

IN THE SUPREME COURT OF FLORIDA

CASE NO. SC2025-1422

**EXECUTION SCHEDULED FOR
SEPTEMBER 30, 2025 AT 6:00 PM**

VICTOR TONY JONES,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

**ON APPEAL FROM THE CIRCUIT COURT
OF THE ELEVENTH JUDICIAL CIRCUIT,
MIAMI-DADE COUNTY, FLORIDA**

LOWER CASE NO. 1990-CF-50143

INITIAL BRIEF OF APPELLANT

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September 15, 2025

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REQUEST FOR ORAL ARGUMENT

Jones respectfully requests oral argument by counsel pursuant to Florida Rule of Appellate Procedure 9.320. The resolution of the issues involved in this action will determine whether Jones lives or dies. Jones has raised meritorious issues that warrant an opportunity to be heard before this Court. A full opportunity to argue the issues at oral argument is appropriate in this case because of the seriousness of the claims at issue and the penalty that the State seeks to impose on Jones.

CITATIONS TO THE RECORD

References to the record will note the relevant proceeding on appeal and page number: Direct Appeal: (R. ___); Postconviction Proceedings: (PCR. ___); *Atkins* Proceedings: (PCR-*Atkins*, ___) and (PCR-*Atkins*-T. ___); *Hall* Proceedings: (PCR-*Hall*, ___); Warrant Proceedings: (WR. ___) and (Supp WR. ___).

To the extent that records from the previous records on appeal were attached to the warrant postconviction motion, citation is made to the warrant record for the convenience of the Court. All other references and citations are self-explanatory or explained herein.

STATEMENT OF THE CASE AND FACTS

A. Introduction

The State seeks to execute Victor Tony Jones, an intellectually disabled (“ID”), indigent Black defendant, who was brutally abused as a teenager by agents of the State of Florida at the Okeechobee School for Boys (“Okeechobee”) and who suffered, through no fault of his own, neglect, abuse, exposure to criminality and drugs, including sexual violence, as a young child and continuing through adolescence. Trial counsel failed to properly investigate or present any abuse, and presented a false narrative that Jones had been rescued by his aunt Laura Long and provided a better life.

While it is without dispute that the murder of two people during a botched robbery is tragic and warrants punishment, Jones’s crime is unquestionably neither the most aggravated nor the least mitigated of murders, in spite of the Florida courts’ constant rejection of his mitigation. Instead, he falls within that category of criminal defendants—Black, poor, abused, ID, represented by counsel who failed to investigate his case—that the State of Florida, through repeated failings in its educational, social and judicial systems, tends to execute.

In the initial postconviction proceedings, collateral counsel presented testimony describing abuse at the hands of Long, and her son, and expert testimony about his low I.Q. and mental health deficits, but all of Jones's witnesses were neatly swept aside and deemed not credible. Throughout the history of Jones's case, the circuit court and this Court have astoundingly rejected *all mitigation presented*.

On January 6, 2025, for the first time in the history of Jones's case, the State of Florida admitted it abused Jones while he was confined as a child at Okeechobee, by acknowledging him as a victim of abuse and a member of the Dozier and Okeechobee School Victim Compensation Fund class.

Unlike in other warrant cases heard by this Court, where defendants who were not members of the recognized compensation class, raised claims of abuse at Dozier and argued that the passing of legislation recognizing the victims of abuse was newly discovered evidence, Jones's claim is different because *he is a member of the victim compensation class*.

To be eligible for victim compensation, Jones had to establish that he attended Okeechobee within the qualifying time frame *and*

that he was a victim of physical, mental, emotional or sexual abuse as defined in the application form created by the Office of the Attorney General. The State of Florida's January 6, 2025 letter to Jones finding him a victim of abuse at the hands of the State of Florida is new evidence, which was only discoverable this year. The letter is not an abstract report, law or data summary loosely connected to Jones, but is evidence directly related to Jones and material to his mitigation case and sentence of death.

The circuit court, in an unnecessarily truncated litigation process, summarily denied all of Jones's claims and public records requests. In so doing the circuit court failed to conduct the requisite analysis, misapprehended the law and made factual determinations on disputed facts without allowing Jones to present evidence. This Court should reverse for an evidentiary hearing and grant a stay so that Jones may have due process befitting the finality of this matter.

B. Guilt, Penalty Phase And Sentencing Proceedings

Jones was charged with two counts of murder and two counts of armed robbery for the deaths of Matilda and Jacob Nester on December 19, 1990. (WR- 94-96). Jones was found in the Nestors'

business and Ms. Nestor's purse was found on the couch in the office near where Jones was found, with the butt of a .22 caliber pistol protruding under his arm. *Jones v. State*, 652 So. 2d 346, 348 (Fla. 1995)). Jones had been shot in the head; the Nestors had been stabbed. Jones, who had been recently released from prison, had been hired by the Nestors to do work for their business. *Id.* Money, keys and "a small change purse" that would later be identified as belonging to Ms. Nestor, were found in Jones's pocket. *Id.* Jones purportedly told law enforcement at the scene that, "The old man shot me[,]” and told a nurse at the hospital that he killed the Nestors. *Id.* The jury found him guilty as charged. *Id.*

Following a penalty phase proceeding, where the advisory jury voted 10 to 2 for the murder of Matilda Nestor and 12 to 0 for Jacob Nestor, the trial court sentenced Jones to death for both murders. *Id.* The jury made no factual findings. The trial court found three aggravating circumstances: (1) under sentence of imprisonment; (2) prior violent felony; and (3) felony murder (robbery), which the court merged with the pecuniary gain aggravator, and sentenced Jones to death for both murders. *Id.* at 348-49. "Although Jones presented evidence that he had been abandoned at an early age by his

mother” and expert testimony to support the statutory mental mitigators, the trial court rejected all proposed mitigation. *Id.* at 349; (WR. 492).

C. Relevant Issues Raised On Appeal And Postconviction

On direct appeal, Jones raised, among other issues, that the trial court erroneously rejected the mitigation presented including the statutory mitigating factor of mental or emotional disturbance at the time of the crime, and that a new sentencing proceeding is required because the mental health experts who testified failed to bring the possibility that Jones suffered from fetal alcohol syndrome/fetal alcohol effect to the court’s attention and because the court refused to consider Jones’s abandonment by his mother as a mitigating circumstance. This court found no reversible error and affirmed Jones’s convictions and sentences. *Jones*, 652 So. 2d at 353.

Jones timely filed an initial Rule 3.850 motion, which he amended twice, ultimately raising twenty-two issues, including that trial counsel rendered ineffective assistance (“IAC”) in failing to adequately investigate and present mitigating circumstances in

Jones's childhood and early life. The postconviction court granted a hearing on this claim.

Jones presented the testimony of his sister, Pamela Mills, and his cousin, Carl Leon Miller. These witnesses described horrific abuse at the hands of their aunt, Laura Long, who had testified at trial that, as described by trial counsel, Jones's childhood was "idyllic." (PCR. 530).

Mills and Miller described cruel beatings where they were made to undress before being beaten, (PCR. 951), that Long called Jones slow and stupid and beat him for making bad grades, and that Long's son, who was approximately ten years older than Jones, Mills and Miller, also beat all three of them at Long's direction and also seemingly for his own pleasure, and raped Mills. (PCR. 951-52, 975-79). Jones witnessed at least one of these rapes and tried to intervene, but was beaten harshly for doing so. (PCR. 691). Mills gave birth at 14 as a result of these rapes, although she testified she thought she was ten years old. (PCR 952). That poor memory, of course, is symptomatic of childhood trauma is widely accepted within the scientific community.

The postconviction court denied relief on March 8, 2001, stating in full as to the lay witness testimony of childhood abuse:

The Court heard from the Defendant's sister, Pamela Mills and the Defendant's cousin, Carl Leon Miller. The Court considers their testimony not credible and finds that there is no reasonable probability that the Defendant would have received a life sentence based on their testimony.

(PCR. 386). The postconviction court did not explain the basis of its credibility determination; the above paragraph was its entire reasoning as to these witnesses.

The postconviction determined that trial counsel's mitigation investigation that consisted of speaking to only Laura Long, Vera Edwards (a friend of Long's and Jones's teacher), Beatrice Brown (Long's sister) and Greg Whitney (Jones's childhood friend), was a sufficient capital mitigation investigation, which it clearly is not by any intellectually honest standard.¹ The postconviction court also

¹ Prevailing norms, established by the ABA Guidelines for the Appointment and Performance of Counsel in Death Penalty Cases, ("Guidelines"), impose a duty on counsel to perform an extensive search into the client's background:

Because the sentencer in a capital case must consider in mitigation, "anything in the life of a defendant which might mitigate against the appropriateness of the death penalty for that

rejected the testimony of all of the defense mental health experts' concerning Jones's mental illness, low IQ, and childhood abuse, finding that "the experts cannot be considered reliable." (PCR. 388).

Jones timely appealed. This Court denied Jones's appeal, accepting the postconviction court's unexplained credibility determination as a basis to again reject all mitigation as the State urged this Court to do. This Court stated:

[T]he court found both her testimony and that of appellant's cousin [] not credible and [] contradicted by the evidence appellant's trial counsel was actually able to obtain at the time of trial. Thus, there is no credible evidence that additional investigation by appellant's trial counsel for family mitigation would have been fruitful.

defendant," penalty phase preparation requires extensive and generally unparalleled investigation into personal and family history.

§10.7, Commentary (citations omitted). "The obligation to investigate and prepare for the penalty portion of a capital case cannot be overstated—this is an integral part of a capital case." *State v. Lewis*, 838 So. 2d 1102, 1113 (Fla. 2002).

Developing a mitigation in a capital case is a time-consuming and extensive process because counsel is required to "develop as complete a picture as possible of the individual from birth all the way up to the present moment." (2PCR-989); Guideline §4.1, Commentary.

Jones v. State, 855 So. 2d 611, 618 (Fla. 2003). This was error as the postconviction court never gave a basis for finding the lay witnesses not credible; the postconviction court rejected the *expert testimony because it was contradictory*. But nonetheless, the fact remains that no court has ever credited or believed Jones’s claims of abuse.

While Jones’s case was pending appeal at this Court, the Supreme Court issued *Atkins v. Virginia*, 536 U.S. 304 (2002), holding that persons with intellectual disability (“ID”) are constitutionally exempt from capital punishment. The Florida Supreme Court promulgated Florida Rule of Criminal Procedure 3.203, which delineated the procedures to be used for defendants seeking to raise ID as a bar to execution under *Atkins*.

Jones timely argued pursuant to Rule 3.203 that *Atkins* precluded his execution because he is ID. This Court relinquished jurisdiction for an evidentiary hearing. (PCR-*Atkins*. 47). At the hearing in 2006, Jones presented evidence demonstrating he met all three prongs of the intellectual disability requirements, including I.Q. scores all of which were 75 or below, a Jackson Memorial Hospital record from when Jones was 15 years old, identifying Jones as “mentally retarded,” school records that show he struggled

in school starting in the second grade and continuing, and evidence of concurring adaptive deficits. The State inaccurately and improperly argued that because Jones's I.Q. scores were at or above 70 he could not be considered ID. The circuit court agreed, stating:

Jones does not meet the statutory requirements to be defined as mentally retarded. His I.Q. has consistently been tested at above 70. Based on that alone he is not mentally retarded.

(PCR-*Atkins*. 495-506). This Court affirmed stating “*See Zack v. State*, 911 So.2d 1190, 1201 (Fla.2005) (‘Under Florida law, one of the criteria to determine if a person is mentally retarded is that he or she has an IQ of 70 or below.’).” *Jones v. State*, 966 So. 2d 319, 329 (Fla. 2007).

This, of course, is the law that would be held unconstitutional seven years later in *Hall v. Florida*, 572 U.S. 701 (2014). *Jones* itself is infamous in its erroneous assessment of intellectual disability as noted in Jones's habeas petition filed with this Court on Friday September 12, 2025. *Jones v. Sec'y, Fla. Dep't. of Corr.*, Case No: SC2025-1423.

Following *Porter v. McCollum*, 558 U.S. 30 (2009), Jones timely argued that this Court and the postconviction court had

“unreasonably discounted his mitigation,” and reduced the fact of his childhood abuse to irrelevance.² The postconviction court summarily denied relief and this Court affirmed. *Jones v. State*, 93 So. 3d 178 (2012).

As noted *supra*, the U.S. Supreme Court issued *Hall* in 2014 and Jones timely argued that *Hall* renders the *Atkins* postconviction court’s ruling rejecting his ID claim, and this Court’s affirmance of that ruling, unconstitutional. The postconviction court summarily denied this claim, relying on testimony at the prior I.D. hearing finding that Jones’s adaptive skills placed him outside the range of I.D. This determination also ran afoul of *Hall*, as the circuit court’s assessment of Jones’s adaptive functioning was not in keeping with the consensus among the scientific and medical community. James W. Ellis et al., *Evaluating Intellectual Disability: Clinical*

² *Porter* is another Florida case where the U.S. Supreme Court found this Court’s application of the death penalty wanting: “The Florida Supreme Court’s decision that Porter was not prejudiced by his counsel’s failure to conduct a thorough—or even cursory—investigation is unreasonable. The Florida Supreme Court either did not consider or unreasonably discounted the mitigation evidence [including childhood abuse] adduced in the postconviction hearing.” *Porter*, 558 U.S. at 42 (2009).

