FLW Summaries for May 2024

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Florida Supreme Court

State v. Penna, SC2022-0458 (Fla. May 2, 2024): Penna was convicted of two counts of first-degree murder for the 2015 slayings of two Palm Beach County men during a bizarre cross-county crime spree. Penna was shot after attacking his arresting officers with a knife and stabbing a K9, but he was alert when police advised him of his Miranda rights at the hospital. He invoked his right to counsel and detectives did not question him further. During his weeks-long hospital stay, Penna subsequently struck up conversations with an investigator who was guarding him on five separate occasions, and ultimately incriminated himself. When he re-initiated discussions with the investigator, the investigator did not read Penna *Miranda* warnings, though he did remind Penna that he is a law enforcement officer and that he would write down Penna's statements, and that Penna should only talk to him if he wanted to. Penna's lawyers, citing *Shelly*, attempted to suppress the statements before trial. But the court, noting that Penna initiated the conversations, denied the motion. The 4th DCA ruled that some of the statements should have been suppressed, and that the error was not harmless because the statements undermined Penna's insanity defense. The 4th DCA remanded for a new trial on the basis of the *Miranda* violation, and certified the question: "Did *Shelly v. State*, 262 So. 3d 1 (Fla. 2018) abandon the 'totality of the circumstances' test set forth in *Oregon v. Bradshaw*, 462 U.S. 1039 (1983), in favor of the requirement recognized in *Quarles v. State*, 290 So. 3d 505 (Fla. 4th DCA 2020), that law enforcement must re-read *Miranda* rights before commencing further interrogation with a suspect who has re-initiated communications subsequent to invocation of his or her *Miranda* rights?" The Florida Supreme Court held that the "remind-or-readvise requirement" conflicts with U.S. Supreme Court precedent, because "*Bradshaw* does not state a legal rule that a suspect must always be reminded of or re-given *Miranda* rights following re-initiation of contact with police." Therefore, *Shelly* was "clearly erroneous," and there is no reason to believe that suspects

rely on it. Justice Labarga dissents: "[S]tate courts are absolutely free to interpret state constitutional provisions to accord greater protection to individual rights than do similar provisions of the United States Constitution." He would not have receded from *Shelly*.

In Re: Amendments to Florida Rule of Criminal Procedure 3.116, SC23-803 (Fla., May 9, 2024). New subsection to the rule. A "judge must grant a request to use communication technology for a non-evidentiary pretrial conference scheduled for 30 minutes or less unless the judge determines that good cause exists to deny the request."

State v. Creller, SC22-524 (Fla., May 23, 2024). The Florida Supreme Court held that a K-9 officer may order a driver to exit a vehicle *during* a lawful traffic stop for officer safety reasons. Distinguishing the facts of this case from *Rodriguez v. United States*, 575 U.S. 348 (2015)—which held that a lawful traffic stop may not be prolonged to conduct a dog sniff sweep after the traffic citation has been issued unless separately supported by reasonable, articulable suspicion—the court said the sweep in this case occurred during the traffic stop and before a citation had been issued. Justice Labarga dissenting: "the arbitrariness of the vehicle sweep here, along with the evidence that removal was not necessary to ensure officer safety during issuance of the traffic citation, calls for us to apply *Rodriguez*."

First DCA

Rollins v. State, 1D22-3288 (Fla. 1st DCA, May 8, 2024). During a high school football game, the two coaches of rival teams were penalized by a referee and told to leave the campus. After the crowd became unruly, a teacher at the home school, who was also a reserve deputy, told the visiting coaches to leave, and the head coach used profanity and raised his hand. The deputy/teacher grabbed him and they fell down. The deputy/teacher arrested the defendant, the visiting team's assistant coach, for trespassing. At trial, the deputy/teacher testified that his status as a teacher did not give him authority to trespass people, but he could trespass someone in his capacity as a deputy. The Defense moved for a judgment of acquittal, arguing that the State was required to prove

that the person who told the defendant to leave must have been authorized to do so by the principal or his designee. The trial court denied the motion, and the DCA affirmed. The DCA held that the evidence was sufficient to raise a jury question about whether the deputy had consent to trespass people from school grounds. The deputy's testimony created a reasonable inference that he had authority from the school principal to trespass people from school grounds.

