

**IN THE SUPREME COURT OF FLORIDA  
CASE NO: SC2026-0519**

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**CHADWICK WILLACY,**  
Appellant,  
**v.**  
**STATE OF FLORIDA,**  
Appellee.

**ON APPEAL FROM THE CIRCUIT COURT OF THE EIGHTEENTH  
JUDICIAL CIRCUIT IN AND FOR BREVARD COUNTY, FLORIDA  
Lower Tribunal No. 1990-CF-16062-A**

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**INITIAL BRIEF OF THE APPELLANT  
CAPITAL CASE - DEATH WARRANT SIGNED**

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## **REQUEST FOR ORAL ARGUMENT**

Undersigned counsel for the Appellant respectfully requests the opportunity to present oral argument pursuant to Fla. R. App. P. 9.320. This is a capital case, which presents novel issues of constitutional significance and the resolution of the issues presented will determine whether Chadwick Willacy (Mr. Willacy) will live or die, and a complete understanding of the complex factual, legal and procedural history and the arguments presented are critical to the proper disposition of this appeal.

## **JURISDICTIONAL STATEMENT**

This is a timely appeal from the trial court's final orders denying postconviction demands and motions filed a week before and since a death warrant was signed by the governor on March 13, 2026. This Court has plenary jurisdiction over death penalty cases. Fla. Const. art. V, § 3(b)(1); *Orange County v. Williams*, 702 So. 2d 1245 (Fla. 1997).

## **PRELIMINARY STATEMENT ABOUT THE RECORD**

The postconviction record on appeal for the current death warrant litigation consists of one volume and is referenced to as "PCR" followed by the page number.

**TABLE OF CONTENTS**

REQUEST FOR ORAL ARGUMENT ..... ii

JURISDICTIONAL STATEMENT..... ii

PRELIMINARY STATEMENT ABOUT THE RECORD ..... ii

TABLE OF CONTENTS ..... iii

TABLE OF AUTHORITIES..... v

JUDGEMENT AND SENTENCE UNDER APPEAL ..... 1

STATEMENT OF PROCEDURAL HISTORY AND FACTS ..... 3

STANDARD OF REVIEW..... 5

SUMMARY OF ARGUMENTS ..... 6

ARGUMENT ..... 8

CLAIM ONE: APPEAL FROM DENIAL OF PUBLIC RECORDS  
DEMANDS..... 8

I) FLORIDA LAW “PROVIDES ANY MEMBER OF THE PUBLIC  
ACCESS TO PUBLIC RECORDS, WHETHER HE OR SHE BE  
THE MOST OUTSTANDING CIVIC CITIZEN OR THE MOST  
HEINOUS CRIMINAL”..... 11

II) THE TRIAL COURT UNLAWFULLY SUSTAINED THE  
AGENCIES’ OBJECTIONS AND DENIED WILLACY’S DEMAND  
FOR PUBLIC RECORDS BASED ON LEGALLY INSUFFICIENT  
OBJECTIONS BY THE AGENCIES..... 15

a. All of the public records demands filed on March 6 and 18,  
2026, were pled with specificity and none were unduly  
burdensome. .... 16

b. Each of the Agencies failed to meet their burden that each agency is entitled to specific exemptions .....	21
III) NEITHER FLORIDA STATUTE NOR RULE 3.852 IMPOSE A BURDEN UPON CAPITAL POSTCONVICTION DEFENDANTS TO ASSERT A COLORABLE CLAIM IN DEMANDS FOR PUBLIC RECORDS.....	24
a. Limiting capital postconviction defendants’ access to public records is in contradiction with the rationale and intention for which Rule 3.852 was established and Florida Statute § 27.708(3) was enacted.....	24
b. Capital postconviction defendants are required to show merely that the additional public records sought are either relevant to the subject matter of the postconviction proceeding or are reasonably calculated to lead to the discovery of admissible evidence. ....	29
c. The Agencies’ objections based on their assertions that Willacy has failed to present a colorable claim are meritless. ....	31
 <u>CLAIM TWO: APPEAL FROM DENIAL OF MOTION FOR IN-CAMERA INSPECTION AND REHEARING.....</u>	 34
 <u>CLAIM THREE: APPEAL FROM DENIAL OF MOTION FOR EXTENSION OF TIME TO FILE.....</u>	 37
CONCLUSION AND RELIEF SOUGHT.....	39
CERTIFICATE OF COMPLIANCE .....	41
CERTIFICATE OF SERVICE.....	41

**TABLE OF AUTHORITIES**

<b>Cases</b>	<b>Page(s)</b>
<i>Barfield v. City of Fort Lauderdale Police Department</i> , 639 So. 2d 1012 (Fla. 4th DCA), <i>review denied</i> , 649 So. 2d 869 (Fla. 1994) .....	22
<i>Barfield v. School Board of Manatee County</i> , 135 So. 3d 560 (Fla. 2d DCA 2014).....	21
<i>Cruz v. State</i> , 279 So. 3d 154 (Fla. 4th DCA 2019) <i>review denied</i> , 2020 WL 1169444 (Fla. 2020).....	13
<i>Everglades Law Center v. South Florida Water Management District</i> , 290 So. 3d 123 (Fla. 4th DCA 2019) .....	14
<i>Everglades Law Center v. South Florida Water Management District</i> , 290 So. 3d 123 (Fla. 4th DCA 2019) .....	14-15, 35
<i>Florida Freedom Newspapers, Inc. v. Dempsey</i> , 478 So. 2d 1128 (Fla. 1st DCA 1985) .....	22
<i>Flowers v. Mississippi</i> , 139 S. Ct. 2228 (2019).....	1
<i>Hill v. Butterworth</i> , 941 F. Supp. 1129 (N.D. Fla. 1996) .....	25
<i>Mem'l Hosp. Volusia Inc. v. News-Journal Corp.</i> , 729 So. 2d 373 (Fla. 1999) .....	13

