented testimony of the three psychiatrists appointed by the Governor, who examined Owen and four FDOC officers who observed him. *Id.*

The circuit court in Owen’s case considered all of the evidence presented, determined Owen was sane to be executed and concluded he “failed to establish by clear and convincing evidence” that he was insane and therefore not eligible to be executed. *Id.* In fact, the court additionally found that Owen would not have met his burden even under a preponderance of the evidence standard. *Id.* at n.3. On appeal, this Court observed,

The circuit court found that Owen does not currently have any mental illness and is feigning delusions to avoid the death penalty. It also determined that “[t]here is no credible evidence that he does not understand what is taking place and why it is taking place.” Indeed, the circuit court concluded that Owen has a “rational understanding” of the fact of his execution and the reason for it. The circuit court explained that it found the State's mental health experts’ testimony on Owen's current mental condition and competency to be executed “both credible and compelling,” and “clearly and conclusively supported by the record.”

*Id.* at 1037-38. This Court upheld the circuit court’s findings and found that competent, substantial evidence supported Judge Colaw’s determination that Owen was sane to be executed. *Id.* at 1038, citing *Gore v. State*, 120 So. 3d 554, 557 (Fla. 2013).

### Merits

The circuit court found Hutchinson failed to satisfy his burden to prove by clear and convincing evidence that he was insane to be executed. As explained below, the circuit court’s determination that Hutchinson failed to do so was based on competent, substantial evidence gleaned from the evidentiary hearing and other materials and evidence. On appeal, Hutchinson fails to undermine the circuit court’s factual and credibility findings and merely disagrees with them and the ultimate conclusion.

As in *Owen* and as set forth in Judge Colaw's Order, he applied the appropriate legal standard in Hutchinson's case to determine whether Hutchinson proved, by clear and convincing evidence, that he was not sane to be executed, citing Rule 3.812(e). ROA 960. To do so, the circuit court was required to determine whether Hutchinson "lack[ed] the mental capacity to understand the fact of the impending execution and the reason for it." *Id.* Quoting *Owen*, 363 So. 3d at 1038 (quoting *Panetti*, 551 U.S. at 958), the circuit court recognized, "sanity for execution depends on whether a 'prisoner's grasp of reality 'prevents him from grasping 'the link between his crime and punishment.'" *Id.* Judge Colaw also observed, "[w]hat matters is whether a person has the 'rational understanding' of why the State seeks to execute him, 'not whether he has any particular memory or any particular mental illness.'" *Id.* at 960-61, quoting *Owen*, 363 So. 3d at 1038 (quoting *Madison*, 586 U.S. at 275). *See also Dixon v. Shinn*, 33 F.4th 150 (9th Cir. 2022) (holding the Arizona state court's rejection of a *Ford* claim was not an unreasonable application of *Panetti* or an unreasonable determination of the facts in light of the fact petitioner stated if he had a memory of the murder, "he would have a sense of relief on his way to his execution," which

demonstrated he understood the execution to be a punishment and that he “does not want to die and believes that there is nothing to be gained by his execution.”)

First and foremost, in its post-evidentiary hearing Order, the circuit court found,

Mr. Hutchinson has not met his burden of proving by clear and convincing evidence that he is presently insane or incompetent to be executed. This Court finds that even if the standard of proof were preponderance of the evidence, Mr. Hutchinson has also not met that lower burden.

ROA 974. The circuit court’s credibility findings regarding the mental health testimony and review of all of the evidence and documents are:

This Court finds the testimony and opinions of Dr. Werner, Dr. Myers and Dr. Lazarou both credible and compelling as it relates to Mr. Hutchinson's current mental condition or lack thereof.

This Court also finds the testimony and opinions of Dr. Werner, Dr. Myers and Dr. Lazarou to be credible as to the limited question of Mr. Hutchinson's competency to be executed. This Court finds their conclusion that the defendant is competent to be executed to be clearly and conclusively supported by the record. There is no credible evidence that Mr. Hutchinson does not understand what is taking place and why it is taking place. The testimony of the prison employees as it pertains to the absence of any positive symptoms in Mr. Hutchinson's behavior in the past, his post-warrant reaction and response and his subsequent daily life support the testimony and findings of Dr. Werner, Dr. Myers and Dr. Lazarou.

ROA 974-75.