Porter v. State, 1D22-2132 (Fla. 1st DCA, May 8, 2024). A high school student shot and killed another student after a group went to a movie together. Prior to the movie, the defendant showed some of the group that he had brought a gun. The defendant told law enforcement that he had shot the other child because the other child had gotten under his skin. There was also testimony that the defendant was afraid of the victim, and that the victim and defendant had problems due to being from different sides of town. The State played a rap song purportedly performed by the defendant, in which the defendant brags about committing a murder. JOA for second-degree murder was denied. During deliberations, the jury asked a question about "depraved mind," and the trial court referred them back to the jury instructions. The DCA affirmed the denial of the JOA and affirmed the conviction, but wrote to discuss "the difficulty posed by the elements necessitated to show 'depraved mind,' as required to convict for second-degree murder." They opined that the inclusion of "ill will" and "evil intent" blurred the line between second-degree and first-degree murder, advising that "[i]f the State introduces evidence of hatred, ill will, or evil intent, it is that very evidence that the jury could consider in determining whether a killing was premeditated."

Ford v. State, 1D22-1409 (Fla. 1st DCA, May 8, 2024). DCA affirmed murder conviction, where defense had moved for JOA on the ground that the State had not proven that the defendant acted with a depraved mind regardless of human life. This opinion is mostly a discussion of the facts of the case with little legal analysis.

Aboagye v. State, 1D21-3953 (Fla. 1st DCA, May 8, 2024). The State charged the defendant with sexual battery of A.J., a child under 12. The State filed a notice of intent to introduce similar fact evidence in the form of a CPT interview of a different sexual battery victim, C.H. The Defense objected to admission of the statements, arguing the State failed to

satisfy the criteria in section 90.803(23)(a) relating to child hearsay and that the evidence would be overly prejudicial and cumulative. The trial court allowed the evidence, and the jury found the defendant guilty. On appeal, the Defense argued that C.H.'s hearsay statements were inadmissible because she was not the victim named in the charging document. The DCA held that admission of C.H.'s CPT recording at the trial as to A.J. was not error. Per the DCA's holding here, similar fact evidence of a sexual battery of another child may be presented via hearsay statements of the other child.

Cooper v. State, 1D22-2143 (Fla. 1st DCA, May 15, 2024). During the second day of deliberations, shortly before 4:00 p.m., the jury sent a note saying it had reached a verdict on two of four counts, and requested to return the next day to continue deliberations as to the remaining counts. The trial court advised that it was inclined to give an *Allen* charge, which the State agreed with. The Defense said it did not wish to *Allen* charge the jury. The trial court gave the charge. Later, the jury indicated that it was deadlocked on the remaining counts. After the verdicts were announced and the trial discharged the jury, the judge recalled the jurors to poll them, after realizing an error in the reading of the verdict form. On appeal, the defendant argued that the trial court erred by creating a coercive atmosphere regarding both deliberations and the verdict form. He further argued that the trial court erroneously recalled the jurors after they had been discharged. The DCA held that there was no evidence of coercion in giving the *Allen* charge and that no fundamental error occurred. They also held that although the judge said the jury was discharged, given that the jurors were retrieved shortly after the trial court discharged them and given that there was no suggestion they went their separate ways or encountered any outside influence, no error occurred in recalling them.

Coffin v. State, 1D23-1287 (Fla. 1st DCA, May 22, 2024). The trial court removed jail credit that had been applied to each of a defendant's consecutive sentences, purportedly to fix a "scrivener's error" because the sentencing documents did not match the oral pronouncement. The DCA held the trial court did not have jurisdiction to make such a change to the sentence. Because the oral pronouncement did not indicate how jail credit would be applied, the discrepancy was not a scrivener's error.

Awolowo v. State, 1D22-2062 (Fla. 1st DCA, May 22, 2024). Prior to trial, the Defense moved for a competency determination. The trial court appointed an expert, who found the defendant competent. However, the trial court failed to conduct a competency hearing or enter an order finding the defendant competent. After trial, the defendant was found guilty of one of three counts. On appeal, he argued fundamental error for failure to hold a competency hearing and make the finding of competent to proceed. The State conceded error. However, the DCA affirmed, holding that *Dougherty v. State* had been too broadly applied in the past. According to the DCA, since "nothing in the rule 3.210 motion, nothing in the trial court's order appointing an expert, and nothing in the record provided reasonable grounds to believe that Awolowo was incompetent to proceed, the trial court did not fundamentally err by failing to conduct a competency hearing and failing to enter a written determination of competency." Further, defense counsel must include in its Rule 3.210 motion *specific facts* that support the reasonable grounds or belief that the defendant may not be competent. "Boilerplate" motions stating that defense counsel has "reasonable grounds" to believe that the defendant may be incompetent to proceed are insufficient without specific supporting facts. The dissent found that these requirements are not in Rule 3.210.

