

IN THE SUPREME COURT OF FLORIDA

Case No. 2025-1422
LT Case No. 131990CF0501430001XX

VICTOR TONY JONES,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

**BRIEF OF *AMICI CURIAE* TROY RAFFERTY, ESQ. (RAFFERTY
DOMNICK CUNNINGHAM & YAFFA), ADVANCING REAL
CHANGE, INC., CONSERVATIVES CONCERNED, FLORIDA
ASSOCIATION OF CRIMINAL DEFENSE LAWYERS, FLORIDA
JUSTICE INSTITUTE, FLORIDA PUBLIC DEFENDERS
ASSOCIATION, AND WITNESS TO INNOCENCE IN SUPPORT OF
APPELLANT**

QUARLES & BRADY LLP

Melanie C. Kalmanson, Esq.
Florida Bar No. 123855
101 East Kennedy Blvd., Suite 3400
Tampa, FL 33602
melanie.kalmanson@quarles.com
Secondary Emails:
blaize.ryan@quarles.com
docketFL@quarles.com

Counsel for Amici Curiae

TABLE OF CONTENTS

	Page
STATEMENT OF IDENTITY AND INTEREST	1
SUMMARY OF ARGUMENT	2
ARGUMENT	4
I. Florida recently accepted responsibility for the abuse and terror it imposed on students at the Schools.	4
A. Students at the Schools, including Mr. Jones, were tortured by the State.	6
B. The damaging treatment to children at the Schools has been the subject of extensive litigation and investigation.	10
C. Florida recently passed legislation apologizing to and compensating survivors for the abuse they endured at the Schools.	13
II. The unrelenting abuse survivors suffered at the Schools must be considered as significant mitigation in the capital sentencing process.	16
A. Florida has sentenced several survivors of the Schools to death, and several have been executed.	18
B. In several instances, including Mr. Jones' case, the jury was not presented with information about the defendant's experience at the Schools.	24
III. Executing survivors of the Schools, especially a member of the legislative recognized class of victims, is a grave miscarriage of justice.	25
CONCLUSION	26

TABLE OF AUTHORITIES

Cases	Page
<i>Bobby M, et al. v. Chiles</i> , 907 F. Supp. 368 (N.D. Fla. 1995)	10
<i>Gibson v. State</i> , 351 So. 2d 948 (Fla. 1977)	23
<i>Gregg v. Georgia</i> , 428 U.S. 153 (1976)	16, 25
<i>Lockett v. Ohio</i> , 438 U.S. 586 (1978)	17
<i>Sanders v. State</i> , 707 So. 2d 664 (Fla. 1998)	23
<i>Smith v. Dugger</i> , 565 So. 2d 1293 (Fla. 1990)	22
<i>Smith v. State</i> , 515 So. 2d 182 (Fla. 1987)	22, 24
<i>Smith v. State</i> , 708 So. 2d 253 (Fla. 1998)	23
<i>Sweet v. State</i> , 810 So. 2d 854 (Fla. 2022).....	19
<i>Van Poyck v. State</i> , 694 So. 2d 686 (Fla. 1997)	21, 22
<i>Wall v. State</i> , 238 So. 3d 127 (Fla. 2018)	19

Constitutions, Statutes, and Legislation

Art. I, § 17, Fla. Const	16
§ 16.63, Fla. Stat. (2024)	14, 15, 20, 21, 22, 23
§ 921.141, Fla. Stat. (2024)	17
§ 921.142, Fla. Stat. (2024)	17
§ 921.1425, Fla. Stat. (2024)	17
Ch. 2024-254, Laws of Fla.	14, 15
H.B. 21, Reg. Sess. (Fla. 2024)	14
H.R. 1335 (Fla. 2017)	13
S.R. 1440 (Fla. 2017)	13
Fla. H.R., CS/HB 21 Staff Analysis (Feb. 21, 2024)	4, 5, 6, 7, 8, 9, 10, 11, 13, 20
Fla. H.R. Judiciary Committee Hearing (Feb. 7, 2024)	14, 15

Rules

Fla. R. Crim. P. 3.851 9

***Jones v. State*, No. SC2025-1422 Record**

Record on Appeal (R.) 4, 9, 10, 13, 25, 26

Court Filings

Mot. Postconviction Relief After Death Warrant Signed,
State v. Bell, No. 1994-CF-9776 (Fla. 4th Jud. Cir.
June 18, 2025)..... 6, 7, 8, 9, 19, 20, 24

