Case No. SC2025-1179
Lower Court No. 1992-CF-1305

In the Supreme Court of Florida

CURTIS WINDOM,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

ON APPEAL FROM THE CIRCUIT COURT
OF THE NINTH JUDICIAL CIRCUIT
IN AND FOR ORANGE COUNTY, FLORIDA

DEATH WARRANT SIGNED
Execution Scheduled for August 28, 2025, at 6:00 p.m.

ANSWER BRIEF OF APPELLEE

JAMES UTHMEIER
ATTORNEY GENERAL

RICK A. BUCHWALTER
Senior Assistant Attorney General
Florida Bar No. 781975

TIMOTHY A. FREELAND
Special Counsel, Assistant
Attorney General
Florida Bar No. 539181
COUNSEL FOR APPELLEE

Office of the Attorney General
3507 E. Frontage Rd., Ste. 200
Tampa, FL 33607-7013
Telephone: (813) 287-7910
capapp@myfloridalegal.com

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Page(s)

Cases

STATEMENT REGARDING ORAL ARGUMENT

Oral argument is not necessary on the appeal from the denial of Windom's current successive motion to vacate. The claims raised in this successive motion were denied because they were untimely, procedurally barred, or meritless as a matter of established Florida law. Accordingly, oral argument will not materially aid the decisional process.

STATEMENT OF THE CASE AND FACTS

Jack Luckett testified that he spoke with Curtis Windom the morning of the shootings and learned that Johnnie Lee owed Windom $2,000. When Windom learned Lee had won money at the track, he said to Luckett, "My nigger, you're gonna read about me" and said he intended to kill Lee. That same day, Windom purchased a .38 caliber revolver and a box of fifty .38 caliber shells from Abner Yonce at a Walmart in Ocoee. *Windom v. State*, 656 So. 2d 432, 435 (Fla. 1995).

Within minutes of that purchase, Windom pulled up in his car next to where Lee was standing. Windom leaned across the passenger side of the vehicle and shot Lee twice in the back. After Lee fell to the ground, Windom got out of the car, stood over the victim, and shot him twice more at very close range. *Id.*

Windom then ran towards the apartment where Valerie Davis, his girlfriend and mother of one of his children, lived. He shot Davis once in the left chest within seconds of arriving in the apartment and with no provocation. *Id.*

Windom left the apartment and encountered Kenneth Williams on the street. Windom shot him in the chest. Although Williams was in the hospital for about 30 days and the wound was serious, he did not die. *Id.*

From there, Windom ended up behind Brown's Bar. There, Windom's brother and two other men tried to take the weapon from him. By that time, Davis' mother had learned about her daughter's shooting, so she left work in her car. As she was driving down the street, Windom saw her stop at a stop sign, went to the car, and shot her twice, killing her. *Id.*

The trial court found the following aggravating circumstances: (1) Windom was previously convicted of another capital offense or felony involving the use of threat or violence; and (2) the crime was cold, calculated, and premeditated. As mitigation, the court found the following statutory factors: (1) Windom had no significant history of prior criminal activity; (2) the capital felony was committed while

Windom was under the influence of extreme mental or emotional disturbance; and (3) Windom acted under extreme duress or under the substantial domination of another person. The court also considered the following non-statutory mitigators: (1) Windom assisted people in the community; (2) Windom was a good father (3) Windom saved his sister from drowning and (4) Windom saved another individual from being shot during a dispute over twenty dollars. *Windom v. State*, 656 So. 2d 432 (Fla. 1995); (ROA:359-62). The court sentenced Windom to death for each murder and imposed a consecutive 22-year sentence for the attempted murder of Kenneth Williams. (ROA:355-79).

This Court affirmed the convictions and sentences on direct appeal. *Windom v. State*, 656 So. 2d 432 (Fla. 1995), *cert. denied,* 516 U.S. 1012 (1995).