Assessments in Atkins Cases, 46 Hofstra L. Rev. 1305, 1374-99 (2018).

On appeal, Jones argued that this Court should reverse and remand for an evidentiary hearing because the findings of the postconviction court years ago were not based on the prevailing standards of the medical community in contravention of *Hall*. This Court once again rejected Jones's claim, resting its decision on the same faulty reasoning. *Jones v. State*, 231 So. 3d 374 (2017). Nonetheless, it is without dispute that Jones has a very low I.Q.

D. Proceedings Under Death Warrant

Governor DeSantis signed a death warrant for Jones's execution on August 29, 2025. (WR. 107-08). This Court ordered a briefing schedule requiring the proceedings below to be concluded by Friday, September 12, 2025 at 11:00 a.m. (WR. 109). This Court ordered the record on appeal to be filed by Friday, September 12, 2025 at 5:00 p.m. (WR. 109).

The circuit court issued its scheduling order³ on September 2, 2025 setting the following schedule: public records requests were

³ Jones promptly submitted a Notice of Appearance on August 29, 2025 identifying counsel who would be handling this matter,

due September 4, 2025 at 12:00 p.m.; objections to the requests were due September 5, 2025 at 11:00 a.m.; a hearing on public records was set for September 5, 2025 at 1:00 p.m.; the court's order on the records was due September 5, 2025 at 5:00 p.m., and compliance, if any required, by September 6, 2025 at 3:00 p.m. (WR. 178).

The court ordered the motion for postconviction relief to be filed September 8, 2025 at 11:00 a.m.; the State's answer was due, September 9, 2025 at 1:00 p.m.; the case management conference was scheduled September 10, 2025 at 10:00 a.m.; the court's order addressing the case management conference was due September 10, 2025 at 4:00 p.m.; the evidentiary hearing, if any, was to be held September 11, 2025 at 10:00 a.m.; and the final ruling was due September 12, 2025 at 11:00 a.m. The Record on Appeal

(WR. 111-12), and on September 1, 2025, submitted a proposed scheduling order. (WR. 143-48). Jones served both documents on the State Attorney and Office of the Attorney General ("AG"). The State also submitted a proposed scheduling order, (WR. 115-26 and 127-38), but due to errors in entering the information on the e-portal, CCRC-South was never served. The AG didn't enter their Notice of Appearance until 2:00 p.m. on September 2, 2025. (WR149-52) Service errors of one sort or another continued throughout the unduly truncated lower court proceedings.

(“ROA”), which would include all warrant filings and all transcripts, was due September 12, 2025 at 5:00 p.m. (WR. 178-85).

Public Records

Jones timely filed public records demands to eleven agencies. Pursuant to Rule 3.852(h)(3), he requested records from the Miami-Dade Sheriff’s Office (“MDSO” and Metro-Dade Police Department at the time), the Office of the State Attorney, 11th Judicial Circuit (“SAO11”), and the City of Miami Police Department (“MPD”).

Pursuant to 3.852(i), Jones requested records from the Okeechobee County Sheriff’s Office (“OCSO”), the City of Okeechobee Police Department (“OPD”), the Office of the State Attorney, 19th Judicial Circuit (“SAO19”), the Department of Children and Families (“DCF”), the Office of the Attorney General (“AG”), the Executive Office of the Governor (“EOG”), and the Florida Commission on Offender Review (“FCOR”).

The agencies were provided 23 hours to respond. Due to the short timeframe, at least two agencies argued they did not have any responsive records and later filed amended responses clarifying that the agencies did, in-fact, have records. (WR. 258, 343, 461, 814, 1216). Two additional agencies did not appear at the start of the

public records hearing which began 2 hours after the filing deadline for all responses and objections. At least one agency had to be contacted during the hearing to obtain their appearance.

MDSO conducted a search and discovered a few documents in Jones's case that had not been previously turned over. (WR. 400, 467). DCF likewise did not object to the demand and searched for records. DCF did not find any responsive records. (WR. 1192). The remaining agencies all filed written objections. Notably, three agencies objected to the demands even though they didn't even have any responsive records—MPD, OPD, and SAO19. (WR. 356, 338, 340). Of the remaining agencies—SAO11, OCSO, EOG, FCOR, and the AG— all either conceded the agency was in possession of the records or refused to search at all and all objected to the release of said records. The lower court sustained their objections. (WR. 403, 406, 411, 422, 429).

The following business day, the Monday following the public records hearing, Jones filed a renewed demand to OCSO and filed a demand to the Florida Department of Law Enforcement ("FDLE"). Both agencies filed objections, and the court again sustained the objections. (WR. 1255, 1315).

Motion for Postconviction Relief

Jones timely filed his Successive Motion to Vacate Judgments of Conviction and Death Sentence With Leave to Amend, and promptly, after realizing the motion failed to contain the requisite verification, filed a Corrected Successive Motion to Vacate Judgments of Conviction and Death Sentence With Leave to Amend. (WR. 833-59). Jones raised three claims, two of which he advances in this appeal: 1) newly discovered evidence that on January 6, 2025 the Attorney General's Office recognized Jones a victim of crime at the hands of the State while confined at the Okeechobee School for Boys is of such a nature that it would probably yield a less severe sentence and Jones is entitled to a new penalty phase proceeding; and, 2) the unreasonably truncated and surprise nature of the warrant process has denied Jones his due process right to a meaningful opportunity to be heard commensurate with the seriousness of the proceedings.

Jones attached several supporting documents to his motion, including among other items: 1) an expert report from Dr. Yenys Castillo, detailing the trauma, neglect and abuse Jones suffered, both as a young child abandoned by his mother and placed with a

sadistic caretaker, Ms. Long, and, in particular, the abuse he suffered at Okeechobee, (WR. 519-523); 2) an affidavit from an Okeechobee survivor explaining the abuse he suffered at Okeechobee and how no one believed him, including his own family, until he was recognized as a member of the victim compensation class, (WR. 534); 3) documents establishing that Jones attended Okeechobee as a “Colored” person in 1975 (WR. 568); and, 4) a January 6, 2025 letter from the Attorney General’s Office, Division of Victim Services and Criminal Justice Programs, Bureau of Victim Compensation, stating that Jones was eligible for compensation through the Dozier and Okeechobee School Victim Compensation Fund. The letter stated: “[The Attorney General’s Office is] *sorry* to hear of the circumstances that prompted you to apply for compensation.” (WR. 641) (emphasis added).

Claim I

As to Claim I, Jones asserted that newly discovered evidence of the Attorney General’s January 6, 2025 acknowledgment of abuse and Jones’s entitlement to compensation as a victim of crimes, which occurred at the hands of the State while he attended Okeechobee was evidence of such a nature, that coupled with the

other mitigating evidence in his case, including his low I.Q., would probably result in a new trial under *Jones v. State*, 709 So. 2d 512, 521 (Fla. 1998) (*Jones II*); *Jones v. State*, 591 So. 2d 911, 915 (Fla. 1991) (*Jones I*). Jones further asserted that he was entitled to an evidentiary hearing to present his claim.

Jones's argument was not that the evidence of abuse was new, but that the State's long-standing cover up of the conditions at two Florida State Reform School campuses of Dozier and Okeechobee, and the State's January 6, 2025 admission that Jones suffered severe abuse warranting financial compensation, was new evidence directly tied to Jones that a jury deciding whether he should live or die should hear. Such an admission is particularly salient in Jones's case because the circuit court and this Court have repeatedly rejected Jones's evidence of abuse as not credible.

Jones set out in his successive motion that he was sentenced by the State of Florida to be confined at Okeechobee as a "Colored" juvenile ⁴ on four occasions: in 1975, 1976, 1977 and 1978. (WR.

⁴ The school was segregated and ledgers of the children held there were divided by White and "Colored." See also affidavit of James Anderson stating the school was separated into two

562). While not as well-documented or infamous as the Dozier School, Okeechobee was equally horrific. Survivors have described beatings with a substantially the same or similar 3” inch wide leather belt with a piece of sheet metal inside as described by the Dozier survivors, rampant sexual abuse and frequent placement in solitary confinement. (WR. 633).

Jones asserted in his motion that while confined at the Okeechobee School, Jones was beaten multiple times with the thick leather strap, witnessed frequent gang-rapes of other vulnerable children, and to avoid being gang-raped himself had to fight off other boys, which resulted in his placement in solitary confinement. (WR. 520).

The effect of this treatment on Jones’s emotional and psychological development was pronounced, causing him to suffer from posttraumatic stress disorder, suicidal ideation and likely contributed to his drug addiction, increased his risk for criminal violence, and caused other mental deficits, all of which would have

campuses, one for White children and the other for Black children. (WR. 534)

been in existence prior to the crime and during the crime. (WR. 510-32). Additionally, although Jones told others, including authority figures about the conditions at Okeechobee, no one believed him.

In support of his motion Jones filed the affidavit of James Anderson, an Okeechobee survivor who also described suffering severe beatings, witnessing a boy assaulted with an industrial broom and repeated sexual assaults. (WR. 534). Anderson explained that he witnessed other abuse and cruelty that is too difficult for him to talk about. (WR. 534). Anderson also stated that it was a known fact that the Black children were treated more harshly than the White children. (WR. 534). Significantly, for purposes of this motion, Anderson explained that nobody believed him about what he saw and experienced at Okeechobee, not even his own family, until he himself was recognized as a member of the compensation class. (WR. 534).

Dr. Castillo, who evaluated Jones for purposes of Jones's motion, provided details in her report, which was attached to his motion and filed under seal with the circuit court, about the neglect and harsh physical and emotional abuse Jones suffered at

Okeechobee. While there, Jones “struggled academically and received no support for his learning difficulties.” (WR. 689). Jones and the other children were subjected to harsh and indiscriminate physical abuse by the guards who were often drunk and which left Jones and the other boys bleeding. (WR. 690). Guards used derogatory and racist names for Jones and the other Black boys with whom he was confined. (WR. 690). Jones described a feeling of “pervasive fear and helplessness that defined [his] daily life at Okeechobee.” (WR. 690).

Jones also described a culture of sexual abuse that was ongoing and pervasive. Jones described “‘blanket parties,’ where multiple boys would gang-rape another boy while covering him up with a blanket.” (WR. 690). Jones also described how some of the boys would go to rooms with the guards and emerge hours later, leading him and others to suspect they were having sex with the guards. (WR. 690) “These boys would receive special privileges [] and were referred to as ‘yes boys.’” (WR. 690).

Jones “witnessed countless rapes,” and had to “fight repeatedly” to avoid being raped himself. (WR. 690). As a result of these fights, Jones was placed in solitary confinement which “really

messed [him] up” mentally causing him to be depressed and suicidal; Jones thought he “was hearing things and losing [his] mind.” (WR. 690). “Consistent with Jones experience, research suggests that solitary confinement can induce anxiety, depression, psychosis, and suicidality.” (WR. 690-91). Dr. Castillo further explained that for young people, the effects of solitary confinement are particularly severe and can be irreversible. (WR. 691).

Jones reported trying to mentally block the abuse he suffered, “retreating to what he described as a ‘twilight zone’ to cope with the trauma.” (WR. 691). He tried to “‘leave mentally,’ during the beatings, a form of dissociation recognized as a peritraumatic risk factor for developing posttraumatic stress disorder (PTSD).” (WR. 691).

Jones also reported that some of the boys at Okeechobee tried to escape. “Those who were caught faced severe beatings and in some cases were sent to work for local farmers without pay,” which was perceived as a form of enslavement. (WR. 691). Dogs were used “to capture escapees.” (WR. 691). Some boys just disappeared under “mysterious circumstances, raising suspicions that harm may have come from either the guards or the farmers.” (WR. 691).

During the pendency of Jones’s case, including through 2010, 2011, and longer, the State of Florida minimized or discounted in litigation, reports and public statements the rampant cruelty at both Dozier and Okeechobee. Okeechobee didn’t close until 2020. FDLE issued a report in 2010 on Dozier as a result of a request made to then-Governor Charlie Crist by the “The White House Boys Survivor’s Organization.” (WR. 585). FDLE was tasked with determining if there were unmarked graves on the site, “if any crimes were committed, and if so, the perpetrators of those crimes.” (WR. 585).

Despite taking statements from multiple survivors who described vicious beatings, rampant sexual abuse, and walking into the laundry and seeing “the face of a black male tumbling in the dryer,” and being afraid to do anything for fear “he would also be placed into the dryer,” (WR. 593), FDLE did not make a finding that abuse existed. By way of example, another survivor corroborated the laundry incident, describing seeing staff “carrying what he believed to be a male juvenile covered with a white sheet or blanket” from the laundry. (WR. 593). When he asked his supervisor what happened, the supervisor said, “Another one of you little bastards

just bit the dust.” (WR. 593). But that witness, who saw the boy’s arm under the sheet, said he thought the boy was white. (WR. 593).