Initial Br., *Cole v. State*, No. SC2024-1170
(Fla. Aug. 13, 2024)..... 18, 21, 24

Def.’s Successive Mot. Vacate J. Conviction & Sentence Death
Pursuant Fla. R. Cim. P. 3.851 After Signed Death
Warrant, *State v. Cole*, No. 42-1994-0498-CF-A-X,
(Fla. 5th Jud. Cir. Aug. 3, 2024)..... 9, 21, 24

Pet. Writ Certiorari, *Guardado v. Jones*, No. 17-7171
(U.S. Dec. 18, 2017) 19

Compl., *J.B., et al. v. Walters, et al.*, No. 4:11-cv-00083-RH-WCS
(N.D. Fla. Feb. 25, 2011) 11

Answer Br. Appellee, *Nixon v. State*, No. SC01-2486
(Fla. Aug. 20, 2002) 19

Answer Br. Appellee, *Van Poyck v. State*, No. 84,324
(Fla. July 25, 1995) 21

Other Authorities

- Dara Kam, *Reform school abuse survivors to receive \$21K checks in historic reparations effort*, Tallahassee Dem. (Jun. 26, 2025), <https://www.tallahassee.com/story/news/local/state/2025/06/26/florida-reform-school-abuse-victims-receive-21k-reparations-checks/84375450007/> 15, 16
- Death Row Roster*, Fla. Dep’t Corrs., <https://pubapps.fdc.myflorida.com/OffenderSearch/deathrowroster.aspx> (last visited Sept. 12, 2025) 20
- Erin H. Kimmerle, et al., *Report on the Investigation into the Deaths and Burials of the Former Arthur G. Dozier School for Boys in Marianna, Florida*, Univ. S. Fla. (Jan. 2016), <https://cloud.usf.edu/usf-news-archive/article/articlefiles/7173-usf-final-dozier-summary-2016.pdf> 4, 8, 9, 12
- Execution List: 1976-Present*, Fla. Dep’t Corrs., <https://www.fdc.myflorida.com/institutions/death-row/execution-list-1976-present> 20, 21
- Felicia Gould, et al., *The Effects of Child Abuse and Neglect on Cognitive Functioning in Adulthood*, 46 J. Psychiatric Rsch. 500 (2012) 18
- Frank Lee Smith*, Innocence Project, <https://innocenceproject.org/cases/frank-lee-smith/> (last visited Sept. 10, 2025) 23
- Greg Allen, *Florida’s Dozier School for Boys: A True Horror Story*, NPR (Oct. 15, 2012), <https://www.npr.org/2012/10/15/162941770/floridas-dozier-school-for-boys-a-true-horror-story> 6, 8

- Inmate Release Information Detail* (Frank Lee Smith), Fla. Dep’t Corrs., <https://pubapps.fdc.myflorida.com/offenderSearch/detail.aspx?Page=Detail&DCNumber=016296&TypeSearch=IR> (last visited Sept. 10, 2025)..... 22, 23
- Inmate Release Information Detail* (Richard Gibson), Fla. Dep’t Corrs., <https://pubapps.fdc.myflorida.com/offenderSearch/detail.aspx?Page=Detail&DCNumber=031204&TypeSearch=IR> (last visited Sept. 10, 2025) 23
- Investigation of the Arthur G. Dozier School for Boys and the Jackson Juvenile Offender Center, Marianna, Florida, U.S.* Dep’t Just. (Dec. 1, 2011), https://www.justice.gov/sites/default/files/crt/legacy/2011/12/02/dozier_findltr_12-1-11.pdf 4, 6, 10, 11, 12, 13
- Janet Currie & Erdal Tekin, *Does Child Abuse Cause Crime?*, Nat’l Bureau Econ. Rsch. (Apr. 2006), <https://www.nber.org/papers/w12171> 18
- Jeff Walsh, *Frank Lee Smith’s Long Hard Life*, <https://www.pbs.org/wgbh/pages/frontline/shows/smith/etc/longhard.html> (last visited Sept. 10, 2025) 22
- Leonor Lapeter Anton, *Dozens of Teens Who Spent Time at Abusive Florida Reform School Ended Up on Death Row*, The Marshall Project (July 14, 2025), <https://www.themarshallproject.org/2025/07/14/florida-death-row-teens-abuse> 19, 20, 23
- Mitch Perry, *DeSantis signs bill that will provide \$20 million in compensation to Dozier School for Boys victims*, Fla. Phoenix (Jun. 21, 2024), <https://floridaphoenix.com/2024/06/21/desantis-signs-bill-that-will-provide-20-million-in-compensation-to-dozier-school-for-boys-victims/> 15