Second DCA

T.M. v. State, 2D23-25 (Fla. 2d DCA, May 1, 2024). Defendant, a child, was charged with burglary of an occupied dwelling. During discovery, the State produced a police report indicating that defendant made a confession. The report said "see supplement" in reference to the confession, but a supplement was not provided. Before the adjudicatory hearing, the State provided a witness list, which included the officer who wrote the report and one other officer. The officer who prepared the report testified that he tried to locate the defendant and prepared a warrant, but did not participate much otherwise in the investigation. The other officer testified that the defendant turned himself in and that she gave him *Miranda* warnings and interviewed him. The Defense objected that the State committed discovery violations by not producing the defendant's statement and by not disclosing the officer's involvement in

obtaining it. The trial court denied a Defense request for a *Richardson* hearing and overruled an objection to the officer's testimony. The officer testified, and the trial court adjudicated the defendant delinquent. The court said that had it not been for the officer who testified about the confession, the court may not have found the defendant guilty. The DCA reversed, holding that the State violated its discovery obligation both by failing to list the officer as a person who was present when the defendant made statements, and by failing to disclose the substance of the statements. Especially in light of the trial court's statement about the importance of the officer's testimony regarding the confession, the DCA could not find beyond a reasonable doubt that the defendant was not procedurally prejudiced.

Seay v. State, 2D22-3757 (Fla. 2d DCA, May 10, 2024). The defendant repeatedly said he did not want to be present for his trial, and disrupted the proceedings. The trial court allowed the defendant to watch the trial from another room. At one point, he returned to the courtroom to stipulate to identity but then returned to the other room. His lawyers were permitted to consult with him during trial. At some point, deputies advised the trial court that the defendant wished to come back to the courtroom, which he did. On appeal, the defendant argued that the trial court fundamentally erred by failing to tell the defendant on the record when he absented himself that he could return to the courtroom if he agreed to behave. The DCA held that such a procedure is desirable, but not required.

Andrews v. State, 2D22-1981 (Fla. 2d DCA, May 15, 2024). A motion to suppress was filed on the basis that the affiant falsely stated that the defendant "showed" the child victim videos, and omitted the victim's statement that the computer "glitched" and sexually explicit videos "popped up." The trial court denied the motion to suppress, concluding that the affiant properly summarized the facts as they were known to him. The DCA affirmed. Further, although the prosecutor's comment at trial expressing a personal belief that the defendant was "guilty of all counts" was improper, there was no objection, and the comment did not constitute fundamental error. It was not an improper comment for the prosecutor to say that the Defense's leading questions on cross-examination caused the child to "shut down" and go into "robot mode."

State v. Caulkins, 2D23-152 (Fla. 2d DCA, May 31, 2024). State appeal from a downward departure sentence. This case involved VOP proceedings for failure of a sex offender to report. The defense sought a downward departure sentence on the nonstatutory basis of familial abuse. The trial court imposed a downward departure sentence, citing the defendant's "upbringing, the poor environment in which he was raised, the abuse he has suffered, his prior addictions, and all of those matters taken together have seriously impaired his ability and therefore should be a basis for mitigation." The DCA held that the factor stated by the trial court was encompassed by the statutory factor regarding the defendant's substantially impaired capacity to appreciate the criminal nature of the conduct or to conform that conduct to the requirements of law, and because it was so encompassed, the trial court could not rely on the nonstatutory basis to depart. Further, the statutory basis for departure was not supported by competent substantial evidence. Reversed and remanded for resentencing according to the scoresheet.