<i>Miami-Dade County v. Professional Law Enforcement Ass’n</i> , 997 So. 2d 1289 (Fla. 3d DCA 2009) .....	13
<i>Muhammad v. State</i> , 132 So. 3d 176 (Fla. 2013).....	17-18
<i>O’Boyle v. Town of Gulf Stream</i> , 257 So. 3d 1036 (Fla. Dist. Ct. App. 2018).....	20
<i>Orange County v. Williams</i> , 702 So.2d 1245 (Fla. 1997) .....	ii
<i>Ragsdale v. State</i> , 720 So. 2d 203 (Fla. 1998).....	36
<i>Rose v. State</i> , 774 So. 2d 629 (Fla. 2000).....	36
<i>Seigle v. Barry</i> , 422 So. 2d 63 (Fla. Dist. Ct. App. 1982) <i>review denied</i> , 431 So. 2d 988 (Fla. 1983) .....	21
<i>Shevin v. Byron, Harless, Schaffer, Reid, and Associates, Inc.</i> , 379 So. 2d 633 (1980) .....	13, 18
<i>Sochor v. State</i> , 883 So. 2d 766 (Fla. 2004).....	6
<i>State v. Kokal</i> , 562 So. 2d 324 (Fla. 1990) .....	36
<i>Trotter v. State of Florida, et. al</i> , 607 U.S. ____ (2026) .....	33, 34, 38
<i>Walls v. Dixon</i> , No. 4:25-cv-0488, ECF 1 (N.D. Fla. Nov. 26, 2025) ... ..	32
<i>Weekly Planet, Inc. v. Hillsborough County Aviation Authority, et al</i> , 829 So. 2d 970 (Fla. 2d DCA 2002).....	13
<i>Willacy v. State</i> , 640 So. 2d 1079 (Fla. 1994).....	1

<i>Willacy v. State</i> , 696 So. 2d 693 (Fla. 1997), <i>cert. denied Willacy v. Florida</i> , 522 U.S. 970 (1997) .....	1
<i>Woolling v. Lamar</i> , 764 So. 2d 765 (Fla. 5th DCA 2000), <i>review denied</i> , 786 So. 2d 1186 (Fla. 2001) .....	21

**Constitutional Provisions**

Art. I, § 24, Fla. Const. ....	9-10, 12
Art. V, § 3(b)(1) Fla. Const. ....	ii
U.S. Const. amend. V .....	7, 34
U.S. Const. amend. VIII.....	32
U.S. Const. amend. XIV.....	7, 34

**Statutes**

§ 119.01(1) Fla. Stat.....	10, 12
§ 119.011(12) Fla. Stat.....	12, 27
§ 119.19 Fla. Stat.....	27
§ 27.708(3) Fla. Stat.....	24, 27
§ 27.7081 Fla. Stat. (2005).....	27
§ 27.7081 Fla. Stat. ....	9-10, 27, 29-30, 35
§ 945.10 Fla. Stat. ....	6, 14, 22, 23
Ch. 119, Fla. Stat. (2025).....	9, 13, 14, 24, 26, 29

Ch. 27, Fla. Stat. .... 28

**Rules**

Fla. R. App. P. 9.320 ..... ii  
Fla. R. Crim. P. 3.850..... 25  
Fla. R. Crim. P. 3.851 ..... 1, 25  
Fla. R. Crim. P. 3.852..... *passim*

**Other Authorities**

47, Florida Office of the Attorney General, *GOVERNMENT-IN-THE-SUNSHINE MANUAL, A Reference For Compliance with Florida’s Public Records and Open Meetings Laws*, (2025 ed.)..... 11, 21-22  
*In re Amendment to Florida Rules of Criminal Procedure -Capital Postconviction Public Records Production*, 683 So. 2d 475 (Fla. 1996) ..... 26, 28  
*In re Amendments to Florida Rules of Criminal Procedure -Capital Postconviction Public Records Production*, 673 So. 2d 483 (Mem) (Fla. 1996) ..... 27  
Op. Att’y Gen. Fla. 96-34 (1996) ..... 21  
SB 898, Reg. Session (Fla. 1998), Bill Analyses ..... 28  
SB 1330, Reg. Session (Fla. 1998), Bill Analyses ..... 28

## **JUDGEMENT, SENTENCE AND MOTIONS UNDER APPEAL**

Mr. Willacy's trial for first degree murder, and related offenses, was held in December of 1990. He was convicted and sentenced to death in October 1991. An evidentiary hearing was held on the defense's motion for new trial on October 12, 1992, and the motion was ultimately denied. On direct appeal, this Court reversed the death sentence and remanded for a new penalty phase. *Willacy v. State*, 640 So. 2d 1079 (Fla. 1994). The second penalty phase was held in 1995. The jury again recommended a death sentence. The court sentenced Mr. Willacy to death on November 20, 1995. [PCR129]. This Court affirmed the sentence. *Willacy v. State*, 696 So. 2d 693 (Fla. 1997), *cert. denied Willacy v. Florida*, 522 U.S. 970 (1997).

Willacy challenged his conviction and death sentence pursuant to Florida Rules of Criminal Procedure 3.851 in four separate filings. The last challenge was in 2020 following the Supreme Court opinion in *Flowers v. Mississippi*, 139 S. Ct. 2228 (2019). [PCR 34-38].

On March 13, 2026, Governor Ron DeSantis signed a Death Warrant for Mr. Willacy and Mr. Willacy's execution date is set for

Tuesday, April 21, 2026, at 6:00 PM. On March 6, 2026, Willacy, through undersigned counsel, filed “Defendant’s Demand for Additional Public Records Florida Department of Corrections (“FDOC”).” [PCR 55-62] On March 18, 2026, Willacy filed additional Demands of government agencies involved with Mr. Willacy’s execution concerning possible communication within and between the agencies between March 6 and March 13, 2026. [PCR 150-177] On March 23, 2026, the circuit court entered its Order following the public records hearing denying all of Willacy’s demands for additional public records. [PCR 366-373] Willacy filed a Petition for Writ of Mandamus on March 25, 2026, seeking an order from this Court directing the lower court to order the release of certain public records as part of his postconviction warrant litigation. [SC2026-0483] Appellant’s Writ of Mandamus was denied by this Court on March 31, 2026. [SC2026-0483]

A motion for rehearing and request for in-camera inspection of public records request was denied on March 25, 2026. [PCR 448-453] On March 26, 2026, the Circuit Court denied Willacy’s Motion for Extension of Time to file a successive postconviction motion. [PCR 459-471] This appeal of those orders follows.

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

See Statement of Facts and Procedural History, filed by the State on March 17, 2026, Filing # 243942036. [PCR 127-137]

Additional history not included in the State's filing:

On March 6, 2026, Willacy filed "Defendant's Demand for Additional Public Records Florida Department of Corrections ("FDOC")," [PCR 55-62]

On March 18, 2026, Willacy filed "Defendant's Demand for Additional Public Records Florida Department of Corrections" (hereinafter "FDOC") [PCR 157-165], "Defendant's Demand for Additional Public Records from the Office of the Attorney General" (hereinafter "AG") [PCR 150-156], "Defendant's Demand for Additional Public Records from the Office of the State Attorney, Eighteenth Judicial Circuit" (hereinafter "SA"), [PCR 171-177], and "Defendant's Demand for Additional Public Records from the Executive Office of Governor Ron DeSantis" (hereinafter "EOG") [PCR 164-170].