Because there were “inconsistencies” in the witnesses’ accounts of the laundry room death, and a lack of presence of blood in the White House Building when examined in 2009, many years after the abuse, FDLE ultimately determined that “no tangible physical evidence was found to either support or refute the allegations of physical or sexual abuse.” (WR. 597). FDLE also discounted reports of beatings because there “was little to no evidence of visible residual scarring.” (WR. 597). FDLE delivered their findings to the Office of the State Attorney, 14th Judicial Circuit, for review. There is no evidence that the State Attorney ever filed any charges or conducted any investigation.

In 2012, the Department of Justice (“DOJ”) issued a report, (WR. 603), based on its investigation into Dozier. As in the FDLE report, there is no mention of Okeechobee. The DOJ report, however, found “credible reports of misconduct by staff,” which “revealed systemic, egregious, and dangerous practices” that threatened the safety of the children confined there” and violated the “Fourteenth Amendment’s mandate that youth in custody be

adequately protected from harm, undermining public safety by returning youth to the community unprepared to succeed and eroding public confidence.” (WR. 605).

Between 2012 and 2016 forensic anthropologists from the University of South Florida led an excavation at the Dozier School and discovered human remains in 55 unmarked graves. (WR. 632). “A similar excavation has not been possible at the Okeechobee School, as the land sits on what is now private property.” (WR. 632).

Okeechobee was investigated in 2015 but the Okeechobee County Sheriff found no physical evidence of abuse there and as noted in these 2025 news reports, the Okeechobee School was never investigated like the Dozier School. Jamie Ostroff, *From Darkness to Data: New Plans For the Florida School for Boys at Okeechobee Campus*, WPTV, (2025), <https://www.wptv.com/wptv-investigates/from-darkness-to-data-new-plans-for-the-florida-school-for-boys-at-okeechobee-campus>.

In June 2024, the Florida Legislature passed and Governor DeSantis signed into law the Dozier School for Boys and Okeechobee School Victim Compensation Program (“Program”). (WR. 632). The Program provided a \$20 million fund to compensate

“living persons who were confined to the Dozier School or the Okeechobee School at any time between 1940 and 1975 and who were subjected to mental, physical, or sexual abuse perpetrated by school personnel while they were so confined.” (WR. 637).

The law took effect on July 1, 2024 and required victims to apply to establish eligibility. On December 13, 2024, Jones received a declaration from the Florida Department of State, Records Custodian, affirming he was confined at the Okeechobee School and the dates of his confinement, which fell within the compensation time frame. (WR. 567-69).⁵ After receipt of the document from the Records Custodian, Jones timely submitted his application to be included in the compensation class.

On January 6, 2025, Jones received a Notice of Determination of Eligibility from the Office of the Attorney General, Division of Victim Services, Bureau of Victim Compensation. (WR. 641). In its letter to Jones, the Bureau of Victim Compensation wrote, “*Please*

⁵ In 1997, pursuant to a records request, the Eckerd Youth Development Center (the new name for Okeechobee) informed Jones’s postconviction counsel that Jones’s Okeechobee records were destroyed when he turned 19 pursuant to Florida law. (WR. 813).

know that we are sorry to hear about the circumstances that prompted you to apply for compensation.” (WR. 641) (emphasis added). Jones was finally recognized after all these years as a true victim of abuse.

Jones further argued in his motion that because of the limited aggravation in his case, with no finding of HAC or CCP, and the compelling nature of the abuse Jones suffered, and the State’s coverup of that abuse, there exists a reasonable probability that, in conjunction with all the other testimony previously presented, including his low I.Q. and mental health deficits, that a jury presented with the new admission of abuse Jones suffered at the hands of the State, and the extent of the cover-up of that abuse, a new jury would probably sentence him to life in prison. (WR. 847).

Claim III

In Claim III, Jones argued that the unduly truncated nature of the warrant process served to deprive him of the due process required by the constitution, particularly in a matter where the consequences are so serious and final. In support of his claim, Jones identified that his requests for records were all denied and that some agencies refused to comply or search and denied the

existence of records even though they did in-fact have records. The lower court sustained all the objections and denied evidentiary development on Jones's claim but could not have possibly familiarized herself in the short time frame allotted with the expansive record in this case spanning decades and comprising thousands and thousands of pages.

The State's Response

In Response, (WR. 1292- 1314), the State asserted that Claim I is untimely, procedurally barred and meritless. The State argued that the January 2, 2025 letter from the Victim's Compensation Fund does not make the "abuse" new and that Jones has known of the abuse for 50 years. (WR. 1297-98). The State relied on this court's decisions in *Barwick v State*, 361 So. 3d 785, 793 (Fla. 2023), *Cole v State*, 392 So. 3d 1054, 1061-62 (Fla. 2024), and *Zack v. State*, 371 So. 3d 335 (Fla. 2023), for the proposition that reports, data, resolutions, or passage of laws are not a basis for a newly discovered evidence claim:

The rationale underlying our decision in cases like *Barwick* applies with equal force to Cole's claim. Like the APA resolution in *Barwick*, CS/HB 21 expresses a public stance predicated on reports, data and research that have been publicly available for years.

(WR. 1298); *Cole*, 392 So. 3d at 1061-62. The State asserted that the claim is procedurally barred because Jones knew of the abuse he experienced, (WR. 1299-1301), and that the claim is meritless because there was no mitigation at trial and the case is highly aggravated. (WR. 1302).

As to Claim III, that the unduly truncated and surprise nature of the warrant process deprives Jones of due process commensurate with the seriousness of the proceedings, the State asserted that “Jones has had ample notice and opportunity to be heard.” (WR.1311). The State further asserted that Jones has no “right to *protest a procedural inconvenience* for a situation he brought upon himself by committing this double murder.” (WR.1311) (emphasis added).

Circuit Court Proceedings and Rulings

The circuit court conducted a case management conference on Wednesday, September 10, 2025 at 10:00 a.m. During the proceeding, the court expressed concern that she had little time to enter her order and attempted to limit defense counsel’s argument to ten minutes. (WR. 1659).

Ultimately, the court permitted 20 minutes for counsel's arguments. (WR. 1662).

The court entered an order denying evidentiary development at 3:22 p.m. on Wednesday, September 10, 2025. (WR.1448-52). The court entered its final order denying all claims at 9:42 a.m. on Friday, September 12, 2025. (WR.1461).

The lower court denied Claim I as untimely, relying on this Court's decisions in *Zack*, 371 So. 3d 335, *Cole*, 392 So. 3d 1054, and *Barwick*, 361 So. 3d 785. (WR. 1472-73). The court further determined that the claim is procedurally barred and lacks merit because "[a] letter from the State does not show specific abuse of Defendant that would have led to a lesser sentence." (WR. 1474).

The court denied Claim III, finding that this Court has previously rejected challenges to the short warrant period citing to *Tanzi v. Sate*, 407 So. 3d 385 (Fla. 2025). (WR. 1481-82). The lower court further rejected Jones's claim, noting that he "has not shown how the warrant schedule denied his opportunity to be heard." (WR. 1481). The lower court

criticized Jones's failure to file the public records requests prior to the filing of the warrant. (WR. 1482).

Jones timely filed his Notice of Appeal on Friday September 12, 2025 at 11:19 a.m.

The Clerk of Court filed the ROA an hour and a half late and failed to include any transcripts. The ROA is confusing, not in chronological order, includes duplicates, and wholly failed to include any transcripts. On Saturday, September 13, 2025, Jones filed emergency motions requesting this Court toll the time and enter an order directing the Clerk of Court to supplement the record, both of which this Court granted on Sunday, September 14, 2025, extending the time for filing the briefs in this matter.

The supplemental record was due Monday September 15, 2025 at noon. The clerk timely filed, however, the ROA was improperly paginated and had to be fixed. The clerk filed the corrected supplement at 2:20 p.m.

Jones's initial brief was initially due Monday, September 16, 2025 at 2:00 p.m., but in light of the record issues, the Court extended the deadline to today (Tuesday, September 16, 2025) at 2:00 p.m.

This timely brief follows.

SUMMARY OF ARGUMENTS

1. Newly discovered evidence that on January 6, 2025, the State of Florida recognized Jones as a victim of abuse while confined in State custody as a child at Okeechobee, is of such a nature as to warrant a new penalty phase proceeding. Throughout Jones case, the circuit court and this Court have rejected all of Jones's claims of abuse as not credible. In denying Jones's postconviction motion under warrant, the lower court's order was wrong in three ways: the court misapplied the law, the court made factual determinations without an evidentiary hearing, and the court misapprehended Jones's claim. The court erred in ruling that *Cole*, *Barwick*, and *Zack* apply as each are materially distinguishable. This Court should reverse for an evidentiary hearing or any other such relief the Court deems proper.

2. Jones was denied full and fair postconviction proceedings in violation of his right to due process under the United States and Florida constitutions. The 32-day warrant proceedings are so truncated that they preclude any meaningful hearing on record demands and claims that could not have been raised before the

death warrant. Jones was prejudiced in a number of ways among which include, insufficient time to allow the lower court to require all of the relevant agencies to conduct public records searches, insufficient time for the court to review all of the claimed exemptions asserted by each agency in camera, and inadequate time to complete investigating and presenting his claim.

In order to ensure a full, fair, and meaningful process that comports with Jones's constitutional rights and counsel's duties, Florida should follow the lead of other states and promulgate a warrant process that provides adequate time for warrant litigation and removes the unnecessary strain on the courts, staff, and the system.

3. Jones's counsel is obligated to seek and obtain every public record in existence in this case, and the failure of counsel to do so will result in a procedural default. Florida Rule of Criminal Procedure 3.852 provides for the production of public records after a warrant is signed. Jones filed demands for public records to several state agencies pursuant to Rule 3.852(h)(3) and (i). The agencies did not have the requisite time needed to conduct a thorough and accurate search; and for the agencies that did locate

records, the lower court did not have the requisite time to conduct an in camera inspection of these records to ensure that the agency asserted the proper exemptions. Although most agencies did not assert proper objections, the circuit court sustained every agency objection, not rendered moot, and denied access to additional public records to which Jones is entitled.

Jones was denied access to files and records to which all other individuals are able to routinely obtain, depriving him of his rights to due process and equal protection guaranteed by the Fifth and Fourteenth Amendments to the U.S. Constitution and the corresponding provisions of the Florida Constitution. Access to public records is critical to meaningful postconviction review. Records produced under warrant in other cases have led to the discovery of exculpatory evidence, claims for postconviction relief, and stays of execution. The lower court's rote denial of access to the public records in Jones case renders Rule 3.852 a hollow exercise on an execution check-list.

STANDARD OF REVIEW

Because the circuit court denied postconviction relief without an evidentiary hearing, this Court must accept the factual

allegations presented in Jones's motion as true to the extent that they are not conclusively refuted by the record. *Ventura v. State*, 2 So. 3d 194, 197-98 (Fla. 2009). Further, this Court "review[s] the trial court's application of the law to the facts de novo." *Green v. State*, 975 So. 2d 1090, 1100 (Fla. 2008). A postconviction court's decision whether to grant an evidentiary hearing is likewise subject to de novo review. *Rose v. State*, 985 So. 2d 500, 505 (Fla. 2008).

ARGUMENTS

Argument I

Newly Discovered Evidence Of The State Of Florida's Recognition Of Jones's Abuse At The Okeechobee And His Entitlement To Compensation As A Victim Of A Crime Is Material Evidence Which Renders His Death Sentence Unreliable And Would Likely Lead To A Life Sentence On Retrial.

The circuit court's order summarily denying this claim was wrong in three ways: 1) the court misapplied the law, 2) made factual determinations without an evidentiary hearing, and 3) misapprehended Jones's claim in a manner that suited the assessment of each prong that formed the basis of her denial. Additionally, *Cole*, *Barwick* and *Zack* are materially distinguishable. Jones will address each argument in turn.

A. Relevant Law

A court shall provide relief to a person under sentence of death if there is newly discovered evidence that would probably yield a less severe sentence on retrial. *Jones II*, 709 So. 2d at 521; *Jones I*, 591 So. 2d at 915). To obtain a new trial based on newly discovered evidence, a defendant must meet two requirements. *Jones II*, 709 So. 2d 512.

First, the evidence must not have been known by the trial court, the party, or counsel at the time of trial, and it must also appear that neither the defendant nor defense counsel could have known of such evidence by the use of diligence. *Id.*; *State v. Spaziano*, 692 So. 2d 174 (Fla. 1997). Second, the newly discovered evidence must be of a nature that it would probably produce an acquittal on retrial or yield a less severe sentence. *Jones II*, 709 So. 2d 512. This court must consider the newly discovered evidence, and evaluate the weight of the newly discovered evidence and the evidence that was introduced at trial. *Taylor v. State*, 260 So. 3d 151, 158 (Fla. 2018) (citing *Jones*, 709 So. 2d 512 (Fla. 1998)).

Because this claim involves a successive motion and evidentiary hearing, the lower court was required to evaluate all the

admissible newly discovered evidence at this hearing in conjunction with admissible evidence at prior evidentiary hearings and then compare it with the evidence that was introduced at trial. *Jones*, 709 So. 2d at 522.