Windom then filed his initial postconviction motion pursuant to Rule 3.850, raising thirty-three (33) claims, followed by an Amended Motion to Vacate. The postconviction court entered an order granting an evidentiary hearing on multiple claims. Upon the conclusion of the evidentiary hearing and the filing of written closing arguments,

the court issued an order denying postconviction relief on November 1, 2001.

Windom appealed the denial of postconviction relief to this Court along with his state petition for writ of habeas corpus alleging ineffective assistance of appellate counsel. This Court affirmed the denial of postconviction relief and denied Windom's habeas corpus petition. *Windom v. State*, 886 So. 2d 915 (Fla. 2004).

Windom unsuccessfully sought federal habeas relief in the United States Middle District in 2007. *Windom v. Sec'y, Fla. Dep't Corr.*, No. 04-cv-01378, 2007 WL 9725062 (M.D. Fla. Nov. 2, 2007). Windom's motion to alter or amend was likewise denied.

Windom then applied in the United States District Court-Middle District for a Certificate of Appealability, which was granted as to two issues. Following oral argument, the Eleventh Circuit Court of Appeals affirmed the denial of Windom's federal petition for writ of habeas corpus. *Windom v. Sec'y, Dep't of Corr.*, 578 F.3d. 1227 (11th Cir. 2009), *cert. denied*, 559 U.S. 1051 (2010).

Windom filed a successive Rule 3.851 motion to vacate raising an Eighth Amendment challenge to Florida's lethal injection protocol,

which was summarily denied in 2008. Windom did not appeal this ruling.

In 2013, Windom filed a *pro se* successive Rule 3.851 motion to vacate based on *Martinez v. Ryan*, 566 U.S. 1 (2012). Because Windom was represented by counsel, the circuit court entered its order striking it as an unauthorized motion.

In 2014, Windom filed another *pro se* motion, this time seeking to discharge his appointed postconviction counsel and toll the time for raising his substantive claim based on alleged *Brady*[1] violations. The postconviction court denied Windom's motion. Windom, still represented by counsel, appealed *pro se* to the Florida Supreme Court but his notice of appeal was stricken as unauthorized. *Windom v. State*, 160 So. 3d 901 (Fla. 2015).

Windom then filed a new *pro se* motion once again alleging *Brady* violations in the circuit court, which was stricken because Windom was represented by counsel. He then filed a *pro se* notice of appeal, which the Florida Supreme Court struck as unauthorized on February 2, 2015. *Windom v. State*, 160 So. 3d 901 (table) (Fla. 2015).

[1] *Brady v. Maryland*, 373 U.S. 83 (1963)

In 2014, Windom's appointed counsel filed a "Successor Motion for New Trial" [sic] which the circuit court denied. This Court affirmed in an unpublished decision. *Windom v. State*, No. SC16-1371, 2017 WL 3205278 (Fla. July 28, 2017).

Windom next filed a successive motion based on *Hurst v. State*, 147 So. 3d 435 (Fla. 2014), the summary denial of which was affirmed on appeal. *Windom v. State*, 234 So. 3d 556 (Fla. 2018), *cert. denied*, 586 U.S. 860 (2018).

In 2018, Windom, *pro se*, filed a second successive postconviction motion and moved to dismiss court-appointed counsel. The circuit court struck the motion and denied the request to dismiss counsel. This Court struck as unauthorized Windom's *pro se* appeal of the lower court's ruling as unauthorized. *Windom v. State*, No. SC18-1923, 2018 WL 6326237 (Fla. Dec. 4, 2018).

In 2024, Windom requested the circuit court appoint "conflict free" counsel to pursue possible relief pursuant to *Martinez v. Ryan*, 566 U.S. 1 (2012). The circuit court denied the request.