Third DCA

Giraldo v. State, 3D22-1276 (Fla. 3d DCA, May 1, 2024). A police officer was charged with official misconduct and battery for his involvement in an arrest of a woman who was having a dispute in a residential neighborhood. The officer's arrest affidavit (that he authored, when he was making the arrest of the woman) made claims that the State later said were refuted by other officers and their body cameras. At trial, the Defense moved for a judgment of acquittal, arguing that the State had not proved that the statements in the affidavit/report were false and had not proved, as to the battery offense, that the arrest was illegal or not done within the defendant's duties as an officer. The trial court denied the motions, and the defendant was convicted and sentenced to jail. On appeal, the DCA agreed with the defendant that his statements did not constitute a knowing or intentional falsification. Per the DCA, the officer's report contained his subjective perception of the events, which is not the same thing as making up objective falsities. At most, the defendant "painted with too broad a brush when writing the narrative." The DCA wrote that, "here, the State attempts to criminalize a whole new category of statements relying on subjective opinions and

perceptions, as opposed to objective falsehoods. Because Giraldo's subjective interpretation wasn't clearly refuted by objective facts, it didn't—and couldn't—rise to the level of intentional falsification pursuant to section 838.022(1)(a), Florida Statutes." Additionally, because the State conceded at oral argument that if the motion for judgment of acquittal on the official misconduct count were granted, the State could not proceed with the battery count as the arrest would have been lawfully made, the DCA also reversed the battery conviction.

Silva v. State, 3D22-2140 (Fla. 3d DCA, May 8, 2024). Road rage incident resulting in property damage to the victim's vehicle. After a traffic dispute, defendant retrieved a golf club and swung at the other driver, but hit his vehicle instead. The victim ran away, and the defendant hit his vehicle several more times with the golf club. The defendant was convicted of criminal mischief. On appeal, the defendant argued that the State failed to prove the element of intent. The DCA rejected his argument because although transferred intent does not apply where intent is to harm a person and the result is property damage instead, there was other evidence of intent to hit the vehicle in this case—after the first swing, which hit the vehicle, the other driver retreated. At that point, the defendant kept hitting the vehicle. There was competent substantial evidence of the intent element of criminal mischief.

Fourth DCA

Ford v. State, 4D23-208 (Fla. 4th DCA, May 1, 2024). Defense moved for JOA on burglary based on lack of proof that the defendant had the intent to commit an offense when he entered the victim's home and bedroom in the early morning without her consent. The victim did not see the defendant's penis, he did not attempt to touch her, and he did not commit any other offense before jumping out her window. JOA denied and DCA affirmed. The DCA held entering stealthily and without the consent of the owner or occupant is prima facie evidence of entering with intent to commit an offense.

State v. Courts, 4D22-2855 (Fla. 4th DCA, May 1, 2024). The defendant was convicted of Medicaid fraud and grand theft based on a single course

of conduct. The trial court dismissed the grand theft charge, finding that convictions for both violated the defendant's protections against double jeopardy. The State appealed, arguing that grand theft requires proof of specific intent to deprive or appropriate, which Medicaid provider fraud does not. The DCA affirmed. They explained that the Medicaid fraud offense requires that the actor knowingly commit the act. They then examined the definition of knowingly and concluded that "the crime of Medicaid provider fraud requires specific intent to submit a false claim for payment thereby depriving another of money. This is precisely why submission of a claim by mistake or accident would not be a violation of the statute. We therefore conclude that, although worded differently, the statutory elements of grand theft are included in the offense of Medicaid provider fraud." Dissent agrees with the State argument re: *Blockburger* test.

Magneson v. State, 4D22-3409 (Fla. 4th DCA, May 8, 2024). The defendant was convicted of manslaughter with a weapon and tampering with physical evidence. The evidence of tampering was that the defendant took the knife from the crime scene and put it on his porch. The knife was not found during the investigation. The DCA reversed the tampering conviction. Merely taking the knife from the crime scene, without evidence that his purpose was to impair the knife's availability for a criminal trial or investigation, is insufficient to establish the crime of tampering.

Trader v. State, 4D23-538 (Fla. 4th DCA, May 8, 2024). The trial court erred by denying the Defense motion to sever counts. The defendant was charged with sex offenses against two different children, which occurred at different times over a period of three to four years.

Moore-Bryant v. State, 4D23-855 (Fla. 4th DCA, May 15, 2024). The defendant was charged with second-degree murder with a firearm. The victim's body, in addition to gunshot wounds, had marks that appeared to a detective to have been made by an iron, and he testified about the marks at trial. There was an iron at the scene. The Defense made a speculation objection. The defendant was convicted of manslaughter. On appeal, the Defense argued that the detective provided impermissible lay opinion testimony when testifying about the apparent iron marks. The DCA held this issue was not preserved based on the "speculation"

objection. Even if it were preserved, they would reject it, as the detective's testimony was based on personal observations of the victim's body and ordinary knowledge of iron markings.