The lower court could only deny Jones's successive postconviction motion without an evidentiary hearing if the motion, files, and records in the case conclusively show that he is entitled to no relief. *Tompkins v. State*, 994 So. 2d 1072, 1080-81 (Fla. 2008). "A postconviction court's decision regarding whether to grant a rule 3.851 evidentiary hearing depends on the written materials before the court; therefore, for all intents and purposes, its ruling constitutes a pure question of law and is subject to *de novo* review." *Id.* at 1080-81 (internal quotations omitted). On review, this Court will "accept the defendant's allegations as true to the extent that they are not conclusively refuted by the record." *Id.*

The analysis of the mitigation evidence offered here, an acknowledgment of severe childhood abuse at the hands of the State, and previously offered mitigation that was not disputed or rejected (low I.Q, documented difficulties in school, prior psychiatric admission at the age of 15, abandonment by Jones's mother) is

substantial and of the type the U.S. Supreme Court has repeatedly recognized as relevant, mitigating, and warranting a new penalty phase proceeding.

Under Florida law, mental health evidence that does not rise to the level of establishing a statutory mitigating circumstance may nonetheless be considered by the sentencing judge and jury as mitigating. Indeed, the Constitution requires that “the sentencer in capital cases must be permitted to **consider any relevant mitigating factor.**”

Porter, 558 U.S. at 42 (2009) (citing *Eddings v. Oklahoma*, 455 U.S. 104, 112 (1982)).(emphasis added) (internal citations omitted). “It is unreasonable to discount to irrelevance the evidence of [Jones’] abusive childhood, especially when that kind of history may have particular salience for a jury evaluating [Jones’] behavior in his relationship with the [Nestors].” *Id.* at 43.

The Supreme Court’s opinion in *Sears v. Upton*, 561 U.S. 945, 947 (2010) is also instructive, describing what happened in Jones’s case where the trial evidence painted a false picture of an “idyllic” childhood:

During the penalty phase of Sears’ capital trial, his counsel presented evidence describing his childhood as stable, loving, and essentially without incident. Seven witnesses offered testimony along the following lines:

Sears came from a middle-class background [and] his actions shocked and dismayed his relatives[.]

The Court criticized the state courts' prejudice analysis which is strikingly similar to the errors in Jones's case:

The mitigation evidence that emerged during the state postconviction evidentiary hearing, however, demonstrates that Sears was far from "privileged in every way." Sears' home life, while filled with material comfort, was anything but tranquil: His parents had a physically abusive relationship, and divorced when Sears was young; he suffered sexual abuse at the hands of an adolescent male cousin; his mother's "favorite word for referring to her sons was 'little mother fuckers;'" and his father was "verbally abusive," and disciplined Sears with age-inappropriate military-style drills, Sears struggled in school, demonstrating substantial behavior problems from a very young age. For example, Sears repeated the second grade, and was referred to a local health center for evaluation at age nine. By the time Sears reached high school, he was "described as severely learning disabled and as severely behaviorally handicapped."

Id. at 948 (internal citations and references omitted). *See also Williams v. Taylor*, 529 U.S. 362, 398 (2000) ("the graphic description of Williams' childhood, filled with abuse and privation, or the reality that he was 'borderline mentally retarded,' might well have influenced the jury's appraisal of his moral culpability.")

In contravention of this law, the warrant court held that the claim was untimely, procedurally barred and without merit.

B. Jones’s Claim is Easily Distinguishable from *Cole*, *Zack* and *Barwick*

The lower court premises its rulings on this Court’s opinions in *Cole*, *Zack* and *Barwick*. In that line of cases, this Court has held as a general principle that “resolutions, consensus opinions, articles, research and the like do not satisfy the [newly discovered] evidence standard.” *Cole*, 392 So. 3d at 1061 (citing *Barwick*, 361 So. 3d at 793). Reviewing the facts of these cases demonstrates how materially different they are than the circumstances in Jones’s case.

In *Cole*, the defendant argued that “Florida has just recently acknowledged the mitigative atrocities that occurred at the Dozier School by virtue of the governor signing CS/HB 21, which became effective July 1, 2024.” *Cole*, at 1061. *Cole*, however, was not a member of the Victim Compensation Class and there was no link between *Cole*’s individual case and the signing of the law. Unlike here, where the January 6, 2025 letter is directly related to Jones and the State’s acknowledgement of the abuse he suffered, which is highly relevant to Jones’s case and particularly salient because the

State and the courts have repeatedly found Jones’s claims of abuse not credible.

Barwick is even more easily distinguishable. *Barwick* tried to raise a claim that an American Psychological Association (APA) resolution constituted newly discovered evidence in his case.

Barwick, 361 So. 3d at 793. This court properly found the claim lacking as there was no evidence linking that resolution directly to *Barwick*’s case and was merely a broad resolution expressing “a public stance predicated on reports, data, and research that have been publicly available for years.” *Cole*, at 1062.

Zack, likewise, is easily distinguishable. *Zack* tried to raise a newly discovered evidence claim “by asserting there is a new consensus—based on research articles and opinions—that FAS is now considered to be equivalent to an intellectual disability.” *Zack*, 371 So. 3d at 345. *Zack* cited to a “new scientific consensus’ found in several articles published in 2017 and 2021[.]” *Id.* Thus, as this court determined, this evidence was not new, nor specifically related to *Zack*’s case.

Here, the evidence Jones seeks to introduce is new, is directly related to him and is powerful – it is evidence that the State of

Florida amidst Jones was a victim of abuse perpetrated by the State of Florida.

C. The Claim is Timely

The warrant court held Jones’s claim to be untimely. (WR. 1471-72). The court stated that the State of Florida’s “recognition” of abuse by creating the Victim Compensation Fund, “does not make the abuse newly discovered.” (WR. 1472). “The 2025 letter merely acknowledges general institutional abuse, not specific abuse of the defendant.” (WR. 1472). The lower court’s assessment is wrong because it mischaracterizes the import and meaning of the letter—which in fact does serve to recognize the specific abuse Jones suffered—and lumps it in with the passage of the law, which is a broad acknowledgment of abuse distinct from the specific, personalized acknowledgment of abuse and apology contained in the letter.

Further, making determinations about the import and scope of the letter without an evidentiary hearing, and after denying public records demands to the Attorney General’s Office about this program and abuse at Okeechobee, amounts to a denial of due process and a factual determination without a hearing. The lower

court and this Court must accept Jones's allegations as true unless they are refuted by the record. *Ventura*, 2 So. 3d at 197-98. The record and Jones's assertions in his pleading establish that the letter was specific to him and that he only was admitted as a member of the Victim Compensation Class after making the threshold showing that he 1) attended Okeechobee within the specified time frame, *and* 2) that he himself was a victim of physical, emotional, sexual or other type of abuse.

The lower court again cited *Cole*, *Barwick* and *Zack* as a basis to find the claim untimely. (WR. 1472). "Because the letter and compensation are based on prior reports, they do not meet the standard and the claim is untimely." (WR. 1472). This reasoning is premised on conflating prior reports, which is the language used in *Cole*, *Barwick* and *Zack*, with a letter that is specific to Jones's case and did not previously exist. The court's reasoning does not withstand intellectual scrutiny.

The fact of the matter is that Jones filed his motion within one year of receiving the January 6, 2025 letter. The letter is personal to him, related to his mitigation case and new. Never before has the

State of Florida acknowledged that Jones was horribly abused, exposed to rape, beaten, placed in solitary confinement as a child.

Even to this day, at the case management conference, the State tried to assert that Jones's claims of abuse at Okeechobee are not credible. (WR. 1674). The Attorney General falsely argued that they "gave a letter to all children whether they were abused or not," and that Jones only "received a letter as being a resident there." (WR. 1675).

The court's reasoning fails.

D. The Claim is Not Procedurally Barred

In denying the claim as procedurally barred, the court disregards the January 6, 2025 letter and characterizes Jones's claim as simply the abuse he suffered at Okeechobee. (WR. 1473). The court states that "Defendant was aware of any specific abuse he *may* have suffered at Okeechobee at the time of trial and during all his prior postconviction motions[.]" (emphasis added). The court finds that because he could have raised the abuse before, the claim is barred, adding, "[e]ven the State's letter of recognition would have only served to corroborate that generalized abuse occurred." (WR.1473)

The court’s reasoning cannot withstand scrutiny. The court attempts to twist Jones’s claim into merely one of abuse at Okeechobee—which would be untimely—and then tries to minimize whether Jones suffered abuse stating the letter is only an acknowledgment of “generalized abuse.” (WR.1473)

It is unclear what the court means by “generalized abuse.” The never-ending personal stories of abuse, that the survivors have shared over the years, only to be disbelieved or minimized, cannot be denied any longer. The stories are so horrific that no child could not have been abused at Dozier and Okeechobee simply by living in that environment and witnessing the horrors. *See* (WR. 804) (“Mr. Levine found a very, thin small boy with a shaved head and pajama bottoms but no shirt lying on a concrete slab without a mattress; the guard informed Mr. Levine that the boy had been in the cell for some time for his own protection, as the other boys were sodomizing him with a broom handle. According to the guard, the boy’s head was shaved because he had been pulling out his own hair.”).

Calling the abuse at Okeechobee and Dozier “generalized” evidences a keen lack of insight and understanding of the extent

and nature of the abuse and the effect it would have on a child who even merely witnessed the acts of cruelty. It also evidences a desire by the court to minimize the weight of the newly discovered evidence, perhaps because it is so disturbing and unpleasant to read about the specifics of the abuse at Okeechobee and Dozier.

The State likewise minimizes the horrors Jones and others experienced by referring to them as “resident[s],” and not children confined by the State. (WR. 1674). Moreover, the State argued that “[i]f [Jones] had been abused at Okeechobee, it would have been mentioned in one motion,” or “he would have let somebody know.” (WR. 1674) (emphasis added). Yet, the State acknowledged at the case management conference that court appointed expert, Dr. Jane Ansley, wrote in her 1999 report that Jones expressly reported that he tried to commit suicide because he did not want to go back to Okeechobee. (WR. 1675; 572).

And, once again, the lower court made a determination of the meaning and import of the letter without an evidentiary hearing, which amounts to a factual determination that is inconsistent with Jones’s allegation in his pleading and thus runs afoul of Florida law.

E. The Claim is Meritorious

The court then found that Jones’s claim lacks merit because it cannot meet the *Jones* newly discovered evidence standard. (WR. 1474). In so doing, the court misstates the second prong requiring Jones to show a “likely” result of an acquittal or lesser sentence (WR. 1474). or that the evidence would change the outcome. (WR. 1474) (“Even if considered, the evidence *would not change* the outcome.”). The court misapprehended the second prong of *Jones* and raised the burden Jones needed to meet. For this reason alone the court’s analysis fails. Misunderstanding of the applicable legal standard is error.

The court attempted an analysis of the evidence at trial but makes factual errors. The warrant court stated that the trial court found four aggravating factors. (WR. 1474.) But, as this court explained on direct appeal of Jones’s sentence: “As to each murder, the court found in aggravation: 1) Jones was under a sentence of imprisonment at the time of the murder, 2) Jones was convicted of a prior violent felony, 3) the murder was committed during the course of a robbery, and 4) the murder was committed for pecuniary gain, *which the court merged with the “during the course*

of a robbery” aggravating factor.” Jones, 652 So. 2d at 348-49 (emphasis added). The trial court *only* found or assigned three aggravators, as he could not assign the fourth without running afoul of Florida law. To say there were four aggravators is inconsistent with the facts and basic principles of this Court’s long-standing capital jurisprudence.

The warrant court also rested its reasoning that the prior violent felony aggravator is especially weighty, (WR. 1474), a finding which in isolation is not unreasonable. However, the court failed to place her analysis in perspective or realize that Jones’s case is not the most aggravated of murders, as this Court is aware based on the highly aggravated cases that come before the Court involving rape-murders, the killing of children and law enforcement officers, and the burying of victims alive. Jones’s case was a robbery gone bad, and while that is not an excuse for no punishment, his case is not the kind of case that involved prolonged, tortured suffering or cold, methodical planning. *See Buzia v. State, 926 So. 2d 1203, 1216 (Fla. 2006)*(quoting *Larkins v. State, 739 So. 2d 90, 95 (Fla. 1999)* (HAC and CCP are two of the weightiest mitigators in the Florida sentencing scheme)).

The lower court then rested on the fact that the trial judge made the absurd finding that Jones had “no mitigation” even though it was undisputed that he was abandoned by his mother, a fact which is unequivocally mitigating. Additionally, regardless of the merits of this Court’s determination as to Jones’s intellectual disability, it is equally unequivocal that Jones has a very low I.Q. An I.Q. of 70 places Jones in the bottom 2.3% of the population. Robert L. Schalock, et al., American Association on Intellectual and Developmental Disabilities, *Intellectual Disability: Definition, Classification, and Systems of Supports*, 17 (12th ed. 2021).