Successive Federal Habeas Corpus Proceedings

Windom filed a *pro se* application in the Eleventh Circuit Court of Appeals to file a second or successive habeas corpus petition based

on *Brady v. Maryland*, 373 U.S. 83 (1963), *Giglio v. United States*, 405 U.S. 150 (1972), and *Martinez v. Ryan*, 566 U.S. 1 (2012). The application was denied. *In Re: Curtis L. Windom, Sr.*, No. 13-12004-P (11th Cir. June 3, 2013).

In 2014, Windom again sought permission from the Eleventh Circuit Court of Appeals to file a second or successive habeas corpus petition based on an alleged *Brady* violation. Windom's application was again denied. *In Re: Curtis L. Windom, Sr.*, No. 14-12411-P (11th Cir. June 26, 2014).

Windom filed an emergency application for leave to file a successive petition for habeas corpus in the Eleventh Circuit Court of Appeals, which was denied. *In Re: Curtis L. Windom, Sr.*, No.19-11357-P (11th Cir. May 1, 2019).

Warrant Litigation

On July 28, 2025, Governor Ron DeSantis signed Windom's death warrant. Execution is scheduled for August 28, 2025, at 6:00 p.m. An initial case management hearing was held on July 30, 2025, and the court entered its Order on Case Management Conference on that date.

The only public records request Windom made was one to the Florida Department of Corrections (FDOC), which provided the records on July 31, 2025, pursuant to court order. Windom filed his successive 3.851 motion for postconviction relief on August 3, 2025, raising two claims, and the State filed its response on August 4, 2025.

On August 5, 2025, the circuit court held a second case management conference for the purpose of determining the need for an evidentiary hearing on either of Windom's claims. At the hearing, the court orally pronounced that it did not need an evidentiary hearing to address Windom's claims and entered a written order that day denying Windom an evidentiary hearing and cancelling one tentatively set at the first hearing.

On August 8, 2025, the lower court entered its order denying Windom's successive motion for postconviction relief, and Windom filed his Notice of Appeal. On August 8, 2025, Windom filed his petition for habeas corpus. On August 11, 2025, Windom filed his initial brief, to which this responds.

SUMMARY OF THE ARGUMENT

CLAIM 1: Windom's claim is untimely, procedurally barred, and meritless. He relies on information he has known for years and

repackages a previously raised claim as a new one, encompassing arguments this Court has previously rejected.

CLAIM 2: Windom's claim that he was denied due process is meritless. He had 30 years to raise any argument that is appropriate, not 30 days. In addition, while victim impact statements are generally allowed, Florida law provides that any statement by a victim regarding what kind of sentence should be imposed is not permitted and would be inadmissible should Windom be granted resentencing. Windom's accusation of a *Brady* violation, due to testimony or evidence from his clemency hearing not being provided, is meritless. ~~C~~lemency proceedings are confidential. And even if the State were not bound by rules forbidding disclosure, the lower court correctly concluded that the State no longer has an obligation to disclose after the defendant is convicted and the case is final.

Summary Denial Standard

Successive postconviction motions are untimely if filed more than one year after a conviction becomes final, unless one of the following circumstances exists:

> (A) the facts on which the claim is predicated were unknown to the movant or the movant's attorney and could not have been ascertained by the exercise of due diligence, or

(B) the fundamental constitutional right asserted was not established within the period provided for in subdivision (d)(1) and has been held to apply retroactively, or

(C) postconviction counsel, through neglect, failed to file the motion.

Fla. R. Crim. P. 3.851(d)(2). Furthermore, claims that either were or could have been raised on direct appeal or in prior postconviction proceedings are not properly raised in a successive postconviction motion. *See Rogers v. State*, 409 So. 3d 1257, 1263 (Fla. 2025) ("[I]n an active [death] warrant case, a postconviction claim that could have been raised in a prior proceeding is procedurally barred."); *see also King v. State*, 597 So. 2d 780, 782 (Fla. 1992) (holding that defendant's postconviction claims were procedurally barred because they "could have been, should have been, or were raised on direct appeal").