On March 19, 2026, general counsels for FDOC, AG, SA and EOG filed their response and objections to defendant's demands. See, "Department of Corrections' Objections to Defendant's Demands for Additional Public Records" (re lethal injection protocols), [PCR 218-235], "Department of Corrections' Objections to Defendant's Demands for Additional Public Records" (re communications), [PCR 236-243], "Office of the Attorney General's Response and Objections to Willacy's Demand for Additional Public Records" [PCR 254-266], "Office of the State Attorney's Response and Objections to Willacy's Demand for Additional Public Records" [PCR 352-362], and "The Executive Office of the Governor's Response and Objection to Defendant's Demand for Public Records" [PCR 209-217].

On March 23, 2026, the Circuit Court held a hearing on Willacy's demands. That afternoon, on March 23, 2026, the Circuit Court entered its written orders denying all the Demands, "Order on Public Record Objections" [PCR 367-374].

On March 25, 2026, Willacy filed a Motion for Rehearing on the court's order sustaining the objections to the Public Records Demands filed March 6 and 18, 2026 and also requested an in-

camera inspection of the records before denying the request. [PCR 377-381; 417] This motion was denied the same day. [PCR 448-453] Additionally, on March 25, 2026, Willacy filed a Motion for Extension of Time to file a successive postconviction motion until the requested records had been received and Willacy has a reasonable amount of time to review and respond to them. [PCR 454-458, 479-484] The Circuit Court entered an Order denying this motion on March 26, 2026. [PCR 465-471]

Chadwick Willacy files this timely appeal seeking an order from this Court directing the lower court to order the release of the requested public records held by the FDOC, AG, SA and EOG as they are relevant to his current postconviction warrant litigation. Additionally, Willacy seeks an extension of time to file a successive postconviction motion until the requested records have been received and Willacy has a reasonable amount of time to review and respond to them.

### **STANDARD OF REVIEW**

This is an appeal from successive postconviction motions and demands filed under Fla. R. Crim. P. 3.852. The Court employs a

mixed standard of review, deferring to the factual findings of the circuit court that are supported by competent, substantial evidence, but *de novo* review of legal conclusions. *See, Sochor v. State*, 883 So. 2d 766, 771-72 (Fla. 2004).

### **SUMMARY OF ARGUMENTS**

As to Claim 1, the Circuit Court erred when it sustained the Attorney General's, Florida Department of Corrections', State Attorney's and Executive Office of the Governor's objections to Defendant's Demands because the court imposed a higher burden upon defendant than is required in Florida Rules of Criminal Procedure, Rule 3.852. The court also misapplied and expanded what information is protected pursuant to Florida Statute § 945.10 to apply to all records held by the Departments pertaining to FDOC's lethal injection protocol.

The records are necessary to allow Willacy to file a timely successive postconviction motion based on FDOC currently not following their lethal injection protocols. Willacy is in possession of records that support his entitlement to the requested records and that would negate the presumption FDOC has been following their protocols.

By preventing Willacy access to records which would reasonably be disclosed to the general public, this Court violates Mr. Willacy's Florida Constitutional rights to access to public records *and* his United States Constitutional right to due process as found in the Fifth Amendment and equal protection rights as found in the Fourteenth Amendment.

As to Claim 2, the Circuit Court committed fundamental error when it denied the record demands without conducting an in-camera inspection of the requested records and when it denied Willacy's motions for rehearing and in-camera inspection.

As to Claim 3, the Circuit Court erred when it denied Willacy an extension of time to file a successive postconviction motion. Willacy established good cause for his request stating, "Willacy is prevented from filing a facially sufficient successive motion before this Court because the documents requested in our Demands filed March 6 and 18, 2026 *are necessary* to filing a viable claim for relief before this Court."

If this matter cannot be resolved before April 21, 2026, Willacy asks this Court to stay his execution until the requested records have

been received, Willacy has a reasonable amount of time to review and file a successive postconviction motion and the circuit court and/or this Court has a reasonable amount of time to rule on the postconviction motion.

## **ARGUMENT**

### **CLAIM ONE:**

Claim One was filed in Petition for Writ of Mandamus in SC 2026-0483. The State argued that a writ was not the appropriate vehicle to achieve our remedy. We disagree. However, this Court denied the Writ of Mandamus without an opinion. The merits and issues raised in the writ of mandamus have not been addressed by this Court; therefore, Appellant properly raises the issue in this appeal.

### **APPEAL FROM DENIAL OF PUBLIC RECORDS DEMANDS**

The trial court unlawfully entered an order sustaining the objections of the Florida Department of Corrections, Office of the Attorney General, Executive Office of the Governor, and Office of the State Attorney (hereinafter “Agencies”), to the public records demands filed on March 6 and 18, 2026, and thus has precluded the

Petitioner, Chadwick Willacy, from access to public records in violation of his Florida Constitutional rights under Article I, Section 24 and in violation Florida Statute.

Florida Rule of Criminal Procedure, Rule 3.852(i) governs postproduction requests for additional records such as those requested in this case. The rule requires Collateral Counsel to file an affidavit in the circuit court meeting the following requirements:

(A) attest that collateral counsel has made a timely and diligent search of the records repository; and

(B) identify with specificity those public records not at the records repository; and

(C) establish 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.

Fla. R. Crim. P. 3.852(i)(1).

Despite satisfying his burden, Petitioner, Chadwick Willacy, a capital postconviction defendant, is being precluded from inspection and copying of specific public records in contravention with Chapter 119, "Public Record Laws;" Fla. Stat. § 27.7081; and the Fla. R. Crim. P. Rule 3.852. The Agencies have failed to assert any legitimate or

colorable claims that the records sought are excluded from public copying and inspection due to a statutorily recognized exemption and/or confidentiality provision precluding the Agencies from fulfilling their duties to provide public records. They have argued manufactured burdens upon Willacy, which do not appear in Florida Statute. These illegitimate arguments and objections continue to cast a dark shadow on Florida's robust public records statutes and allow government to continue to act within the shadows and not in the sunshine. There is not a legitimate governmental interest in treating Mr. Willacy's public records demands differently than that of the general public.

The Agencies have neglected to fulfill their statutory and constitutional public record duties and Willacy seeks the intervention of this Court to compel the production of the records sought pursuant to Fla. Const. Art. I, § 24(a); Fla. Stat. § 119.01(1); Fla. Stat. § 27.7081; and the Fla. R. Crim. P. Rule 3.852.

Willacy filed facially sufficient public records demands on March 6 and 18, 2026. The trial court unlawfully sustained the Agencies' objections. Willacy filed a Motion for Rehearing on March

25, 2026, seeking reconsideration and in camera inspection. [PCR 377-381;417] The trial court denied that motion on the same day. [PCR 448-453] Willacy now files this appeal.