Based on the Commission's individual and collective opinions and findings, the circuit court rendered the following important factual findings regarding Hutchinson's claims of mental illness:

. . . Jeffrey Hutchinson does not have any current mental illness. This Court finds that Mr. Hutchinson's purported delusion is demonstrably false. This Court finds that Mr. Hutchinson has Antisocial and Narcissistic Personality Traits. This Court finds that Mr. Hutchinson is presenting his story or a government conspiracy in order to avoid responsibility for the murders and, ultimately in this instance, the death penalty. Even if Mr. Hutchinson did currently suffer from Delusional Disorder; there is no evidence that that mental illness interferes in any way with his "rational understanding" of the fact of his pending execution and the reason for it. Mr. Hutchinson is aware that the State is executing him for the murders that were committed and that he will physically die as a result of the execution. There is no credible evidence that in his current mental state Mr. Hutchinson believes himself unable to die or that he is being executed for any reason other than the murders he was convicted of by a jury of his peers.

ROA at 974-75.

A number of the defense witnesses, including Dr. Crown, affirmatively stated that Hutchinson did in fact understand that he was to be executed, notwithstanding his story of conspiracy and masked robbers committing the murders. Dr. Crown testified that Hutchinson understood both, that he was to be executed and the

nature and effect of the death penalty. EH 157; ROA 966. He also stated that Hutchinson had a working knowledge of his own case and did not want to be found incompetent, because he believed he was innocent. Id. at 171; Id. at 967.

Ms. Macready tacitly supported the trial court's credibility findings regarding Drs. Werner and Myers and bolstered the Commission's finding that Hutchinson understood he was to be executed for his crimes. On direct examination, Ms. Macready remembered Hutchinson telling the Commission that he did not want to die stating,

I do remember him saying that, but it was in the context of they were asking him if he understood why -- or if he understood that he had been convicted of these crimes, and he responded that he was not a murderer; he was not a killer, and he didn't belong there on death row.

And then he said that he was going to have to pay the price for something that somebody else did. So it was in that context that I recall him saying that he didn't want to die.

EH 340.

Further, Hutchinson's claim that his "Delusional Disorder" and "delusions" of innocence, masked men, or government conspiracies, do not rise to a *Ford* claim. This is the sole basis Hutchinson offers, albeit presented and stated in multiple ways, to prove his insanity to

be executed by clear and convincing evidence. Hutchinson's refusal to accept responsibility for these heinous murders and his rather incredible and changing stories of who is responsible for them falls far short of establishing a serious mental illness that renders him incompetent to be executed. Notably absent from Hutchinson's history is any treatment for mental illness much less a prior hospitalization.<sup>6</sup> In short, Hutchinson's refusal to accept responsibility for these crimes is hardly unusual among the incarcerated population and does not render him incompetent.

However, the record below unequivocally sets forth competent, substantial evidence that any disorder does not affect his admitted knowledge of the upcoming execution and why it is happening. That Hutchinson himself does not believe he is mentally ill is of no consequence to the findings required and does not impact the standard to determine sanity to be executed. As Hutchinson told Dr. Werner, he simply did not want to die. EH 226.

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<sup>6</sup> Cf. *Panetti v. Quarterman*, 551 U.S. 930, 936 (2007) (where the defendant had a long history of hospitalizations for a psychotic disorder.)

**ISSUE II: The Circuit Court Did Not Abuse Its Discretion Denying Hutchinson’s Motions to Stay Execution or for Continuance, Who Was Afforded a Full and Fair Evidentiary Hearing.**

Hutchinson simultaneously moved to stay the execution and to continue the evidentiary hearing, asserting that “rushed proceedings” violated state and federal due process requirements and did not provide for reliable, non-arbitrary capital punishment, primarily citing *Ford* and *Panetti*. Id. at 531-40, 570-74. Judge Colaw denied both motions. Id. at 790, 792. He now asserts that the circuit court erred denying these motions. IB 59. This argument is utterly meritless as Hutchinson 1) was afforded a full and fair evidentiary hearing on his *Ford* claim to determine whether or not he was sane to be executed on May 1, 2025; 2) benefited from the adversarial process, and 3) reasonably bears responsibility for any complained-of inadequacy due to his own objective dilatory conduct and intent of bringing the *Ford* claim.

Applicable Legal Standards

This Court reviews the circuit court’s denial of Hutchinson’s motion by an abuse of discretion standard.

Florida Rule of Criminal Procedure 3.811(e) provides, “If the circuit judge, upon review of the motion and submissions, has reasonable grounds to believe that the prisoner is insane to be executed, the judge shall grant a stay of execution and may order further proceedings which may include a hearing pursuant to rule 3.812.”