Perhaps, most importantly, the warrant court failed to give true weight and meaning to the January 2025 letter. It is a remarkable document that affirms that the State of Florida acknowledges that Jones himself was the victim of a crime or crimes at the hands of the State of Florida, and suffered so horribly that he is entitled to monetary compensation. A reasonable juror would give those facts great weight, especially in light of the State’s argument or implication that Jones had failed to avail himself of the opportunities he was given at reform school and in prison.

And Jones, at a new trial, would be entitled to present evidence of the actual abuse he suffered at Okeechobee and its effect on his mental and emotional development to put the letter in context. Jones established a sufficient prima facie case of newly discovered evidence entitling him to an evidentiary hearing prior to the State of Florida executing him. He has presented new evidence that could not have been found through due diligence, and that evidence would probably result in a lesser sentence at a new trial.

The warrant court's summary denial of his claim violated his due process and Eighth Amendment rights. This Court should reverse the lower court and grant all appropriate relief. The seriousness of the matter demands nothing less.

Argument II

The Lower Court Abused Its Discretion In Denying Jones 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.

Counsel for Jones has the duty to seek and obtain all relevant public records in existence in this case, and all records that are reasonably calculated to lead to the discovery of admissible evidence, as the failure of collateral counsel to do so will result in a

procedural default assessed against his client. *Porter v. State*, 653 So. 2d 375 (Fla. 1995). However, a concomitant obligation rests with the State to furnish the requested materials. *Ventura v. State*, 673 So. 2d 479 (Fla. 1996). This Court has held that when the State’s failure to disclose public records results in a capital postconviction litigant’s inability to fully plead claims for relief, the State is estopped from claiming that the postconviction motion should be denied or dismissed. *Id.* at 481 (“The State cannot fail to furnish relevant information and then argue that the claim need not be heard on its merits because of an asserted procedural default that was caused by the State’s failure to act.”).

A. Jones’s Public Records Litigation Under Warrant

Following the signing of his death warrant, Jones timely filed demands for public records to several state agencies pursuant to Florida Rule of Criminal Procedure 3.852(h)(3) and (i). Jones focuses his appeal on the lower court’s wrongful denial of his demands pursuant to Rule 3.852(i) concerning records relating to the Okeechobee School for Boys, made to four agencies:⁶ the

⁶ Jones requested similar records from the City of Okeechobee Police Department (OPD); however, OPD clarified in its response

Okeechobee County Sheriff's Office ("OCSO"), the Office of the Attorney General ("AG"), the Office of the State Attorney for the 19th Judicial Circuit ("SAO19"), and the Department of Children and Families ("DCF"). (WR. 192-334).

From OCSO, SAO19 and DCF, Jones requested:

- (a) Reports, memos, notes, or communications relating to the investigation of the Okeechobee School, residents, or staff, during the following dates:

August 1, 1975 – October 1, 1975

June 1, 1976 – October 1, 1976

May 1, 1977 – April 1, 1978

August 1, 1978 – October 1, 1978

- (b) Communications to or from [**EACH AGENCY**] relating to the investigation or prosecution of any cases originating from acts that occurred at the Okeechobee School for the above noted dates.

(WR. 236, 303, 313).

DCF informed undersigned counsel that the agency conducted a thorough search and could not locate any responsive records.

DCF's retention policy requires that the agency keep records until the youngest child in the records reaches the age of 30. The

that the OPD was not in possession of any responsive records due to the fact that the Okeechobee School is not within the agency's jurisdiction. (WR. 338).

youngest child at Okeechobee during the time frame requested would be well over 30 years old now. DCF also indicated it had no objections to the request. Following its diligent search, DCF filed an affidavit of compliance. (WR. 1192).

SAO19 filed written objections. (WR. 335, 340). While SAO19 objected, asserting that the “demand is vague, overbroad, and unduly burdensome” and untimely under Rule 3.852(h)(3), ultimately SAO19 conducted a search and could not locate any responsive records. (WR. 335-37).

OCSO also filed written objections. (WR. 433). The agency refused to conduct any search of the records. OCSO asserted that Jones’s demand was untimely and improper, arguing subsection (i) is an improper vehicle for the demand. (WR. 433-34). OCSO further argued the demand was not specific enough because it fails to “identify any case number, investigative file, or custodian of records within” OCSO, noting that Jones sought “broad categories of documents” over a “multi-year period.” (WR. 435). Again, despite the fact that OCSO failed to conduct any search, it still asserted the demand was overly broad, vague and unduly burdensome claiming that the records “may not exist, may be incomplete, or may be

housed in archives not readily accessible to” OCSO. (WR. 435).

Although OCSO failed to conduct any search, it represented to the court that the records *could* be exempt from disclosure. (WR. 435).

Jones also demanded records from the AG:

- (c) Memos or reports drafted or received by the **OFFICE OF THE ATTORNEY GENERAL** relating to the investigation of the Okeechobee School or Dozier School for Boys.
- (d) Communications including the **OFFICE OF THE ATTORNEY GENERAL** relating to the investigation or prosecution of any cases stemming from the Okeechobee School or Dozier School for Boys
- (e) Reports or memos drafted or received by the **OFFICE OF THE ATTORNEY GENERAL, BUREAU OF VICTIM COMPENSATION** relating to the Okeechobee School or Dozier School for Boys

(WR. 258).

The AG filed a written response at 10:43 a.m. and wholly failed to address these specific requested records. (WR. 438) The AG filed an amended response at 11:03 a.m., in which the AG asserted it was not in possession of any “records or communications related to the Okeechobee or Dozier School for Boys.” (WR. 343-51). The AG further asserted, generally, that the demands are “overboard, vague, unduly burdensome, and not calculated to lead to a colorable claim.” (WR. 351).

The circuit court held a hearing at 1:00 p.m., and sustained all agency objections.⁷

At the hearing, the AG unexpectedly conceded that the agency is in possession of responsive records.⁸ (WR. 1599). Despite this acknowledgment, the court sustained the AG's objections and denied Jones access to records to which he is entitled.

Two days after the records hearing, the AG filed its *Clarification to the Attorney General's Response and Objections to Defendant's Demand For Public Records Regarding the Dozier and Okeechobee Schools*, in which the AG noted it "may have

⁷ The lower court did not rule on objections from SAO19, MPD and OPD because all three agencies conducted searches and did not have any responsive records. All three agencies agreed with Defense counsel's request that the court not rule on the objections, since the lack of records rendered the objections moot. Although SAO11 indicated it had no records (before it did locate records and amend its response), SAO11 insisted the court rule on its objections.

⁸ SAO11 also filed a clarification in which the agency conceded it was in possession of records not previously produced, but the SAO11 objected to releasing the records. Jones filed a motion requesting that the records be released, or in the alternative, that the court conduct a review of the records in camera. The court reviewed the records and again sustained SAO11's objections. The denial of SAO11 records is not at issue in this appeal; however, Jones maintains the lower court erred in denying the records.

communications from and/or records relating to victims from the two schools and possible compensation for past abuse,” which the AG maintained would be exempt from disclosure. (WR. 462). The AG further argued:

Additionally, **any records related to any investigation into the misconduct at the two schools or any prosecution stemming from that conduct is inappropriate for public records release** since, as argued in the original response, Jones’s demands remain vague, overbroad, and unduly burdensome and are improper under Rule 3.852, especially in an active warrant context. Also, the demands are untimely in post—conviction litigation under an active death warrant since the misconduct and ensuing inquiries into it are decades old. Furthermore, none of these demands would lead to a colorable claim and are merely a fishing expedition.

(WR. 462-63) (emphasis added).

Without hearing argument or directing the Defense to respond, the lower court again sustained the AG’s objections and denied Jones access to the public records. Jones sought rehearing and requested the court to review the records in camera to determine whether the asserted exemptions applied. (WR. 1225). The court denied rehearing, again accepting the AG’s unsworn statements in support of its denial. The court did not conduct a review of the records in camera. (WR. 1250).

The Monday after the Friday public records hearing, Jones filed a renewed demand for public records to OSCO, narrowly tailoring his request to the following records:

- (a) Reports, memos, notes, or communications relating to the 2015 investigation of claims of abuse and/or death of children at the Florida School for Boys, also known as the Okeechobee School or Okeechobee School for Boys, residents, or staff.
- (b) Communications to or from OCSO relating to the investigation or prosecution of any cases originating from acts that occurred at the Okeechobee School for the above noted dates.

(WR. 905).

OCSO again objected, relying on the same grounds. (WR. 1280).

The same day, Jones also filed a demand for public records from FDLE, requesting the following:

- (a) Reports, memos, notes, or communications relating to the 2008-2010 investigation of the Florida School for Boys, Dozier School for Boys, and Okeechobee School, also known as the Okeechobee School for Boys, residents, or staff.
- (b) Communications to or from FDLE relating to the 2008-2010 investigation and any referrals for or prosecution of any cases originating from acts that occurred at the Okeechobee School that were discovered in and around the 2008-2010 investigation noted in paragraph 3.(a).

- (c) Reports, memos, notes, or communications relating to reports of abuse or investigations of the Okeechobee School for boys between 1975-present.
- (c) Reports, memos, notes, or communications with the Okeechobee County Sheriff's Office, the Office of the State Attorney for the 19th Judicial Circuit, or any other law enforcement agency concerning the investigation of reported abuse, assault, or other physical violence that occurred at the Okeechobee School.

(WR. 360). In response, FDLE asserted, among other objections, that Jones's demand should be denied because it was filed outside of the scheduling order. (WR. 1232). Like OCSO, FDLE refused to conduct any search of records.

The court heard brief argument on the demand to FDLE at the case management conference, and sustained each agency's objections, again denying Jones access to all relevant public records. The court did not hear argument on the renewed demand to OCSO or permit Jones to respond.

Jones submits that the lower court erred in denying him access to the files and records in his case to which all other individuals are able to routinely obtain and that he is being deprived of his rights to due process and equal protection guaranteed by the Fifth and Fourteenth Amendments to the U.S.

Constitution and the corresponding provisions of the Florida Constitution.

B. “[A]ccess to public records is an essential ingredient in any meaningful postconviction review.” *Sims v. State*, 753 So. 3d 66, 71 n.10 (Fla. 2000) (Anstead, J., concurring).

Article I, section 24, of the Florida Constitution codifies the fundamental right of access to public records for “[e]very person”—“regardless of whether that access is sought by a death row inmate, a disinterested citizen or a member of the media.” Art. I, § 24(a), Fla. Const; *Sims v. State*, 753 So. 3d 66, 71 (Fla. 2000) (Anstead, J., concurring). While this “‘self-executing’ right to open records is enforced through the Public Records Law, chapter 119 of the Florida Statutes” for all other citizens, *Rhea v. Dist. Bd. Trs. of Santa Fe College*, 109 So. 3d 851, 855 (Fla. 1st DCA 2013), this Court promulgated Florida Rule of Criminal Procedure 3.852 to govern the production of public records for capital postconviction defendants. Fla. R. Crim. P. 3.852(a).

Rule 3.852, however, “was never intended to, and, indeed, [can]not, diminish a citizen’s constitutional right to access to public records.” *In re Amends. to Fla. R. Crim. P.—Cap. Postconviction Recs.*

Prod., 683 So. 2d 475, 477 (Fla. 1996) (Anstead, J., specially concurring); *Sims*, 753 So. 3d at 71-72 (Anstead, J., concurring) (“We need to be very careful that we not end up with an outcome where a death-sentenced defendant, whose life may literally be affected, is barred from enforcing his constitutional right as a citizen to access to public records that any other citizen could routinely access.”). Rather, the rule was designed “[b]ased on the broad public records production authorized under chapter 119,” and meant “to promote the prompt and efficient processing of capital cases in a fair, just, and constitutionally sound manner.” *In re Amends. to Fla. R. Crim. P. 3.851, 3.852, et. seq.*, 797 So. 2d 1213, 1216-17 (Fla. 2001).

“[A]ccess to public records is an essential ingredient in any meaningful postconviction review,” *Sims*, 753 So. 3d at 71 n.10 (Anstead, J., concurring), and in safeguarding a death-sentenced individual’s due process rights under both the federal and state constitutions. *See Evitts v. Lucey*, 469 U.S. 387, 401 (1985). Rule 3.852 was not created to preclude access to records or hinder a capital postconviction litigant from thoroughly investigating their case. The rule was created to eliminate undue delay while still

“maintaining quality and fairness.” *Amendments to Fla. R. Crim. P.*, 797 So. 2d at 1216.

The setting of an execution date does not vitiate these fundamental rights, as “[t]he language of section 119.19 and of rule 3.852 clearly provides for the production of public records *after* the governor has signed a death warrant.” *Sims*, 753 So. 3d at 70. “It would be dangerous in the extreme, to infer from extrinsic circumstances, that a case for which the words of an instrument expressly provides shall be exempted from its operation.” *Sturges v. Crowninshield*, 17 U.S. (4 Wheat.) 122, 202 (1819) (per Marshall, C.J.) “[T]he courts must . . . lean in favor of a construction which will render every word operative, rather than one which may make some idle and nugatory.” Thomas M. Cooley, *A Treatise on the Constitutional Limitations Which Rest Upon the Legislative Power of the States of the American Union* 58 (1868). *See also Kungyz v. United States*, 485 U.S. 759, 778 (1988) (Scalia, J. plurality opinion) (calling it a “cardinal rule of statutory interpretation that no provision should be construed to be entirely redundant.”).