**I. FLORIDA LAW “PROVIDES ANY MEMBER OF THE PUBLIC ACCESS TO PUBLIC RECORDS, WHETHER HE OR SHE BE THE MOST OUTSTANDING CIVIC CITIZEN OR THE MOST HEINOUS CRIMINAL”<sup>1</sup>**

Florida and its citizens have recognized the significance of public records here in the Sunshine State. Our State Constitution provides that:

*Every person has the right* to inspect or copy any public record made or received in connection with the official business of any public body, officer, or employee of the state, or persons acting on their behalf, except with respect to records exempted pursuant to this section or specifically made confidential by this Constitution. This section specifically includes the legislative, executive, and judicial branches of government and each agency or department created thereunder; counties, municipalities, and districts; and each constitutional officer, board, and

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<sup>1</sup> 47, Florida Office of the Attorney General, *GOVERNMENT-IN-THE-SUNSHINE MANUAL, A Reference For Compliance with Florida’s Public Records and Open Meetings Laws*, (2025 ed.) p. 164.

Downloadable PDF version is available. Office of Attorney General, James Uthmeier, Sunshine Manual, myfloridalegal.com, <https://www.myfloridalegal.com/sites/default/files/government-in-the-sunshine-manual.pdf> (last accessed Mar. 22, 2026).

commission, or entity created pursuant to law or this Constitution.

(emphasis added) Fla. Const. Art. I, § 24(a). This fundamental right is also echoed in Florida statute as spoken by the Florida Legislature in Fla. Stat. § 119.01(a), “General state policy on public records” which provides “[i]t is the policy of this state that all state, county, and municipal records are open for personal inspection and copying by any person. Providing access to public records is a duty of each agency.” (emphasis added).

Chadwick Willacy filed public records demands on March 6 and 18, 2026, all of which demanded the inspection and copying of public records held by each specified agency in connection with the transaction of the agencies’ official business. Had a member of the public sought the same public records, that member of the public would have been entitled as a matter of *right* to each record sought.

Chadwick Willacy seeks records which fit squarely within the meaning of “public record” as defined by Florida Statute.

Florida Statute § 119.011(12), defines public record as *all* documents and records, regardless of form, “made or received pursuant to law or ordinance or in connection with the transaction

of official business by any agency.” This includes “any material prepared in connection with official agency business which is intended to perpetuate, communicate, or formalize knowledge of some type.” *Shevin v. Byron, Harless, Schaffer, Reid, and Associates, Inc.*, 379 So. 2d 633, 640 (1980). Furthermore, records generated from the performance of duties fall within the scope of the meaning of “public record.” See, *Mem’l Hosp. Volusia Inc. v. News-Journal Corp.*, 729 So. 2d 373 (Fla. 1999); *Weekly Planet, Inc. v. Hillsborough County Aviation Authority, et al*, 829 So. 2d 970 (Fla. 2d DCA 2002).

The definition of “public records” also includes logs which are relevant to and required by written operating procedures and duties of an agency. *Miami-Dade County v. Professional Law Enforcement Ass’n*, 997 So. 2d 1289, 1290-1 (Fla. 3d DCA 2009) (*aff’ing* the order requiring County Police Department aviation unit to allow the inspection and copying of the pilots’ personal flight logs as “public record”). Similarly, logs which “show the functioning of the public agency” have been determined to be public records within the meaning of Chapter 119. *Cruz v. State*, 279 So. 3d 154, 158 (Fla. 4th DCA 2019) (holding “if public policy demands” names of experts

visiting a defendant to be redacted from jail visitation logs as confidential, “it is for the legislature to provide an exemption by statute.”), *review denied*, 2020 WL 1169444 (Fla. 2020).

“If there is any doubt as to whether a matter is a public record subject to disclosure, the doubt is to be resolved in favor of disclosure.” *Everglades Law Center v. South Florida Water Management District*, 290 So. 3d 123, 129 (Fla. 4th DCA 2019) (citing, *Morris Publ’g Grp., LLC v. Fla. Dep’t of Educ.*, 133 So. 3d 957, 960 (Fla. 1st DCA 2013)). Public records laws are “to be construed liberally in favor of the state’s policy of open government.” *Everglades Law Center*, 290 So. 3d at 129 (citing, *Morris Publ’g Grp.*, 133 So. 3d at 960).

None of the parties to Chadwick Willacy’s demands have disputed that the records sought are in fact “public records” within the meaning of Chapter 119. The agencies and offices subject to Willacy’s demands objected to required compliance based on the judicially imposed requirement of “colorable claim” and Florida Statute § 945.10, neither of which preclude the agencies from fulfilling their disclosure duties under public records laws.

## **II. THE TRIAL COURT UNLAWFULLY SUSTAINED THE AGENCIES' OBJECTIONS AND DENIED WILLACY'S DEMAND FOR PUBLIC RECORDS BASED ON LEGALLY INSUFFICIENT OBJECTIONS BY THE AGENCIES.**

The trial court erred when it entered its order and sustained the Agencies' objections based upon "a review of the Official Court file, demands and objections thereto, argument presented, and authorities submitted." [PCR 369]

The Florida Department of Corrections, the Office of the Attorney General, and the Office of the State Attorney, failed to satisfy their burden of proving the right to *any* exemption to public records disclosure and failed to assert a proper basis that the Agencies' objections should be sustained. As to the Executive Office of the Governor, the Office failed to assert an exemption to records which would not fall within the purview of clemency determinations.

The trial court sustained the Agencies' objections without an in-camera review of the records thus, the validity of the assertions made by the Agencies were taken at face value despite the Agencies failing to make responsive objections to the demands filed. *See, Everglades Law Center, 290 So. 3d at 133-4 (holding, "the trial court erred in denying the petition for writ of mandamus without*

conducting an in-camera review of the transcript to determine if redactions of claimed mediation communications are appropriate”). The failure of the trial court to conduct an in-camera inspection amounts to “fundamental error.” *Id.* at 133. This is also in direct contradiction with the State’s policy of open government.

***a. All of the public records demands filed on March 6 and 18, 2026, were pled with specificity and none were unduly burdensome.***

On March 6, 2026, Chadwick Willacy filed a public records demand requesting specified public records from the Florida Department of Corrections as to the agency’s lethal injection protocol compliance. [PCR 54-61] The records demanded on March 6, 2026, were requested with specificity to the records as called for in connection with the Department of Corrections’ official business of carrying out lethal injection executions. Willacy specified each record sought in direct connection with the Florida Department of Corrections Lethal Injection Protocol itself. There is no reasonable question as to what records Willacy is seeking and demanding. Additionally, Willacy’s public record demands filed on March 18,

2026, was filed with specificity and was limited and narrow in time and in the subject matter he sought.