Lucas v. State, 4D22-2497 (Fla. 4th DCA, May 15, 2024). The trial court erred by ordering the defendant to pay restitution to the Sexual Assault Treatment Center. The Center was not a direct victim of appellant's crime of sexual battery and was merely providing public services in response to the offense or criminal episode, and it could not be considered a "victim" under Florida's restitution statute.

State v. Cerulia, 4D22-1941 (Fla. 4th DCA, May 22, 2024). State appeal from an order of dismissal finding the State had interfered with defendant's access to a material witness (a detective). During the pendency of the case, the detective moved out of state, where he was first deposed by the defense. During his deposition, the detective admitted that the victim had inconsistently described the defendant. The defense moved to declare the detective unavailable and perpetuate his testimony for use at trial, but when the Defense tried to contact the detective, the detective complained to the State that Defense counsel was harassing him. A year later, the Defense again moved to perpetuate the detective's testimony, seeking to depose him in another State, where he now resided. While this issue was being litigated, the State told the detective that he already sat for a deposition and did not need to answer defense counsel's calls. The State later told the court that it would communicate to the detective that he needed to cooperate with the Defense in setting his deposition. The detective then refused calls from defense counsel *and* the State. Finally, the trial court called the detective and advised him that he needed to sit for the deposition, and he agreed to do so. For various reasons (COVID and illness), the detective did not sit for the scheduled depositions. The State claimed it was doing everything within its power to ensure the detective's cooperation, but the trial court granted defense's motion to dismiss, finding that the State had interfered with the defendant's access to the detective which in turn had affected Defense counsel's ability to perpetuate the detective's testimony. The DCA reversed, finding that the defendant did not present competent, substantial evidence that the State intentionally or negligently caused the detective's unavailability, the trial court did not exhaust all viable

means to secure his attendance at the deposition, and that the prejudice to defendant did not warrant dismissal.

Merritt v. State, 4D23-2459 (Fla. 4th DCA, May 22, 2024). Defendant filed a rule 3.853 a motion for postconviction DNA testing of the victim's dress and underwear, rape kit, and other bodily fluids taken from the victim or the defendant, as well as the defendant's own underwear, pants, and saliva and blood samples. The trial court found the motion facially sufficient, but ordered testing of the rape kit alone. Pursuant to the trial court's order, if no exculpatory results were obtained, the State would then submit the other items in a second submission. After the testing, the State filed a notice indicating that the only things in the rape kit were the victim's fingernail scrapings and the defendant's buccal swab, and the fingernail scrapings did not contain enough DNA for analysis. The State moved for the case to be closed, and the Defense objected because the court's order provided that if no exculpatory evidence was obtained from the first round of testing, the other items would then be tested. The Defense also said further investigation was necessary to determine why the other evidence identified in the rule 3.853 motion had not been tested, and whether there were chain of custody concerns regarding the items missing from the rape examination kit. Without a hearing, the trial court overruled the Defense's objection and ordered the clerk to close the case. On appeal, the State conceded that an evidentiary hearing was required. The DCA reversed and remanded for an evidentiary hearing to resolve the factual questions regarding why the other evidence identified in the defendant's rule 3.853 motion had not been tested and the chain of custody concerning the items missing from the rape examination kit.

Hastings v. State, 4D23-379 (Fla. 4th DCA, May 29, 2024). During voir dire, the Defense asked jurors about their feelings regarding law enforcement, and whether they watched shows like CSI. Many jurors responded that they watched those shows and that they generally trust police, but that there could be some bad ones. One of the jurors who answered in that way was K.L. When the parties were exercising peremptory strikes, the Defense sought to strike K.L. The State identified the juror as Indian-American and requested a race-neutral reason for the strike. Defense counsel responded that K.L. stated he believed police were generally trustworthy and he liked to watch CSI,

and therefore the Defense thought K.L. might give more weight to police testimony. The trial court ruled that Defense had not provided a race-neutral reason and that even if it were race-neutral, the trial court did not think it was genuine. Ultimately, K.L. served on the jury. After the defendant was convicted, the Defense moved for a new trial based on the trial court's ruling on the peremptory strike of K.L. At a hearing, the trial court acknowledged that the reason was race-neutral, but denied the motion for a new trial, expressing the belief that the strike was not genuine since many other jurors that the Defense did not strike said they tended to trust the police and liked to watch CSI shows. The DCA reversed, finding that the *Melbourne* inquiry was improperly conducted—the *opponent* of a strike bears the burden to demonstrate why the reason is *not* genuine, and to demonstrate that it constitutes purposeful discrimination. Because the State was never asked to do so, the cause was remanded for a new trial.