“[E]xecution is the most irremediable and unfathomable of penalties.” *Ford v. Wainwright*, 477 U.S. 399, 411 (1986) , and the

need for absolute transparency is at its apex when the State “tinker[s] with the machinery of death.” *Callins v. Collins*, 510 U.S. 1141, 1130 (1994) (Blackmun, J., dissenting). Jones was denied “a fair opportunity to show that the Constitution prohibits his execution.” *Hall v. Florida*, 572 U.S. 701, 724 (2014). Precluding client’s access to records is antithetical to “[o]ur system of open government [that] is a valued and intrinsic part of the heritage of our state.” Florida Office of the Attorney General, *Government-in-the-Sunshine Manual*, p. xii (2025 ed., Vol 47).

i. The Lower Court Erred In Determining Rule 3.852(I) Was The Improper Vehicle.

Rule 3.852(i) provides:

- (1) In order to obtain public records in addition to those provided under subdivisions (e), (f), (g), and (h) of this rule, collateral counsel shall file an affidavit in the trial court which:
 - (A) attests that collateral counsel has made a timely and diligent search of the records repository; and
 - (B) identifies with specificity those public records not at the records repository; and
 - (C) establishes that the additional public records are either relevant to the subject matter of the postconviction proceeding or are reasonably calculated to lead to the discovery of admissible evidence; and

(D) shall be served in accord with subdivision (c)(1) of this rule.

Subsection (i) of Rule 3.852 is the proper vehicle for Jones's public records demands. As Rule 3.852 explains, a capital defendant must file a demand pursuant to subsection (i) for records that are not covered under subsections (g) and (h). Rule 3.852(g) governs the initial production of records following the mandate after a direct appeal (on cases final after 1998). Rule 3.852(h)(3) governs cases that were final prior to October 1, 1998. In cases final prior to 1998, the initial records requests were done prior to the rule and pursuant to Chapter 119. Subsection (h) was included to assist in the transition of cases from the use of 119 letters to requesting records under Rule 3.852. To assist in this process, subsection (h)(3) includes a provision for handling discovery during warrant litigation, providing that capital defendants can request updated records from agencies the defendant "has previously requested public records." Fla. R. Crim. P. 3.852(h)(3).

Because Jones's requests neither concerned the initial production of public records following this Court's affirmance on direct appeal nor the request of records from agencies Jones

requested records from in his initial postconviction process, the lower court's rulings that the requests were improper because they did not meet Rule (h)(3) are must be reversed.

ii. The Lower Court Erred in Finding Jones's demands Untimely.

Notwithstanding the fact that Rule 3.852(i) does not contemplate a time frame for filing, Jones showed good cause to request the records under warrant. On June 21, 2024, Governor DeSantis signed into law House Bill 21, which created the Dozier School for Boys and Okeechobee School Victim Compensation Program to provide reparations for the living survivors of abuse endured while at these facilities. Survivors were required to submit applications for the compensation by December 31, 2024 and applicants were approved or denied thereafter. After Jones applied, the AG's office *mailed* him a letter confirming he was a member of the class on January 6, 2025. (WR. 811). Jones made his demand for additional records well within the year contemplated for newly discovered evidence claims.

Jones's demand was not some "eleventh hour attempt to delay [his] execution," as it plainly sought records stemming from a

specific fact related to Jones himself that became known only on January 6, 2025 when Jones was recognized by the State as a victim of a crime and entitled to compensation for the abuse he suffered. *See Sims*, 753 So. 3d at 71 n.10 (“[A]ccess to public records is an essential ingredient in any meaningful postconviction review. . .”) (Anstead, J., concurring). The records Jones seeks are part of “a focused investigation into . . . legitimate area[s] of inquiry” and related to a colorable claim as discussed *infra. Id.* at 70; *Muhammad v. State*, 132 So. 3d 176, 201 (Fla. 2013).

The agencies asserted arguments logically incongruent with one another, yet the court somehow found every agencies objections credible. OCSO, the AG, and FDLE argued that Jones should have asked about the investigations into the Okeechobee School decades ago, while SAO19 indicated it had no records of prosecutions stemming from the school. Each agency missed the very reason Jones asked for the records in the first place—no one believed the abuse occurred until recently. This is further supported by the fact that FDLE’s report in 2010 concluded no abuse occurred. There is no reason to believe any agency would have released any internal documents to Jones about the abuse and torture of the children at

Okeechobee, and the State of Florida's cover up and failure to fully investigate that abuse, until the State of Florida acknowledged Jones was a victim of the abuse. Indeed, the State's cover-up continues to this day with their ill-founded objections to Jones's records requests.

iii. The Lower Court Erred in Denying Jones's Demands as Overly Broad and Vague.

Jones's demands identified records specific in date, location, and substance relating to reports, investigations, and prosecutions of abuse suffered by the victims that attended the Okeechobee School. In conformity with established Florida case law, Jones identified, with as much specificity as possible, the records requested. *See Jimenez v. State*, 265 So. 3d 462, 473 (Fla. 2018) (comparing *Muhammad v. State*, 132 So 3d 176, 201 (Fla. 2013)).

In response to Jones's first demand, requesting records of reports and investigations of abuse during the times he was a student at Okeechobee School, and any communications with other law enforcement agencies about the reports and investigations of abuse at that time, the OCSO argued:

The request is overly broad in time and scope, spanning multiple years without regard to whether the Defendant's

prosecution was in any way connected to those investigations.

(WR. 435). The court erred in sustaining this objection.

Notwithstanding the fact that records requests pursuant to Rule 3.852(i) are not limited to a capital defendant's prosecution, the claim that the demand is overly broad in time and scope is disingenuous. Jones asked for records concerning a specific time frame—the duration of time he attended the Okeechobee School—and for reports and investigations of abuse at the school. Jones's claim concerns the abuse and torture Jones experienced at the Okeechobee School at that time.

Each agency is in the best position to determine whether the requested records exists and can be produced. Jones was not privy to any continuing investigation of his case nor to any communication each agency would have had with one another or other law enforcement related to the investigation of abuse suffered at the Dozier School for Boys and Okeechobee School, or the cover-up of that abuse; and therefore, cannot know each record or specific investigation numbers each agency has.

The demands were not vague or overly broad. Neither were the demands unduly burdensome. Indeed, not one agency provided information about how the demand was unduly burdensome, and several agencies that asserted the demands were unduly burdensome were also able to conduct a search for the records in a matter of hours. Despite Jones's request, the lower court did not require any agency to provide evidence or details about how the record search was unduly burdensome.

The demands pertained only to a limited scope of records. It is not unduly burdensome to require an agency to simply turn over records about a confined issue, particularly when the issue pertains to whether a capital defendant will live or die. The finality of this proceeding should demand an agency make reasonable efforts and only good faith arguments.

Jones was denied due process and the ability to fully and fairly investigate and present his claims because the agencies refused to gather and produce records necessary for Jones to challenge the validity and reliability of his death sentence, particularly under threat of imminent execution.

The lower court's rulings that the demands were vague and unduly burdensome is not substantiated by competent evidence, were legally erroneous and should be reversed.

iv. The Lower Court Used An Improper Standard In Determining Jones Failed To Assert A Colorable Claim, And In Doing So, Improperly Made Findings As To The Merits Of Jones's Postconviction Claim.

The requested records relate to colorable claims for postconviction relief and the lower court erred in determining otherwise. *See Sims*, 753 So. 2d 66, 70 (Fla. 2000) (noting Rule 3.852 “clearly provides for the production of public records after the governor has signed a death warrant” but not “for records unrelated to a colorable claim for postconviction relief”). A “colorable claim” is “a plausible claim that may reasonably be asserted, given the facts presented and the current law (or a reasonable and logical extension or modification of the current law).” *Colorable Claim*, *Black's Law Dictionary* (12th ed. 2024).

Whether a claim will succeed on the merits is distinct from whether it is colorable. A claim may be *colorable* despite being *meritless* under current law. Rule 3.852 conditions records production on the former. Thus, a finding that one of Jones's claims

is meritless would not prevent production unless the claim would remain meritless even assuming reasonable extensions or modifications of current law. *See Tompkins v. State*, 994 So. 2d 1072, 1090 (Fla. 2008) (suggesting lethal injection records could be relevant to colorable claim if change in circumstances since prior denial of lethal injection claim “warrant[ed] the court revisiting its decision”). Furthermore, Rule 3.852 does not limit production to records that are strictly necessary to prove a colorable claim. Rather, the scope of production encompasses records “reasonably calculated to lead to the discovery of admissible evidence.” Fla. R. Crim. P. 3.852(i)(2)(c).

Jones case is distinguishable from other cases this Court has reviewed wherein the requests concerned records for claims that are not yet cognizable. Here, Jones asserted a cognizable claim. Jones met that portion of the Rule and the inquiry should have ended there. The law enforcement agencies are **not** a party to Jones’s case and are in no position to determine the merits of his claim, particularly before he filed his Rule 3.851 motion.

The State of Florida sent Jones to the Okeechobee School for Boys (Colored) in 1975. While at the school, Jones suffered extreme

abuse, neglect, and cruelty. In June of 2024, the State of Florida finally officially acknowledged the severity of the suffering of the boys who were sent to Dozier and Okeechobee by passing into law effective July 1, 2024 a requirement that the State create a compensation fund to be given to those individuals who could prove that they attended Dozier or Okeechobee within a specified date range of documented and acknowledged abuse, and that the applicant also demonstrate or identify the abuse he suffered.

The AG mailed a letter to Jones dated January 6, 2025, and upon receipt of the letter sometime in mid-January of 2025, Jones first learned he was officially a member of the recognized group of boys who suffered abuse, neglect and cruelty by the guards and staff at Okeechobee. Jones noted in his demands that he intended to raise a claim about the abuse he suffered, and he did. Jones could not have been any clearer, he requested records related to his colorable claim and also that would likely lead to admissible evidence relevant to his postconviction proceedings.

The lower court's ruling that Jones's Rule 3.852(i) demands related to the abuse at Okeechobee were not related to a colorable claim is incorrect and must be reversed.

v. The Lower Court Failed to Conduct an In Camera Review to Ensure That The Withheld Records Do Not Contain *Brady* Evidence That the State is Required to Turn Over.

The lower court erred in failing to conduct in camera inspections of records the agency's claimed were irrelevant or statutorily exempt from disclosure. In failing to do so, the court could neither ensure that the records met the statutory exemptions or that the records did not contain *Brady*⁹ evidence that would be subject to disclosure. The court's failure to do so rendered Jones's records request meaningless and a nullity.

vi. The Lower Court Failed to Conduct an Evidentiary Hearing and Require the Agency's to Submit Sworn Testimony

The lower court erred in denying Jones's access to public records based on the agency objections without holding an evidentiary hearing. Whether demands are overly broad or unduly burdensome are disputed facts that require an evidentiary hearing to resolve. *See Leon Shaffer Golnick Advertising, Inc. v. Cedar*, 423

⁹ *Brady v. Maryland*, 373 U.S. 83 (1963).

So. 2d 1015, 1017 (Fla. 1982) (determining that an Attorney's "unsworn statements do not establish facts absent stipulation.").

Conclusion

Records produced under warrant have led to the discovery of exculpatory evidence, claims for postconviction relief, and stays of execution. *See, e.g., Jimenez*, 265 So. 3d at 470-71; *see also State v. Mills*, 788 So. 2d 249, 250-51 (Fla. 2001). The lower court's rote denial of access to the public records Jones sought rendered Rule 3.852 a hollow exercise on an execution check-list.

Notably, of the agencies that refused to search for the records, none argued that the records did not exist. Not one agency argued that the abuse and torture of the victims in question did not happen or that the relevant agency was not involved in investigating the horrors that occurred at Okeechobee. Indeed, OCSO does not claim that Jones's name is not in any of the relevant and responsive records. The court denied Jones's access to records about the decades long cover-up of the abuse and torture of children who were in the State's care based on a misapplication of Rule 3.852(i).

The lower court's error in sustaining objections from FDLE, OCSO, and the AG, deprived Jones's of right to a full, fair and

meaningful end-stage postconviction proceeding in contravention of his rights under the Fifth, Eighth, and Fourteenth Amendments and the corresponding provisions of the Florida Constitution and Florida statutory law and rules. The Florida Rules of Criminal Procedure provide for end-stage litigation that encompasses public records requests. Thus, Jones has a right to have those rules be given meaning and effect. The rules cannot simply be glossed over as window dressing.

While warrant litigation is taxing and difficult, lower courts cannot blithely ignore the rules and simply adopt the State's and agencies objections. Here, Jones met the requirements of the Rule and established he was entitled to the records. The refusal to give meaning to the Rules in place, which permit record requests under warrant, and permit Jones to seek records he is entitled to absent a legitimate showing of privilege or viable objection, renders the process meaningless. The court's failure here is especially egregious as Jones faces imminent execution. The court's rulings are incorrect and must be reversed. This Court should grant all appropriate relief.