None of the demands filed in this case included broad and sweeping language, i.e. “any and all” language, which would reasonably leave the Agencies unclear as to what records Willacy demands. [PCR 54-61, 149-176] Additionally, Willacy’s demands filed on March 18, 2026, were limited to records generated within a single week and even went further to specify the nature of the communications and records sought. *The arguments of the Florida Department of Corrections, the Office of the Attorney General, and the State Attorney’s Office fail to support their objection that the demands are overly broad and unduly burdensome.*

The Agencies rely on *Muhammad v. State*, 132 So. 3d 176 (Fla. 2013) for their argument that Willacy’s demands are unduly burdensome and overly broad. The demands filed by Willacy are distinguishable from the demands held to be overly broad and unduly burdensome in *Muhammad v. State*. In *Muhammad* the public records demand sought “any filed, records, letters, memoranda, notes, drafts, and/or electronic mail... pertaining to Mr. Muhammad

that were received or produced...” since the last public records demand. *Id.* at 203. The request in *Muhammad* is vastly different than the demands filed in Willacy. Unlike *Muhammad*, Willacy seeks records which would fall within very narrow subject matters: “the records demand filed by Willacy on March 6, 2026; the governor scheduling Mr. Willacy’s execution; or any communications regarding Mr. Willacy’s death warrant.” [PCR 55-62, 150-177]

While reasonably, Willacy is not seeking any records as to clemency determinations from the Office of the Governor, this does not preclude intraoffice and interoffice communications among the agencies which would include, the Florida Department of Corrections, the Office of the Attorney General, and the State Attorney’s Office. Any intraoffice or interoffice communications among the Agencies which were for the purpose or intended to perpetuate, communicate, or formalize knowledge, would thus be “public record” subject to disclosure. *See, Shevin v. Byron, Harless, Schaffer, Reid, and Associates, Inc.*, 379 So. 2d 633, 640 (1980).

The Florida Department of Corrections argued during the Public Records Hearing on March 23, 2026, “the demand as written” was

overly broad because it sought “records through the date of March 13th without limiting to the time at which the warrant was issued, ... accordingly it impermissibly seeks records regarding actions taken after the warrant... which are confidential attorney/client communications or work product.” [PCR 636-637] This argument does not support a finding that the demands as written are overboard because of failure to state a *time*. Meriam-Websters Dictionary defines overboard as “too widely applicable or applied” and defines broad as “wide in range or amount.” Willacy’s failure to state a specific time does not make the demand “too widely applicable.” Additionally, communications and public records that are in fact work product would be properly exempt, however, no such facts were presented to support the communications/records are in fact work product because the trial court did not conduct an in camera inspection to determine as such. Furthermore, even taking Florida Department of Corrections argument at face value, work product records would not render the entirety of the public records exempt from public copying and inspection. FDOC could simply object to disclosing records created after the warrant was signed. FDOC

conflates a request being “unduly burdensome” to mean any request of records they claim are confidential. [PCR 637]

Next, the Office of the Attorney General argued that the demand was “unduly burdensome or overly broad” because the demand sought “personal cell phone information and seeking all of these records.” [PCR 639:8-12] The Office of the State Attorney also argued that Willacy’s demand as applied to them was overly burdensome because the request “is not sufficient or based on a colorable claim” and the demand included personal communications on a “personal cell phones, not just e-mail communications.” [PCR 640:19-21; 641:9-12] Both offices’ objections fail as a matter of law.

Emails and communications transmitted by text message, regardless of whether the message was sent by a personal or a government/agency issued cell phone, are public records when the communication falls within the definition of public records. *O’Boyle v. Town of Gulf Stream*, 257 So. 3d 1036, 1042 (Fla. Dist. Ct. App. 2018) (“The purpose of both Article I, section 24 and Chapter 119 is to ensure that citizens may review (and criticize) government actions. That purpose would be defeated if a public official could shield the

disclosure of public records by conducting business on a private device”). It is well accepted and established that emails and records kept electronically are public records within the common meaning and understanding of the term “public record.” *Seigle v. Barry*, 422 So. 2d 63, 65 (Fla. Dist. Ct. App. 1982) (“[t]here can be no doubt that information stored on a computer is as much a public record as a written page in a book or a tabulation in a file stored in a filing cabinet”), *review denied*, 431 So. 2d 988 (Fla. 1983); See also, Op. Att’y Gen. Fla. 96-34 (1996); 47, Florida Office of the Attorney General, *GOVERNMENT-IN-THE-SUNSHINE MANUAL, A Reference For Compliance with Florida’s Public Records and Open Meetings Laws*, (2025 ed.), p. 84-85.

***b. Each of the Agencies failed to meet their burden that each agency is entitled to specific exemptions.***

It is well established that an agency asserting that records are exempt from disclosure based upon a specified exemption bear the burden of establishing it is entitled to such exemption. *See Barfield v. School Board of Manatee County*, 135 So. 3d 560, 562 (Fla. 2d DCA 2014); *Woolling v. Lamar*, 764 So. 2d 765, 768 (Fla. 5th DCA 2000), *review denied*, 786 So. 2d 1186 (Fla. 2001); *Barfield v. City of Fort*

*Lauderdale Police Department*, 639 So. 2d 1012, 1015 (Fla. 4th DCA), review denied, 649 So. 2d 869 (Fla. 1994); and *Florida Freedom Newspapers, Inc. v. Dempsey*, 478 So. 2d 1128, 1130 (Fla. 1st DCA 1985); See also, 47, Florida Office of the Attorney General, *GOVERNMENT-IN-THE-SUNSHINE MANUAL, A Reference For Compliance with Florida's Public Records and Open Meetings Laws*, (2025 ed.), p. 179-180.

The Florida Department of Corrections continues to proclaim that Fla. Stat. § 945.10 establishes a broad restriction exempting the disclosure of public records and information regarding the lethal injection protocol. This is misplaced. Fla. Stat. § 945.10(1)(j)1 very limitedly and narrowly exempts and makes confidential:

Information or records that identify or could reasonably lead to the identification of any person or entity that participates in, has participated in, or will participate in an execution, including persons or entities administering, compounding, dispensing, distributing, maintaining, manufacturing, ordering, preparing, prescribing, providing, purchasing, or supplying drugs, chemicals, supplies, or equipment necessary to conduct an execution in compliance with chapter 922.

(emphasis added). To say that the Florida legislature intended to prevent *all of the records* kept in accordance with carrying out

executions is an embellishment and intentional misrepresentation of the plain meaning of the statute.