In addition to the first claim being untimely and procedurally barred, both of Windom's claims are meritless. The burden is on the defendant to establish a prima facie case based upon a legally valid claim. *See Franqui v. State*, 59 So. 3d 82, 96 (Fla. 2011); *Nixon v. State*, 932 So. 2d 1009, 1018 (Fla. 2006). Mere conclusory allegations are not sufficient to meet this burden. *See Foster v. State*, 132 So. 3d

40, 62 (Fla. 2013). A facially sufficient rule 3.851 motion requires alleging specific legal and factual grounds that demonstrate a cognizable claim for relief. If a defendant's conclusory allegations are not supported by a properly pled factual basis, the claim is facially insufficient and should be summarily denied. *See Davis v. State*, 875 So. 2d 359, 368 (Fla. 2003).

It was proper for the postconviction court to summarily deny Windom's postconviction claims because they were untimely, procedurally barred, not cognizable, or meritless as a matter of law under controlling precedent. *See Mungin v. State*, 320 So. 3d 624, 626 (Fla. 2020); *see also Rodgers v. State*, 288 So. 3d 1038, 1039 (Fla. 2019) (affirming the summary denial of a successive postconviction claim as untimely); *Bogle v. State*, 288 So. 3d 1065, 1069 (Fla. 2019) (affirming the summary denial of a successive postconviction claim on non-retroactivity grounds); *Morris v. State*, 317 So. 3d 1054, 1071 (Fla. 2021) (stating a court may summarily deny a postconviction claim that is procedurally barred); *Mann v. State*, 112 So. 3d 1158, 1162 (Fla. 2013) (noting that because the claims were purely legal claims that were previously rejected by this Court, the circuit court's summary denial of relief was proper).

Summary denial was warranted in this case, and there was no error in the postconviction court granting it.

ARGUMENT

CLAIM ONE

THE CLAIM FOR "EVOLVING STANDARDS OF DECENCY" IS UNTIMELY, PROCEDURALLY BARRED, AND MERITLESS.

Windom argues that evolving standards of decency should be applied to his Sixth Amendment[2] right to counsel. He contends that his trial counsel lacked the competence to represent him because counsel only met the minimum requirements at the time of Windom's trial, to be licensed and in good standing, rather than the current standards required to represent a capital defendant. But the claim is time barred, procedurally barred, and meritless.

A. The claim is untimely.

Windom has the burden of showing his claims are timely. *See Mungin*, 320 So. 3d at 626 ("It is incumbent upon the defendant to establish the timeliness of a successive postconviction claim."). Windom's death sentence became final in 1995 when the United

[2] "In all criminal prosecutions, the accused shall enjoy the right . . . to have the assistance of counsel for his defense." Amend VI, U.S. Const.

States Supreme Court denied certiorari review following this Court's affirmance of his death sentences. *See Windom v. State*, 656 So. 2d 432 (Fla.), *cert. denied*, 516 U.S. 1012 (1995). The one-year window for filing a motion to vacate following his sentence becoming final is long gone. Although there are three exceptions in Rule 3.851(d)(2) to this time limit, Windom failed to meet any of them. His motion was clearly untimely, and summary denial was warranted.

Windom knew for years that his trial counsel did not meet the different standards for representation of a capital defendant established in 1995, 1999, and 2003. (IB at 10). And, as the postconviction court noted, the concept of evolving standards of decency has never been established as a right pursuant to the Sixth Amendment. (SPCR:1300-01). Thus, the court correctly found that Windom cannot rely on the statutory exception for newly established and retroactive constitutional rights.

Because Windom failed to meet any of the three exceptions to Fla. R. Crim. P. 3.851(d)(2), this claim was properly time barred.