Argument III

Florida's Warrant Process Deprived Jones Of A Full And Fair Postconviction Proceeding In Violation Of His Constitutional Right To Substantive and Procedural Due Process Under The Fifth And Fourteenth Amendments To The United States Constitution And Corresponding Provisions Of The Florida Constitution, And The Proceedings Further Ran Afoul Of The Requirement for Heightened Reliability in Capital Cases.

The lower court erred in summarily denying Jones's claim that the absence of a reasonable warrant schedule denied him of full, fair, and meaningful postconviction proceedings in violation of the Due Process Clause of the Fifth and Fourteenth Amendments and Article I, Section 9, of the Florida Constitution. *See Cleveland Bd. of Educ. v. Loudermill*, 470 U.S. 532, 542 (1985) (noting "an essential principle of due process is that a deprivation of life . . . 'be preceded by notice and opportunity for **hearing appropriate to the nature of the case.**'") (quoting *Mullane v. Cent. Hannover Bank & Trust Co.*, 339 U.S. 306, 313 (1950)) (emphasis added).

In Claim 3 of his successive Rule 3.851 motion, Jones argued that the warrant procedure in Florida and its constituent proceedings are so truncated that they preclude a meaningful hearing on *any* of his claims, preclude counsel's meaningful and

effective representation, and causes unnecessary strain and chaos on the judicial system, particularly at the circuit court level.

The Due Process Clause of the Fourteenth Amendment guarantees that “no State shall . . . deprive any person of life, liberty, or property without due process of law.” Amend. XIV, U.S. Const. Likewise, “one of the basic tenets of Florida law is the requirement that all proceedings affecting life, liberty, or property must be conducted according to due process.” *Scull v. State*, 569 So. 2d 1251, 1252 (Fla. 1990) (citing Art. 1, § 9, Fla. Const.).

“Whether acting through its judiciary or through its legislature, a state may not deprive a person of all existing remedies for the enforcement of a right, which the state has no power to destroy, unless there is, or was, afforded to him *some real opportunity to protect it.*” *Brinkerhoff-Faris Trust & Savings Co. v. Hill*, 281 U.S. 673, 682 (1930) (emphasis added). “At a minimum,” due process “require[s] that deprivation[s] of life, liberty or property by adjudication be preceded by notice and opportunity for hearing appropriate to the nature of the case.” *Armstrong v. Manzo*, 380 U.S. 545, 550 (1965) (quoting *Mullane*, 339 U.S. at 313).

As the U.S. Supreme Court held in *Mathews v. Eldridge*, “the fundamental requirement of due process is the opportunity to be heard ‘at a meaningful time and *in a meaningful manner*.” 424 U.S. 319, 333 (1976) (quoting *Armstrong*, 380 U.S. at 553) (emphasis added)..

Nowhere can these principles be more important than in a capital case, where the Supreme Court has repeatedly emphasized that the Eighth Amendment requires a heightened degree of reliability in the process. *See, e.g., Herrera v. Collins*, 506 U.S. 390 (1993); *McKoy v. North Carolina*, 494 U.S. 433 (1990); *Loudermill*, 470 U.S. at 542 (quoting *Mullane*, 339 U.S. at 313) (reiterating that the due process requirements of notice and opportunity must be “appropriate to the nature of the case”); *Eddings v. Oklahoma*, 455 U.S. 104 (1982); *Lockett v. Ohio*, 438 U.S. 586, 604 (1978) (plurality); *Woodson v. North Carolina*, 428 U.S. 280, 305 (1976).

Contrary to this Court’s finding in *Hannon v. State*, 228 So. 3d 505, 509 (Fla. 2017), the “function” of the Eighth Amendment is not fulfilled “by the time that a defendant is warrant eligible.” Indeed, both the imposition of a death sentence *and* the process of carrying out an execution must withstand constitutional scrutiny.

If the Constitution renders the fact *or timing* of his execution contingent upon establishment of a further fact . . . “then that fact must be determined with the high regard for truth that befits a decision affecting the life or death of a human being.”

Herrera, 506 U.S. at 405-06 (quoting *Ford*, 477 U.S. at 411).

The Supreme Court has held that factual determinations related to the constitutionality of a person’s execution are “properly considered in proximity to the execution.” *Id.* at 406 (noting competency to be executed determination is more reliable near time of execution whereas guilt or innocence determination becomes less reliable). In other words, whether the carrying out of a death sentence violates the Eighth Amendment depends on the facts existing after a death warrant is signed and the determination of these facts requires *increased reliability*.

Despite this requirement, warrant proceedings in Florida are unnecessarily truncated and fail to provide capital defendants a meaningful time or manner to challenge their convictions and sentences. This is particularly abhorrent when the end result is the ultimate penalty—actual death. The Eighth Amendment requires a principled way to distinguish between who is executed by a state

government *and* how much time they are afforded to investigate and present their claims under warrant.

Other active death penalty states, including Texas and Missouri, provide by statute or rule a minimum of 90 days in which to raise challenges under warrant. Tex. Code Crim. Proc. Ann. art. 43.141(c) (2015); Mo. Sup. Ct. R. 29.08 (2014). The Missouri Supreme Court Rules provide a window of between 90-120 days for the warrant period. Mo. Sup. Ct. R. 29.08. Oklahoma requires that an execution be set not be less than 60 days from the issuance of a warrant. Okla. Stat. Ann. tit. 22, §1001 (2025). Louisiana also requires a minimum warrant period of 60 days and provides up to 90 days from the warrant being issued. La. Stat. 15:567(B) (2024). In Ohio, the Supreme Court sets the execution date between 2-3 years in advance, thus there is no element of surprise on the parties and adequate time for stakeholders to conduct meaningful review.

Section 922.052, Florida Statutes, sets a maximum 180-day warrant period, but fails to provide a reasonable, minimum time to ensure meaningful process. Unlike other death penalty states, Florida's warrant stage litigation structure fails to ensure that capital defendants receive due process and a meaningful

opportunity to be heard in the final stages of a capital case. The reality is that this structure has resulted in practice to provide an essentially meaningless process that fails to conform with the requirements of the Fifth, Sixth, Eighth, and Fourteenth Amendments facially and as applied to Jones.

Counsel for Jones received notice at 12:07 p.m. on Friday, August 29, 2025, that a warrant had been signed. Jones's execution was scheduled for September 30, 2025. Within the hour, this Court issued a scheduling order directing "that all further proceedings in this case be expedited." Scheduling Order, *Jones v. State*, SC1960-81482 (Fla. Aug. 29, 2025). This Court directed all circuit court proceedings to be completed by 11:00 a.m. on Friday, September 12, 2025. Due to the holiday, the lower court was unable to hold a case management conference and address

scheduling of the circuit court proceedings¹⁰ until Tuesday, September 2, 2025 at 11:00 a.m.¹¹

Although the warrant period is 32 days in Jones’s case, this Court’s scheduling order provided approximately nine business days for circuit court proceedings. Jones had just three business days to file all public records demands and five business days to file any claims challenging his conviction and sentence. This extremely expedited schedule prevented Jones from having any meaningful process or opportunity to fully investigate and present his claims, hindered counsel in providing effective representation, and caused unnecessary strain and chaos for the courts and all parties involved.

Jones alerted the lower court to his concerns about the unnecessarily expedited and difficult schedule, which were dismissed. In declining to find any constitutional infirmity with the

¹⁰ The AG filed a motion for a proposed scheduling order, however, counsel was never served and the Miami-Dade docket did not reflect this filing until later in the day on Monday, September 1, 2025.

¹¹ Notably, two holidays fall within Jones’s warrant period—Labor Day and the Jewish New Year of Rosh Hashanah.

process, the lower court cited this Court's opinions rejecting arguments that a compressed warrant schedule violates a defendant's due process rights." (WR. 1481) (citing *Tanzi v. State*, 407 So. 3d 385 (Fla. 2025); *Barwick v. State*, 361 So. 3d 785, 789 (Fla. 2023)).

The lower court failed to engage at all with the constitutional inadequacies of the process and instead concluded that because this Court has rejected prior challenges to the expedited process, Jones could not possibly demonstrate how his due process rights have been violated. Although Jones specifically identified how the truncated process denied him a meaningful opportunity to investigate, present, and be heard on his claims, the lower court ignored all but two of Jones's examples, dismissing the remainder as "general claims." (WR. 1481).

The lower court's findings and conclusions fail to comport with the U.S. Supreme Court's and this Court's precedent and Jones's Fifth and Fourteenth Amendment Due Process Rights.

A. The Unreasonably Expedited Warrant Period and its Constituent Proceedings Resulted in the Unconstitutional Denial of Right to Access Public Records.

Jones promptly sought public records pursuant to Rule 3.852(h)(3) and (i). He filed demands on Thursday, September 4, 2025 at 12:00 p.m., per the circuit court's scheduling order. The agencies were required to respond within 23 hours, by 11:00 a.m. on September 5, 2025. (WR. 156). The lower court held argument just two hours after, at 1:00 p.m., and the court was to issue its written rulings by 5:00 p.m. the same day. (WR. 156-57). The agencies were ordered to comply with the disclosure of records by 3:00 p.m. the following day, Saturday, September 6, 2025. (WR. 157).

The public records hearing was held at 1:00 p.m. on Friday, September 5, 2025, and Jones's Rule 3.851 motion was due on Monday September 8, 2025 at 11:00 a.m. As a result, Jones was denied due process and his "constitutional right as a citizen to access public records[,]" *Sims v. State*, 753 So. 2d 66, 72 (Fla. 2000) (Anstead, J., concurring), because the time frame precluded meaningful search by the agencies, as will be shown below, and

precluded Jones's ability to meaningfully challenge some of the agencies' false claims of a lack of records and other agencies' failures to even comply with the rules.

This unnecessarily truncated process rendered Jones's constitutional right to records meaningless. Jones was hamstrung by the lack of time for agencies to conduct a thorough search, and by the fact that some agencies refused to search for records at all. OCSO failed to conduct any search for records, claiming the records "may not exist, may be incomplete, or may be housed in archives not readily accessible to the Sheriff's Office." (WR. 435). At the records hearing, the lower court declined to instruct OCSO to even conduct a search and represent that its assertions were in-fact true, and accepted the OCSO's unsworn, vague, and unsupported hypothesis about the records.

The schedule was so truncated that two agencies had to *clarify* or correct their responses to Jones's demands. The AG and SAO11 each argued at the public records hearing that neither had responsive records, yet in the days following, both realized they *are* in possession of responsive records. (WR. 461, 814). The lower court granted Jones's motion to review *in camera* the SAO11's records,

ultimately denying disclosure to Jones. The court wholly denied Jones's request for in camera review of the AG's records. to ensure the AG's claims of exemption were properly made and preserve the issue for appellate review. (WR. 1250, 1266).

The denial of due process is further violated because counsel has little time to assess which records to request and make the demands—usually 2-3 business days— and it is to be expected that additional demands may need to be filed, as is the nature of rapidly moving capital warrant litigation, and is what happened here.

The court improperly precluded Jones's access to records relating to his claim of recognized abuse at Okeechobee. The lower court sustained objections asserted by OCSO, SAO19, and FDLE— agencies that investigated the trauma and torture that occurred at the Okeechobee School. These records likely contain information that Jones is entitled to under *Brady v. Maryland*, 373 U.S. 83 (1963).

B. The Unreasonably Expedited Warrant Period and its Constituent Proceedings Resulted in the Unconstitutional Denial of Meaningful Opportunity to Investigate and Present Claims.

The warrant period further precluded Jones from investigating and collecting the evidence he would need substantiate his claims at an evidentiary hearing. On January 6, 2025, Jones became a recognized member of the class of victims who attended Okeechobee and suffered physical, mental and emotional abuse. Rule 3.851(d)(2)(A), provides one year to file claims arising from this newly discovered evidence. Jones's warrant was signed less than nine months into that period, causing him to lose nearly 4 months of time to investigate, seek records, and properly present his claim.

As noted *supra*, Jones was denied a meaningful opportunity and time to adequately request records relating to the decades long cover up of the abuse that occurred at Okeechobee. These records relate to the fact that claims of physical and sexual abuse and were covered-up and rejected for decades. And, available records further demonstrate that when the State finally recognized that children were being brutally victimized while in state custody, the initial focus was on Dozier, not Okeechobee. The court denied Jones's

claim as procedurally barred. Indeed, the court's denial of relevant records that would show the ways in which the stakeholders actively covered up the abuse and declined to prosecute any allegations stemming from Okeechobee prejudiced Jones ability to fully develop and plead his claim.

At the initial status conference, counsel alerted the court as to the tight window it would have between the case management conference and the court's deadline to issue a ruling. Counsel requested that the court consider moving the hearing up from Wednesday, September 10, 2025 at 10:00 a.m. to Tuesday, September 9, 2025, in the afternoon, so as to give the court more time to issue its ruling. (WR. 1548-51). The lower court denied the Defense's request and adopted the State's Wednesday suggestion. (WR. 1551). This very concern came to fruition at the at the case management conference. The court limited counsel's argument, noting how little time the court had to issue is order. (WR. 1660).