Not only is the Department of Corrections reliance on Fla. Stat. § 945.10 misplaced, its own assertions that “[t]hese records are confidential in total [and] [t]here’s no portion of the records that are not confidential under Florida Statute”<sup>2</sup> fails to acknowledge that if the statute did make *all records* regarding lethal injection exempt and confidential in total, then the public records would never have been disclosed in Franks Walls case in the first place. [See PCR 363-365, Defendant’s Notice of Authority citing to *Walls v. Dixon* and *Melvin Trotter v. State*] Additionally, as further evidence that Fla. Stat. § 945.10 does not make lethal injection records in their entirety exempt and confidential, the Department has not sought a protective order or sought the records be held by the courts as confidential, in any of the cases which have filed, pled facts from, or cited to the records, following the execution Frank Walls.

Nothing requested by Willacy in his public record demand filed

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<sup>2</sup> PCR 639:11-13.

March 6, 2026, invokes any information which would lead to the unmasking of those people and entities that participate in the lethal injection execution and if it did, redacting the identifying information would keep the information exempt and confidential.

**III. NEITHER FLORIDA STATUTE NOR RULE 3.852 IMPOSE A BURDEN UPON CAPITAL POSTCONVICTION DEFENDANTS TO ASSERT A COLORABLE CLAIM IN DEMANDS FOR PUBLIC RECORDS.**

Each Agency responded and objected to all of Willacy's public records demands asserting that Willacy failed to establish a colorable claim. However, the burden of establishing a colorable claim is not found in Florida Statute or in Rule 3.852 of the Florida Rules of Criminal Procedure.

***a. Limiting capital postconviction defendants' access to public records is in contradiction with the rationale and intention for which Rule 3.852 was established and Florida Statute § 27.708(3) was enacted.***

Capital postconviction defendants are precluded from seeking public records under the provisions of chapter 119 and instead statutorily required to seek public records pursuant to Florida Statutes § 27.708(3), which precludes capital postconviction

defendants represented by capital collateral counsel from making any public records requests “except as provided in § 27.7081.”

Florida’s three branches of government have sought to improve efficiency of capital postconviction proceedings throughout the years, dating back to the 1990’s. The pursuit to improve efficiently has included rules adopted by this Court and statutory changes adopted in legislation.

In 1996, Robert Shevin was asked by the then Chief Justice of this Court to prepare a “Special Master’s Report” to assist this Court, after concerns were raised about capital postconviction attorneys’ ability to fulfill their ethical duty of providing effective assistance of counsel. This report has become known as the “Shevin Report.”<sup>3</sup> Four proposed reforms were suggested, with the most significant reform becoming known as “the Chapter 119 problem.”

The “Shevin Report” identified that Rule 3.850, now known in our context as Rule 3.851, lacked a formal discovery mechanism and thus public records sought by capital postconviction defendants were

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<sup>3</sup> The entirety of the report can be found as Attachment A, to the court’s opinion in *Hill v. Butterworth*, 941 F. Supp. 1129 (N.D. Fla. 1996).

acquired through Chapter 119 public records requests. Resolving disputes between agencies and capital postconviction defendants required separate civil lawsuits outside of the 3.851 proceedings which resulted in “significant delays and time-consuming civil litigation.” The “Shevin Report” recommended this Court “promptly solve this problem by enacting a Rule of Discovery in 3.850 proceedings, *with expedited time schedules* for both requesting and providing of public records...”<sup>4</sup> The “Shevin Report” suggested the “goal of the new rule should be to expedite ... access to Chapter 119 information that it can be reviewed ... in a time to be incorporated in the original 3.850 motion.”<sup>5</sup>

In response to the recommendations, this Court promulgated Rule 3.852 of the Florida Rules of Criminal Procedure. *In re Amendment to Florida Rules of Criminal Procedure -Capital Postconviction Public Records Production*, 683 So. 2d 475 (Fla. 1996); See also, *In re Amendments to Florida Rules of Criminal Procedure -*

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<sup>4</sup> *Hill*, 941 F. Supp. at 1157.

<sup>5</sup> *Hill*, 941 F. Supp. at 1157.

*Capital Postconviction Public Records Production*, 673 So. 2d 483 (Mem) (Fla. 1996).

Then in 1997 the, "...Legislature provided that all requests for records in capital postconviction proceedings must be made in accordance with Rule 3.852, and the request must be approved by the capital collateral regional counsel." Florida Staff Analysis, S.B. 1330, 4/22/1998. In 1998 the Florida legislature amended Florida Statute § 27.708(3) again to be consistent with Florida Rules of Criminal Procedure 3.852 stating "[e]xcept as provided in s. 119.19, the capital collateral regional counsel or contracted private counsel shall not make any public records requests on behalf of his or her client." Later, Fla. Stat. § 119.19 was renumbered as Fla. Stat. § 27.7081 in 2005. Florida Statute § 27.7081 states that it applies to the production of public records for capital postconviction defendants. It also defines "public records" as consistent with the "same meaning as provided in s. 119.011."

This Court's intent and the legislative intent were clear in the promulgation and amendment: **neither was to limit a capital postconviction defendant's constitutional and statutory rights**

**to production of public records.** *In re Amendment to Florida Rules of Criminal Procedure -Capital Postconviction Public Records Production*, 683 So. 2d 475, 475-476 (Fla. 1996); SB 898, Reg. Session (Fla. 1998), Bill Analyses; SB 1330, Reg. Session (Fla. 1998), Bill Analyses. Nothing found in the history of rule 3.852 or chapter 27 statutes suggest that either was intended to prevent the disclosure of relevant public records to capital postconviction defendants. In fact, in 1996 when this Court promulgated Rule 3.852 it wrote:

We specifically address the comments of those who are concerned that the rule will unconstitutionally limit a capital postconviction defendant's right to production of public records pursuant to article I, section 24, Florida Constitution, and chapter 119, Florida Statutes (1995). We conclude that the rule does not invade those constitutional and statutory rights.

*In re Amendment to Florida Rules of Criminal Procedure -Capital Postconviction Public Records Production*, 683 So. 2d 475, 475-476 (Fla. 1996) (emphasis added). This intention was stated again in Judge Anstead's concurrence:

As noted by the majority opinion, this rule in no way diminishes the right of an individual Florida citizen, including a capital defendant, to access to public records pursuant to article I, section 24, Florida Constitution, and chapter 119, Florida Statutes (1995). Trial courts must be

mindful of our intention that a capital defendant's right of access to public records be recognized under this rule. If there is any category of cases where society has an interest in seeing that all available information is disclosed, it is obviously in those cases where the ultimate penalty has been imposed.

*Id.* at 477 (emphasis added).

The same definitions and exemptions as found in chapter 119 of Florida Statutes applies to public record demands filed pursuant to 3.852 of the Florida Rules of Criminal Procedure.