B. The claim is procedurally barred.

This claim is also procedurally barred. The first claim Windom raised in his original postconviction motion for relief was a claim that

Florida's lack of standards for counsel in capital cases violated the Fifth, Sixth, Eighth, and Fourteenth amendments. *Windom v. State*, 886 So. 2d 915, 920 n.5 (Fla. 2004). And in Windom's initial postconviction appeal, the first issue addressed by this Court was the alleged ineffective assistance of his trial counsel. *Windom*, 886 So. 2d 915. This Court also addressed his alleged failure to investigate mental health experts and fact witnesses; trial counsel, Ed Leinster's, alleged substance abuse; and Windom's alleged denial of competent medical assistance. *Id.* at 921-28. Windom also raised a claim on appeal for alleged ineffective assistance in the penalty phase proceedings and for involuntarily waiving his right to present mitigation before the jury. *Id.* at 928-29. This Court rejected all these claims.

Because Windom's claim of ineffective assistance of trial counsel was rejected by this Court in his first postconviction appeal, this claim is procedurally barred. *See Carroll v. State*, 114 So. 3d 883, 886 (Fla. 2013) (claims that either were raised and rejected on direct appeal or could have been raised on direct appeal or in other postconviction motions are procedurally barred). Windom's claim is simply another version of the claims he previously raised alleging his

trial counsel was ineffective. The postconviction court correctly characterized it as "a repacking of claims" raised in his August 7, 2000, motion. (SPCR:1302). Windom is merely attempting to use "a different argument to relitigate the same issue." *See Owen v. State*, 364 So. 3d 1017, 1024 (Fla. 2023). Because Windom raised essentially the same claim on appeal, it is procedurally barred.

C. The claim is meritless.

Windom's claim was also meritless. The postconviction court rejected Windom's argument that Rule 3.112(f), Fla. R. of Crim. P., should be applied retroactively. The court concluded that this argument was contrary to the text of the rule, which this Court could have made retroactive, but did not. (SPCR:1304-05).

Additionally, this Court's opinion approving the rule expressly states:

> *These standards are not intended to establish any independent legal rights.* For example, the failure to appoint co-counsel, standing alone, has not been recognized as a ground for relief from a conviction or sentence. *See Ferrell v. State*, 653 So. 2d 367 (Fla.1995); *Lowe v. State*, 650 So. 2d 969 (Fla.1994); *Armstrong v. State*, 642 So. 2d 730 (Fla.1994). Rather, these cases stand for the proposition that *a showing of inadequacy of representation by counsel in the case is required. See Strickland v. Washington*, 466 U.S. 668 [] (1984). *These rulings Are not affected by the adoption of these standards.*

> Any claim of ineffective assistance of counsel is controlled by *Strickland*.

In re Amendment to Florida Rules of Criminal Procedure–Rule 3.112 Minimum Standards for Attorneys in Capital Cases, 820 So. 2d 185, 198 (Fla. 2002) (emphasis added). Even if the minimum qualification rules did apply at the time of trial (and they did not), Windom would not have been entitled to any relief. Windom's IAC claims were subjected to a full and fair evidentiary postconviction hearing and were found meritless under well-established *Strickland* standards. Moreover, if the Court were to adopt this interpretation of the law, then every capital case would be subjected to reversal anytime the standards are changed, and every pending death sentence entered into prior to the advent of the standards would also be subject to reversal.

Nor does Windom's claim of a *Brady* violation change this.[3] Contrary to Windom's claim, Luckett's testimony was not the only direct evidence of premeditation presented by the State in this case.

[3] Notably, this Court affirmed the denial of this *Brady* claim based upon Luckett in a prior post-conviction appeal. *Windom v. State*, No. SC16-1371, 2017 WL 3205278 (Fla. July 28, 2017). Windom is procedurally barred from relitigating the same claim here.

The murders of two of his victims, Lee and Lubin, were witnessed by multiple witnesses in broad daylight in which he pointed and shot a gun at them. Luckett's testimony was corroborated by the testimony of Pamela Fikes. Fikes, who had known Windom all her life, observed Windom pull up in his car and stating, "My mother-fucking money, nigger" and shoot victim Lee in the back twice. (TR2:311). Upon being shot twice, Lee fell and while Lee was lying on the ground, Windom shot him three more times. (TR2:314). Fikes' testimony, Windom's purchase of ammunition shortly before beginning his murder spree, the nature of the circumstances, as well as the nature of the wounds, provide ample evidence of premeditation in this case—even without Luckett's testimony.