Bound by this Court's schedule, the lower court had limited time to become familiar with the record and process, as evidenced by several of the public records rulings that will be addressed below.

The lower court’s ready acceptance of these truncated proceedings and the court’s rush through motions and arguments evinces the broader theme of these proceedings—the lack of “any indicia of meaningfulness.” *Barwick*, 361 So. 3d at 796 (Labarga, J. concurring); *Joint Anti-Fascist Refugee Committee v. McGrath*, 341 U.S. 123, 164 (1951) (Frankfurter, J. concurring) (quoting *Palko v. Connecticut*, 302 U.S. 319, 327 (1937)) (“The hearing, moreover, must be a real one, not a sham or a pretense.”).

C. The Unreasonably Expedited Warrant Period Caused Unnecessary Disruption to the Judicial System and Chaos to the Litigation of Jones’s Warrant.

The lower court’s findings in denying Jones’s challenges to the unreasonably expedited warrant period and scheduling orders further fail to account for the practical impossibilities they create and the strain they place on limited judicial resources. The signing of a warrant is a surprise to the Defendant, Defense counsel, and the courts.¹² The process is needlessly disruptive and unduly

¹² It appears the AG has some notice as indicated by the fact that the warrant is accompanied by a letter from the AG, dated the same day as the warrant, laying out the facts and procedural history of the case. Additionally, the AG filed a motion for a proposed scheduling order hours after the warrant was signed. (WR. 115). Notably, although undersigned counsel had already filed a

burdensome on all parties and the judicial system's limited resources. Trial level courts must quickly clear schedules and move other cases to accommodate the emergency hearings. While the lower court was able to set the hearings and clear her calendar, the assigned Judge had never heard proceedings in this case and was faced with an impossible task—becoming familiar in a matter of days with a case that spans decades, includes thousands of pages of records throughout which Jones has presented detailed and compelling evidence undermining the reliability of his sentence.

The burden on the court also impacts court staff and the proceedings. Neither the court reporter nor the clerk fulfilled their requirements in this case—to transcribe proceedings within hours and timely submit a complete ROA to this Court.

This Court's scheduling order provided Jones less than 72 hours to draft his initial brief on appeal following the filing of the ROA. The Miami-Dade Clerk of Court was required to file the ROA by 5:00 p.m. on Friday, September 12, 2025, just 4 hours after the

notice of appearance and served the AG's e-filing serve address, the AG did not serve undersigned counsel on its scheduling motion as noted *supra*.

deadline for the notice of appeal and 6 hours after the circuit proceedings were to be concluded. The Clerk filed the record over an hour and a half late, at 6:36 p.m.,¹³ and did not provide a copy to counsel. Counsel obtained the record from this Court's capital clerk.

Upon review of the record, counsel discovered that the Clerk failed to include any transcripts of the proceedings below.¹⁴ At 9:03 p.m., Saturday, September 13, 2025, Counsel filed an emergency motion requesting that the clerk be ordered to correct and supplement the record, which required that the Court also direct the court reporter to complete all transcripts and file all transcripts

¹³ SAO11 filed its response to Jones's public record demand 11 minutes late, when counsel only had 2 hours to review its response, and the others, and prepare for the public records hearing. And, while counsel was served on this response, the response was not docketed. The filing was not properly filed and was rejected by the efilings portal. SAO11 didn't bother to refile the rejected pleading for more than three days.

¹⁴ The ROA is difficult to navigate. The pleadings out of order, several pleadings are duplicated but each copy is labeled differently, documents are mislabeled, and none of the transcripts of any hearings below were initially included. Because the items are out of order and the nearly 1500-page document is not word searchable, it took counsel considerable time to figure out what was in the ROA and what was missing.

with the clerk of court. Jones simultaneously filed a motion to toll the time for Jones to file his initial brief. This Court granted both of Jones's motions and extended the deadline to file the initial brief by 24 hours.

The lower court failed to comply with Rule 3.851(h)(7) and ensure that the court reporter provide the transcripts to the clerk, and that the proceedings be transcribed expeditiously. Every transcript was provided days late, despite the lower court's directive to be complete within 24 hours. The initial status proceeding was held on September 2, 2025 at 11:00 a.m., and that transcript was provided more than 3 days later, on Friday, September 5, 2025, at 2:32 p.m. The transcripts were provided after the public records hearing had concluded.

The public records hearing was held on Friday, September 5, 2025 at 1:00 p.m., and that transcript was provided on Monday, September 8, 2025, at 2:53 p.m.—**4 hours after** Jones's 3.851 motion and all claims were due, precluding him from meaningfully addressing any issues that arose during the hearing.

Most notably, the court held the case management conference on Jones's successive Rule 3.851 at 10:00 a.m. on Wednesday,

September 10, 2025. The lower court did not provide transcripts from the hearing to counsel until Sunday, September 14, 2025, at 10:47 a.m., *more than 12 hours after Jones filed his emergency motion to supplement the record, and after this Court issued its Order granting Jones's motion.* Jones was already limited in his time to prepare an initial brief, which was due Monday 15, 2025 at 2:00 p.m., and having received the ROA on Friday at 6:35 p.m. Jones then had to take time away from preparing the brief to draft and file an emergency motion with this Court on Saturday, requesting that the court reporter be instructed to complete the transcripts and file all transcripts with the clerk for the ROA. Jones emailed opposing counsel who had not responded by the filing of the motion or even the next morning.

Jones then had to file a second emergency motion to supplement the record after discovering that SAO11's initial response to his Rule 3.852(i) demands was not included in the ROA. As noted in footnote 13, SAO11's initial response wasn't included in the ROA because it wasn't properly filed, thus it wasn't docketed.

Further demonstrating the damage the unnecessarily truncated process has on Florida's system of justice, the court

sustained SAO11's objections on the disclosure of notes from a prior completed hearing and placed the notes in the record to be sealed for appellate review. (WR. 1267). The Clerk of Court included the notes in the record but left them unsealed and available to view. Defense counsel notified the State of this error on the evening of Monday, September 15, 2025.

Throughout the circuit court litigation, service and notice was likewise chaotic and incomplete. Due to the incredible speed of the litigation, parties were left off service altogether and others were not served due to mistakes in entering email addresses into the e-filing portal. Also, several parties have multiple e-filing portal profiles which caused confusion and resulted in service to outdated email addresses.

As a result, not all parties were receiving notice of the filings. For example, the AG filed a Motion for Proposed Scheduling Order hours after the warrant was signed on Friday, August 29, 2025, but because the filer mistyped the email address for the acting CCRC-South, counsel for Jones never received this filing and was unaware of its existence until the Miami-Dade Clerk's website updated later in the day on Monday, September 1, 2025 documenting the filing.

Likewise, the order of judicial assignment used the AG's service list with email errors and never served CCRC-South. While SAO11 included assigned counsel in its certificate of service for each of its filings, it continued to include the incorrect email addresses for the Acting CCRC-South and prior (retired) counsel. Moreover, when the SAO11 filed its pleadings, the filer apparently never actually clicked the relevant parties on the e-filing portal, so lead counsel was not served on several SAO11 filings.

As indicated by the scheduling order, the Court expects counsel to work around the clock in order to meet the rigorous deadlines imposed. Counsel for Jones accepts that obligation and is proud of their representation and dedication to our system of justice. However, neither counsel nor experts have unfettered ability to meet with or speak with capital defendants under death watch in Florida' State Prison ("FSP"). Even under warrant, FSP allows counsel and experts to meet with clients only on weekdays during specific hours, and calls are limited to 30 minutes.

Calls, visits, and expert evaluations are approved subject to availability due to the overlapping warrants, which means at least two capital defendants are on death watch at a time. On three

occasions recently, including at the present moment, the prison has had to accommodate calls and visits for three defendants simultaneously on death watch. The process frustrates counsel's ability to meet ethical duties and ensure Florida's death penalty is administered consistent with basic notions of fundamental fairness and process which are the cornerstone of our system of justice.

Jones suffers from intellectual disability, brain damage, and post-traumatic stress disorder; limited phone calls impacts counsel's ability to communicate effectively with Jones about the proceedings. Jones is housed more than five hours from the CCRC-South office, making it impossible to meet with Jones as often as is necessary while *also investigating and presenting his claims*. Counsel cannot effectively represent Jones under these circumstances.

The unnecessarily truncated process coupled with the surprise nature of the signing of a warrant creates an untenable and impossible situation. While Judges and counsel for all parties must cancel necessary medical appointments, scheduled travel, or attend hearings notwithstanding any illness, regardless of severity, it is unreasonable to assume that experts, witnesses, and family of the

client and the parties (including outside agencies and court staff) are able to do the same.

Moreover, the process impacts counsel's ability to effectively represent other clients. While Rule 3.851(h)(2) provides that warrant proceedings take precedence over all other cases and courts may be willing to move previously scheduled hearings, counsel is not absolved from their ethical and constitutional obligations to other clients. The very nature of warrant proceedings under this truncated period requires around the clock representation of *a single client*.

Pointing to this Court's decision in *Tanzi v. State*, 407 So. 3d 385 (Fla. 2025), which relied on *Barwick*, 361 So. 3d 785, the lower court summarily denied Jones's claim as without merit because "the Defendant has not shown how the warrant schedule denied him notice or the opportunity to be heard." *See* (WR. 1481). The lower court's reliance on *Tanzi* and *Barwick* are misplaced.

Barwick held that neither ineffective assistance of collateral counsel nor case-specific "circumstances that happened to coincide with the beginning of the warrant period" deprived Barwick of notice or hearing. 361 So. 3d at 789-90. *Barwick* did not blanketly

approve 30-day warrant periods as the circuit court suggested. Rather, this Court affirmed the summary denial of a “consolidated claim” that “assert[ed] that due process depends on the effective assistance of counsel, and that the accelerated warrant schedule and other attendant circumstances made it impossible for Barwick to be provided with effective assistance of postconviction counsel.” *Id.* at 789.

Barwick argued that his postconviction counsel could not provide effective assistance “due to certain circumstances that happened to coincide with the beginning of the warrant period.” *Id.* at 789. Naturally, this claim depended on the existence of a right to effective assistance of postconviction counsel. *Id.* at 789-90. Finding no such right existed, this Court held “a claim of ineffective assistance of postconviction counsel does not provide a valid basis for relief.” *Id.* at 791. Thus, even if Barwick’s postconviction counsel was ineffective, that fact alone would not show that he was denied fair notice or hearing. *See Id.* at 789-91. Accordingly, this Court affirmed because Barwick “ha[d] not identified any matter on which he was denied notice or an opportunity to be heard before it was decided.” *Id.*

Barwick said nothing about the 30-day warrant period *per se*. It addressed “the accelerated warrant schedule *and other attendant circumstances*,” *i.e.*, “certain circumstances that *happened to coincide* with . . . the warrant period, such as the occurrence of Holy Week, Passover, and Ramadan; co-counsel being ill; and the presence of another inmate on Death Watch.” *Id.* at 789 (emphasis added). These circumstances merely coincided with *Barwick*’s warrant litigation and were relevant only insofar as they impacted collateral counsel’s effectiveness. In contrast, the circumstances giving rise to Jones’s claim are the direct result of the truncated warrant period and its division into constituent parts.

The lower court further determined that Jones’s challenge to the warrant period concerning the court’s denial of his demands for records regarding investigations and reports of abuse involving the Okeechobee School was meritless because Jones failed to meet Rule 3.852(i) requirements establishing he is entitled to the records. (WR. 1481-82). The court determined Jones “failed to show good cause as to why the public records requests were not made until after the death warrant was signed.” (WR. 1482). Jones will address with specificity the court’s error in denying his public records demands

in Argument II; however the court's findings also fail to consider that Jones right to due process is indeed a constitutional right, and the violation of his due process right to a full and fair capital proceeding is a cognizable claim. "When a procedural error reaches the level of a due process violation, it becomes a matter of substance." *Huff v. State*, 622 So. 2d 982, 984 (Fla. 1993).

Jones faces imminent execution. Fundamental notions of dignity and fairness demand that he be able to challenge his death sentence through meaningful collateral proceedings, and the current warrant selection process precludes Jones from doing so in a manner that meets a constitutional violation. While Jones may not receive relief from any court in this State, the historical record will show that Florida extinguished any meaningful way to challenge imminent executions. History will view this time in Florida's Justice System with ignominy. See Austin Sarat, *In the World of Capital Punishment, Florida is Becoming the New Texas*, The Hill (Aug. 26, 2025), <https://thehill.com/opinion/criminal-justice/5469150-desantis-death-penalty-spike-executions/>.

This Court should grant all appropriate relief.

CONCLUSION AND RELIEF SOUGHT

Based upon the foregoing and the record, Jones respectfully urges this Court to reverse the lower court, 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

Pursuant to Fla. R. App. P. 9.045, I hereby certify that the Initial Brief of the Appellant has been produced in Bookman Old Style 14-point font. Pursuant to Fla. R. App. P. 9.210(a)(2)(D), this brief complied with the word count (19,579 of 20,000).

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing pleading has been electronically filed through the Florida State Courts e-filing portal and served to the parties listed below on September 16, 2025.

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