Frederick v. State, 4D23-2526 (Fla. 4th DCA, May 29, 2024). Before swearing the jury, but after accepting the panel, defense counsel moved to peremptorily strike a juror. The Defense had all of his peremptory strikes remaining, having accepted the panel without exercising a single strike. The trial court denied the strike, explaining that it would be unfair for the Defense to challenge a juror after it had accepted the panel. The DCA reversed, holding that the trial court abuses its discretion when it refuses to allow a peremptory challenge before the swearing of the jury.

Hamilton v. State, 4D23-870 (Fla. 4th DCA, May 29, 2024). The defendant was charged with first-degree murder for the shooting death of his daughter's boyfriend. At trial, the Defense requested to modify the standard jury instruction on justifiable homicide. The standard instruction says:

> "The killing of a human being is justifiable homicide and lawful if necessarily done while resisting an attempt to murder or commit a felony upon the defendant, or to commit a felony in any dwelling house in which the defendant was at the time of the killing."

The Defense argued that section 782.02 does not require the use of deadly

force be "necessarily done." Defense requested the following special instruction instead of the standard instruction:

> "The use of deadly force is justifiable when a person is resisting any attempt to murder such person or to commit any felony upon him or upon or in any dwelling house occupied by him. A killing that results from the justifiable use of deadly force is lawful."

The trial court denied the request, and instructed the jury using the standard instruction. In finding no abuse of discretion, the DCA noted that the standard instruction on justifiable use of force was also given and that the jury instructions were an accurate statement of the law. The Defense also argued that standard jury instruction 7.2 is inadequate because it does not include that the killing be a product of "premeditated design" and is incomplete since it omits the language that premeditation requires a "settled and fixed purpose to take the life of a human being." The trial court and the DCA both rejected this argument. The trial court also rejected the Defense's request to include the following instructions relating to intent: "Extremely reckless behavior is an insufficient basis from which to infer any premeditation. Moreover, an impulsive overreaction to an attack or injury is itself insufficient to prove premeditation." The DCA found no error, noting that the proposed instructions were not supported by the evidence. There was no evidence the defendant responded to an attack or injury. The evidence showed that the victim, at most, swung once at appellant and missed.

Sixth DCA

Reina v. State, 6D23-3738 (Fla. 6th DCA, May 31, 2024). Defendant was found incompetent to proceed on the basis of intellectual disability. He participated in a competency restoration program and was evaluated several times over two years, but his competency status did not change. More than two years after being declared incompetent, he filed a motion to dismiss. The State moved to appoint a committee to reevaluate his competency. At an evidentiary hearing, the director of the competency restoration program testified that the defendant's progress had

plateaued; he showed marginal competency in two areas but not in others. Without making any findings that it expected the defendant to become competent in the foreseeable future or specifying a time for when that might occur, the trial court denied the motion to dismiss and required a reevaluation of the defendant's competency. The defendant petitioned for a writ of certiorari. The DCA quashed the trial court's orders, finding that the trial court departed from the essential requirements of law by failing to make a finding that the defendant may be competent in the foreseeable future, and not specifying a time when he may regain competency. These findings are required.

State v. Lobato, 6D23-3201 (Fla. 6th DCA, May 31, 2024). Changes to the death penalty statute, providing that a death sentence could be recommended by a vote of eight jurors, were procedural and the new statute could therefore be applied to pending cases, where the crime occurred prior to the changes in the law but where the defendant had not yet been tried. Application of the new (2023) statute to a pending murder case, where the murder occurred in 2020, did not violate the prohibition on ex post facto laws. Dissent would dismiss because certiorari relief is not proper.

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Mrs. Niles has been licensed as an attorney since 2013. She has litigated every stage of the criminal legal process, from first appearance through certiorari petition to the United States Supreme Court, providing zealous advocacy for individuals accused of misdemeanor, felony, and capital offenses. In addition to first-chair representation at the trial court level, Mrs. Niles has represented clients as appellate counsel, having briefed hundreds of direct appeals, as well as final orders from postconviction petitions. Mrs. Niles has argued in the Florida Supreme Court and is

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