In addition, Luckett provided his initial statement before he was arrested on trafficking charges, which did not happen until weeks before the trial. Therefore, the State had no leverage related to any trafficking charges on Luckett at the time he gave his first statement, which was consistent with the testimony he gave. The potential for impeachment of his testimony using the pending charges would have done little good if the State could counter it with a consistent statement provided when the State lacked this leverage.

It is also notable that Windom privately retained Ed Leinster. Although Windom alleges that Leinster was appointed, Leinster testified at Windom's postconviction hearing that he was retained to represent Windom in the trial. (PCT: V.16; 314). Because Windom retained Leinster, he will not be heard to complain about his failing to meet qualifications for capital cases. *See Williams v. State*, 932 So. 2d 1233, 1237 (Fla. 1st DCA 2006) (Defendant choosing counsel to represent him who did not meet minimum capital qualifications created no substantive right enforceable on appeal and holding that *Strickland* would govern such claims). Also, Windom's choice to hire Leinster was a decision which the State neither participated in nor encouraged. The postconviction court's summary denial of this claim was proper.

CLAIM TWO

WINDOM WAS NOT DENIED HIS RIGHT TO DUE PROCESS BECAUSE OF THE WARRANT SCHEDULE.

In his second claim, Windom bemoans that the present warrant, in his view, too soon schedules the date of his execution. He contends that the warrant's timeline (30 days between signing and execution date) violates his right to due process. Windom's claim is without merit.

Windom's first claim is that he was not afforded sufficient time in the lower court to present the evidence he hoped to advance. The Governor signed Windom's death warrant on July 29, 2025; this Court directed that any proceedings held in the lower court must be completed no later than August 8, 2025. In accordance with this Court's Order, the lower court, over Windom's objection, directed that any successive postconviction motion be filed no later than August 3. The State's response was filed August 4.

At the case management hearing held August 5, Windom asserted that he had newly discovered evidence in the form of statements indicating that some, if not all, of the victims' family members now opposed a death sentence for Windom. He therefore

requested additional time to present this evidence; the lower court denied that request.

Windom filed an Emergency Motion seeking Stay of Execution on August 7 in which he urged that under *Jones v. State*, 709 So. 2d 512 (Fla. 1998), this was newly discovered evidence that would probably result in a lesser sentence if presented at a new sentencing proceeding. The statements were in the nature of video recordings which had been prepared in support of Windom's bid for executive clemency. The lower court found that while the information was newly discovered, multiple reasons required denial of Windom's request for stay.

First, the lower court said that to the extent the recordings include the victims' opposition to a death sentence, their sentiments would be of only marginally mitigating value and would instead amount to nothing more than mere speculation that something other than death would be a probable outcome were Windom resentenced. Postconviction relief based on newly discovered evidence requires a stronger showing than mere speculation, the lower court properly concluded. *Jones v. State*, 845 So. 2d 55, 64 (Fla. 2003).

Second, the lower court said, while victim impact statements are generally allowed, Florida law provides that such statements are intended to provide the jury with a general idea of the impact Windom's actions had on the families of the three victims; any statement by a victim regarding what kind of sentence should be imposed is not permitted and would be inadmissible should Windom be granted resentencing. *Floyd v. State*, 569 So. 2d 1225, 1230 (Fla. 1990) (victim statement regarding what sentence the defendant should receive inadmissible and properly excluded). These conclusions by the lower court are based on established law and should be affirmed.