***b. Capital postconviction defendants are required to show merely that the additional public records sought are either relevant to the subject matter of the postconviction proceeding or are reasonably calculated to lead to the discovery of admissible evidence.***

Florida Statute § 27.7081 requests for postproduction public records mirrors Florida Rule of Criminal Procedure Rule 3.852, each requires that capital postconviction defendant's counsel:

1. Attests that collateral counsel has made a timely and diligent search of the records repository.
2. Identifies with specificity those public records not at the records repository.
3. 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.

4. Must be served in accordance with subsection (4).

Fla. Stat. § 27.7081(9)(a)1-4. Notably, *neither* the Rule *nor* the statute states that a capital postconviction defendant establish a “*colorable claim*.”

The Agencies argue in the Responses they filed that Willacy’s demands must be denied because he fails to prove a colorable claim. [PCR 209-217, 218-235, 236-243, 254-266] Each of the Agencies in Willacy’s case argued during the records hearing that “[u]nder Rule 3.852 there has to be a colorable claim for postconviction relief asserted in order to be entitled to these records.” [PCR 703-704, see also 694, 699-700, 706] However, the plain meaning and reading of the Rule does not support such a burden. Capital postconviction defendants must only show that the additional public records are relevant to the *proceeding* or would reasonably lead to the discovery of admissible evidence.

One cannot imagine what would be more relevant to the postconviction capital *proceeding*, than public records regarding the Florida Department of Corrections’ compliance with the lethal injection execution protocol. Interestingly the Agencies often argue

that post-warrant public records requests should be weighed against capital postconviction defendants. However, in this case, Willacy filed his demand for public records prior to Florida's governor signing his death warrant. The timing of the warrant in light of the pre-warrant public records demand supports the relevancy of the March 18, 2026, public records demands. Again, it is unimaginable that the communications in the week between March 6, 2026, public records demand and the signing of the warrant would be anything other than relevant to the present proceedings.

***c. The Agencies' objections based on their assertions that Willacy has failed to present a colorable claim are meritless.***

Black's Law Dictionary defines "colorable claim" as: "a claim that is legitimate and that may reasonably be asserted, given the facts presented and the current law."

The public records sought by Willacy on March 6, 2026, prior to Florida's governor signing Willacy's execution warrant, reasonably relate to a colorable claim. For example, if the facts presented in the records show that FDOC is not carrying out the lethal protocol accepted by this Court and facts presented show that failure to

properly administer the lethal injection protocol would cause unnecessary suffering, then under the current law, Willacy would have a legitimate claim that the maladministration of the lethal injection protocol violates Willacy's Eighth Amendment protection against cruel and unusual punishment. To require Willacy to assert anything more than what has been argued in support of a colorable claim in essence requires Mr. Willacy to prove his colorable claim beyond a reasonable doubt *prior* to allowing Mr. Willacy any *evidence* to further support his claim. Willacy *at the very least* has shown probable cause to support a colorable claim based upon the information contained in the lethal injection protocol records cited to by *Walls v. Dixon*. [PCR 363-365]. Having done so, Willacy has overcome the "presumption that the Department conducts itself properly," as claimed by FDOC. [PCR 698, at 7-11]

As recognized by Justice Sotomayor, this Court:

...appears to be placing prisoners in a Catch-22: It has affirmed the denial of requests for records on these issues, at least in part, because the prisoners do not yet have enough information to raise a "colorable" Eighth Amendment claim. *Ibid.* The very reason the prisoners are seeking the records, however, is to gather enough information to raise a colorable Eighth Amendment claim.

*Trotter v. State of Florida, et. al*, 607 U.S. \_\_\_ (2026) (statement respecting the denial of the application for stay and petition for certiorari).

While Florida Department of Corrections continues to mock postconviction defendants’ readings of the logs and argues that they “purposefully misreads” the lethal injection logs filed in Frank Walls, FDOC has yet to provide any explanation or *facts* to support their argument that the records are being universally misunderstood. [PCR 699 at 17-18]

The comment by Justice Sotomayor, overcomes any argument that Willacy has failed to identify a colorable claim. Justice Sotomayor wrote:

Individuals seeking to challenge the method of their execution should not have to guess at whether the State is, or is not, following its execution protocol. Nor does the State appear to have any legitimate confidentiality interest in shielding from inspection basic facts about the implementation of its execution protocol, such as whether the State is using expired drugs. If the protocol is in fact being followed, then transparency instills confidence in the protocol for everyone—prisoners, the courts, and the public alike. If it is not, then secrecy is intolerable, and disclosure of the relevant records is indispensable for

determining whether the lapses at issue are likely to lead to an Eighth Amendment violation.

*Trotter v. State of Florida, et. al*, 607 U.S. \_\_\_ (2026).

By preventing Willacy access to records which would reasonably be disclosed to the general public, this Court violates Mr. Willacy's Florida Constitutional rights to access to public records *and* his United State Constitutional right to due process as found in Fifth Amendment and equal protection rights as found in the Fourteenth Amendment.

**CLAIM TWO:**  
**APPEAL FROM DENIAL OF MOTION FOR IN-CAMERA**  
**INSPECTION AND REHEARING**

On March 23, 2026, the Circuit Court held a hearing on Willacy's March 6 and 18, 2026, public record demands. During the hearing, counsel for Willacy noted to the Court that in-camera inspection could be conducted for the Court to determine whether disclosure would be required. [PCR 686] In addition, counsel for Willacy attempted to negotiate/mediate disclosure of the requested records by making an *ore tenus* motion for a protective order, allowing the release of the records to counsel and any defense experts. [PCR

692] *See also*, Florida Statute § 27.7081(12)(c). None of the agencies involved made an objection to this request.

On the afternoon of March 23, 2026, the Circuit Court denied all five of Mr. Willacy’s demands for additional public records in the Court’s “Order on Public Records Objections” (“Order”). [PCR 367-374] In the Order, the Circuit Court sustained each of the involved agency’s objections, thus denying each demand. The Circuit Court, however, did not specify which objections made by the agency were sustained or provide any reasoning for the rulings. *Id.*

Additionally, despite no objection from the agencies, the Circuit Court also denied the *ore tenus* request for protective order. No reasoning for this denial was provided in the Order. *Id.*

No in-camera inspection of the relevant records was conducted prior to the Circuit Court’s denial of Willacy’s demands for additional public records.

The Circuit Court sustained the Agencies’ objections without in-camera review of the records. Thus, the validity of the assertions made by the agencies were taken at face value. *See, Everglades Law Center v. South Florida Water Management District*, 290 So. 3d 123, 133-4 (Fla. 4th DCA 2019) (*holding*, “the trial court erred in denying

the petition for writ of mandamus without conducting an in-camera review of the transcript to determine if redactions of claimed mediation communications are appropriate”). The failure of the Circuit Court to conduct an in-camera inspection amounts to “fundamental error. *Id.* at 133.