### Merits

Hutchinson singularly based his April 24, 2025, motions to stay and for continuance on a 2025 diagnosis of “Delusional Disorder,” derived from delusions of conspiracy spanning decades. ROA 531-32. This disorder purportedly rendered Hutchinson insane to be executed in that it thwarted his “mental capacity to understand his impending execution and the reason for it.” *Id.* at 532. Hutchinson offered nothing more for the circuit court to find “reasonable grounds to believe that the prisoner is insane to be executed.” *See Fla. R. Crim. P. 3.811(e).*

Nonetheless, at the April 24, 2025, status conference, CCRC announced Hutchinson would move to stay the execution. HT 5. The State specifically requested to “skip the formalities” and immediately hold an evidentiary hearing on Hutchinson’s competence to be

executed, despite there being no reasonable grounds to find Hutchinson insane. *Id.* The circuit court agreed. *Id.* at 6.

Hutchinson's counsel informed the court that seven lay witnesses and two expert witnesses would be presented, indicating an indicia of advanced planning. HT 6. Hutchinson also received the benefit of adversarial testing as he was able to thoroughly cross-examine all of the State's witnesses, including two members of the Commission, Drs. Werner and Myers.

Finally, accepting the representations regarding his questioned sanity as authentic, Hutchinson himself bears certain responsibility for any delay and was dilatory in pursuing his *Ford* claim. As shown below, Hutchinson could have initialed the Rule 3.811 proceedings weeks earlier and cannot now complain about his own inaction.

Governor DeSantis signed Hutchinson's death warrant on March 31, 2025. However, the stated basis for Hutchinson's *Ford* claim spans more than two decades and he obviously intended that his competency to be executed would be challenged. Suffice it to say, he *could have* and *should have* invoked Fla. R. Crim. P. 3.811(b) and pursued an evidentiary hearing immediately upon notice of the warrant. That did not happen. Instead, Hutchinson delayed and was

not evaluated by his own experts Drs. Crown and Agharkar until April 10 and 11, 2025, whose reports were dated April 12, 2025. ROA 605-18 and 620-25. CCRC then sent the Section 922.07, Florida Statutes notice via letter to Governor DeSantis on April 14, 2025. ROA 543-45.

To add insult to injury, Drs. Crown and Agharkar's reports were not provided to the State until the afternoon of April 24, 2025, the day before the evidentiary hearing. That also meant that neither report was available to the Commission for their April 21, 2025 evaluation of Hutchinson in accordance with Executive Order No. 25-83. Because no abuse of discretion has been established, the court's order denying Hutchinson's motion to stay and for a continuance should be affirmed.

**ISSUE III: The Trial Court Did Not Err Denying Appellant's Discovery Request.**

Hutchinson requested "all documents relied upon" by the Commission. ROA 567-69. The State responded at some length and included attachments confirming what documents the Commission reviewed, as well as listing those records provided to counsel. *Id.* at 797-812.

On April 28, 2028, the circuit court denied the discovery motion as “there is no unqualified general right to engage in discovery in a postconviction proceeding,” citing *Johnston v. State*, 27 So. 3d 11, 24 (Fla. 2010).<sup>7</sup> The circuit court further noted, “[t]he materials reviewed and relied upon by the commission members were already part of the record in the underlying criminal case; public record; previously provided to the defense; or provided to the defense during the proceedings in this case. See n.6.

Under *Rodriguez v. State*, 919 So. 2d 1252, 1279 (Fla. 2005), a “motion seeking discovery must set forth good reason,” the “court may” only “grant limited discovery into matters which are relevant and material,” and “the court may set limits on the sources and scope of such records.” Moreover, “a trial judge’s inherent authority to permit postconviction discovery ‘should be used only upon a showing of good cause.’” *Id.* Hutchinson offers *nothing* for this Court to find that the circuit court abused its discretion and most certainly did not

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<sup>7</sup> Due to the compressed briefing schedule, the circuit court’s order denying the discovery motion is not part of the record on appeal, but may be found at Bradford County Clerk of the Circuit Court, 04-2025-CA-000163, Doc No. 66.

provide the circuit court with good cause. Denial of the discovery motion should be affirmed.

### **CONCLUSION**

Based on the foregoing, the State respectfully requests this Honorable Court affirm the trial court's April 27, 2025 order and find that he is sane to be executed.

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this \_\_\_\_ day of March 2025, 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 the following: Chelsea Shirley, Lisa Fusaro and Alicia Hampton, Assistant Capital Collateral Counsel Regional Counsel – Northern Region, 1004 DeSoto Park Drive, Tallahassee, Florida 32301; **chelsea.shirley@ccrc-north.org**, **lisa.fusaro@ccrc-north.org**; **alicia.hampton@ccrc-north.org** this 29th day of April, 2025.

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