Windom next complained that the State failed in its obligation to disclose the statements in question and asserted that doing so was a violation of *Brady v. Maryland*, 73 U.S. 83 (1963). The lower court rejected this argument for two reasons. First, because clemency proceedings are deemed confidential under Florida law, the State was precluded from disclosing anything developed in the course thereof. *Chavez v. State*, 132 So. 3d 826, 830 (Fla. 2014); Section 14.28, Fla. Stat. (2025). Clemency investigative files are not subject to public records laws or judicial discovery, as they are created pursuant to

the executive's constitutional clemency powers. *Chavez,* 132 So. 3d at 831, *Parole Comm'n v. Lockett*, 620 So. 2d 153, 157-58 (Fla. 1993).

Second, even if the State were not bound by rules forbidding disclosure, the lower court correctly concluded that the State no longer has an obligation to disclose after the defendant is convicted and the case is final. *Dailey v. State*, 279 So. 3d 1208, 1217 (Fla. 2019). Accordingly, no *Brady* violation occurred here, and the lower court correctly rejected this claim.

Finally, with these factors in mind, we turn to the question of whether the lower court's scheduling order, entered in compliance with this Court's directives, resulted in a violation of Windom's right to due process. It is important to bear in mind that while the warrant was signed July 29 and Windom's execution scheduled to take place on August 28, this by no means has been the only opportunity for Windom to challenge his judgments and sentences. To the contrary, Windom has advanced numerous challenges during the thirty-plus years he has been on death row; those challenges included his arguments regarding the effectiveness of trial and appellate counsel in this Court and a full round of constitutional challenges during

habeas review in federal court as well. None of these challenges merited relief of any sort.

Additionally, Windom has challenged the propriety of his sentence on several other grounds; besides, none of the many other claims he has filed over the years has amounted to anything or had any real chance of success. Windom has enjoyed the benefit of the full panoply of rights afforded to him under the constitution and has not missed any opportunity to advance whatever claim he desired to press. The lower court's conclusion was correct — Windom has had all the process he is due. That he has now been given thirty days to prepare for his execution does not alter that fact or violate any remaining right he has to due process. *Zakrzewski v. State*, No. SC2025-1009, 2025 WL 2047404, at *1 (Fla. July 22, 2025), *Tanzi v. State*, 407 So. 3d 385, 393 (Fla. 2025). This Court should affirm.

CONCLUSION

WHEREFORE, this Court should affirm the lower court's summary denial of Windom's successive 3.851 motion.

Respectfully submitted,

JAMES UTHMEIER
ATTORNEY GENERAL OF FLORIDA

/s/ Rick A. Buchwalter
RICK A. BUCHWALTER
Senior Assistant Attorney General
Florida Bar No. 781975
capapp@myfloridalegal.com
rick.buchwalter@myfloridalegal.com

/s/ Timothy A. Freeland
TIMOTHY A. FREELAND
Special Counsel, Assistant Attorney General
Florida Bar No. 539181
timothy.freeland@myfloridalegal.com

Office of the Attorney General
3507 East Frontage Road, Suite 200
Tampa, Florida 33607-7013
Telephone: (813) 287-7910

COUNSEL FOR APPELLEE

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 12th day of August 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: Eric C. Pinkard, Chief CCRC-M, Ann Marie Mirialakis and Melody Jacquay-Acosta, Assistants CCRC-M, Office of Capital Collateral Regional Counsel-Middle, 12973 North Telecom Parkway, Temple Terrace, Florida 33637, **pinkard@ccmr.state.fl.us**, **mirialakis@ccmr.state.fl.us, jacquay@ccmr.state.fl.us, support@ccmr.state.fl.us**; and the Florida Supreme Court, 500 South Duval Street, Tallahassee, Florida 32399, **warrant@flcourts.org, canovak@flcourts.org**.

/s/ Rick Buchwalter
COUNSEL FOR APPELLEE

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 Fla. R. App. P. 9.045(b), and that the word count is 4,645 words in compliance with Fla. R. App. P. 9.210(a)(2)(D).

/s/ Rick A. Buchwalter