This Court has also held that “where doubt existed as to whether the State must disclose a particular document, the proper procedure is to have a trial judge conduct an in-camera review of the documents.” *Rose v. State*, 774 So. 2d 629 (Fla. 2000) (receded from on other grounds, citing *Ragsdale v. State*, 720 So. 2d 203, 206 (Fla. 1998)). *See also State v. Kokal*, 562 So. 2d 324, 327 (Fla. 1990) (when certain statutory exemptions are claimed by the party against whom the records have been filed or when doubt exists as to whether a particular document must be disclosed, the proper procedure is to furnish the document to the trial judge for an in-camera inspection). After in-camera inspection, the party from whom records are sought must turn over the nonexempt materials. *Ragsdale*, 720 So. 2d at 206.

Wherefore, Willacy respectfully requests this Court order the Circuit Court to conduct in-camera inspection of the records subject

to his demands for additional public records and conduct a rehearing of the public records demands with knowledge of the contents of the records.

**CLAIM THREE:**  
**APPEAL FROM DENIAL OF MOTION FOR EXTENSION OF TIME  
TO FILE**

Willacy has properly sought a legal remedy to the Circuit Court's order sustaining the objections of the Florida Department of Corrections; the Office of the Attorney General; the Executive Office of the Governor; and the State Attorney's Office. Willacy filed a petition for writ of mandamus before the deadline to file a successive postconviction motion. Willacy also filed a Petition for Writ of Habeas Corpus on April 2, 2026.

The Attorney General's Office's allegation that this "reflects a deliberate choice to delay proceedings" is without merit and baseless. Willacy sought public records well before Florida's governor signed his warrant. The Circuit Court entered an order denying Willacy access to the records to support his colorable claim *and* the records that are relevant to the present postconviction proceedings. Willacy is prevented from filing a facially sufficient successive motion before the Circuit Court because the documents requested in our Demands

filed March 6 and 18, 2026 *are necessary* for a focused investigation for a viable claim for relief before this Court.

The State has intentionally turned away from an obvious fact recognized by Justice Sotomayor:

The record reflects at least the possibility that recent Florida executions have involved—in addition to expired drugs—incorrect drug doses, the use of nonprotocol drugs, and recordkeeping lapses that could mask yet additional failings. The Florida Supreme Court, moreover, has thus far not allowed further inquiry into these potential problems and has recently denied requests for records that would prove or disprove claims like Trotter’s. See, e.g., *Heath*, \_\_\_ S. 3d, at \_\_\_. The Florida Supreme Court appears to be placing prisoners in a Catch-22: It has affirmed the denial of requests for records on these issues, at least in part, because the prisoners do not yet have enough information to raise a “colorable” Eighth Amendment claim. *Ibid.* The very reason the prisoners are seeking the records, however, is to gather enough information to raise a colorable Eighth Amendment claim.

*Trotter v. State of Florida, et. al*, 607 U.S. \_\_\_ (2026) (statement respecting the denial of the application for stay and petition for certiorari).

Additionally, there would have been no prejudice to the State or risk of violating this Court’s scheduling order, as this Court ordered Willacy to file a reply to the State’s Response to Writ of Mandamus

by March 26, 2026, at 3:00 pm. If the public records requests had been properly granted, then Willacy would have been able to meet this Court's scheduling Order. Any delays are due to the Agencies presenting obstacles to lawful record demands being received and the circuit court supporting the Agencies' attempts to block Willacy from receiving the requested public records.

Willacy has established good cause for his request stating, "Willacy is prevented from filing a facially sufficient successive motion before this Court because the documents requested in our Demands filed March 6 and 18, 2026 *are necessary* to filing a viable claim for relief before this Court." He respectfully requests that this Court extend the deadline for filing a successive postconviction motion until the requested records have been received, and Willacy has a reasonable amount of time to review and file a successive postconviction motion.

### **CONCLUSION AND RELIEF SOUGHT**

Willacy has established that his Demands are reasonably calculated to lead to the discovery of admissible evidence, rebutting the presumption that FDOC does and will comply with its own

protocols, and that his demands are neither overly broad nor unduly burdensome upon the State that seeks to end his life. The requested records are necessary for Willacy to support a timely claim that the FDOC's failure to follow Florida's lethal injection protocols is unconstitutional. The Circuit Court should do an in-camera inspection and release records that are not exempt and/or confidential according to the statute, redacting any portions necessary to exclude information that would suggest identity of the executioners and the suppliers of the lethal injection drugs.

WHEREFORE, Willacy asks this Court for an Order directing the lower court to grant Defendant's Demands [PCR 55-62, 150-177]

If this matter cannot be resolved before April 21, 2026, Willacy asks this Court to stay his execution until the requested records have been received, Willacy has a reasonable amount of time to review and file a successive postconviction motion and the circuit court and/or this Court have a reasonable amount of time to rule on the postconviction motion.

## **CERTIFICATE OF COMPLIANCE**

Counsel certifies that this Initial Brief is produced in Bookman Old Style 14-point font in compliance with the requirements of Florida Rules of Appellate Procedure 9.100. The word count is 7,464.

## **CERTIFICATE OF SERVICE**

WE HEREBY CERTIFY that on this 6<sup>th</sup> day of April, 2026, the foregoing brief has been electronically filed with the Clerk of the Circuit Court by using the Florida Courts e-portal filing system which will send a notice of electronic filing to the following: the **Florida Supreme Court**, [warrant@flcourts.org](mailto:warrant@flcourts.org), and [canovak@flcourts.gov](mailto:canovak@flcourts.gov); the **Honorable Judge Kathryn Speicher**, Circuit Judge, 2825 Judge Fran Jamieson Way Viera, Florida 32940, [Lisa.Baumhover@flcourts18.org](mailto:Lisa.Baumhover@flcourts18.org); the **State Attorney's Office Eighteenth, Judicial Circuit**, 2725 Judge Fran Jamieson Way, Building D Viera, Florida 32940, [wscheiner@sa18.org](mailto:wscheiner@sa18.org); [ledmiston@sa18.org](mailto:ledmiston@sa18.org); [eservice@sa18.org](mailto:eservice@sa18.org); the **Office of the Attorney General**, 3507 East Frontage Road, Suite 200, Tampa, Florida 33607-7013, Stephen D. Ake, [stephen.ake@myfloridalegal.com](mailto:stephen.ake@myfloridalegal.com), Michael Mervine, [michael.mervine@myfloridalegal.com](mailto:michael.mervine@myfloridalegal.com), Elizabeth

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WE HEREBY FURTHER CERTIFY that a copy has also been  
furnished via U.S. mail, this 6<sup>th</sup> day of April 2026, to Chadwick  
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