STATEMENT OF IDENTITY AND INTEREST

Amici submit this Brief in support of Appellant Victor Jones to present the Court with additional information and concerns related to executing survivors of the Arthur G. Dozier School for Boys (“Dozier”) and Florida School for Boys at Okeechobee (the “Okeechobee School”) (collectively, the “Schools”).

Troy Rafferty, Esq. (Rafferty Domnick Cunningham & Yaffa) represented victims of the Schools in passing 2024 legislation granting compensation to surviving victims who suffered abuse at the Schools.

Advancing Real Change, Inc. is a non-profit organization that trains and educates criminal defense practitioners regarding the effective collection and presentation of mitigating evidence in Florida and throughout the United States.

Conservatives Concerned is a network of political and social conservatives who question the alignment of capital punishment with conservative principles and values.

The Florida Association of Criminal Defense Lawyers is a statewide non-profit organization with more than 1,000 members, all

of whom are criminal defense practitioners committed to protecting the rights of individuals in the criminal justice system.

Florida Justice Institute is an award-winning, nonprofit public interest law firm that uses impact litigation and advocacy to improve the lives of Florida's disenfranchised residents and underinvested communities.

The Florida Public Defenders Association ("FPDA") is a non-profit corporation whose members include 20 elected Public Defenders and nearly 2,000 employees of public defender offices throughout Florida. FPDA assists Florida's elected Public Defenders in fulfilling their constitutional duty to ensure equal justice for all.

Witness to Innocence is a non-profit organization led by death row exonerees whose mission is to empower exonerated death row survivors to be a powerful and effective voice in the fight to reform the U.S. justice system.

SUMMARY OF ARGUMENT

The Schools are blemishes in the State's history. For decades, Florida allowed the torture of young boys, who were sent to the Schools for behavior reform. Children as young as five were subjected to horrific physical, sexual, and mental abuse. Students were beaten

with thick leather straps, restrained, raped by adult men, starved, and forced to participate in “fight clubs” where the guards bet on the participants. Numerous children did not survive the Schools—their bodies discarded in unmarked graves. Though the full extent of the horrors children experienced at the Okeechobee School is much less documented, it was just as awful as Dozier.

Due in part to the trauma they endured at the Schools, several survivors ended up in Florida’s criminal system—some, like Mr. Jones, on death row. In many cases, including Mr. Jones’, a jury never considered the survivor’s experiences at the Schools in determining whether a death sentence is appropriate. *Amici* recognize that juries rendered guilty verdicts for the crimes underlying the cases that resulted in the survivors’ death sentences. But two wrongs don’t make a right.

In 2024, Florida officially recognized its responsibility for the terror children experienced at the Schools by passing legislation compensating a class of survivors who were abused at the Schools. Mr. Jones survived the Okeechobee School and is part of that class.

(R. 811.)¹ Now, after stealing his future as a child, the State seeks to execute Mr. Jones. (R. 97.)

Florida executing survivors of the Schools—especially those who the State has legislatively recognized as victims, like Mr. Jones—is not justice. It is hypocrisy. Executing someone like Mr. Jones blatantly contradicts and undermines the State’s recognition of the horrors that occurred at the Schools.

ARGUMENT

I. Florida recently accepted responsibility for the abuse and terror it imposed on students at the Schools.

On January 1, 1900, Florida opened Dozier² in rural Marianna. Fla. H.R., CS/HB 21 Staff Analysis 1 (Feb. 21, 2024) [hereinafter H.R. Analysis]; *Investigation of the Arthur G. Dozier School for Boys and the Jackson Juvenile Offender Center, Marianna, Florida*, U.S. Dep’t Just. 5 (Dec. 1, 2011),

¹ The Record on Appeal in this case is cited as “R. ##.”

² Before “Dozier,” the school had several other names. See Erin H. Kimmerle, et al., *Report on the Investigation into the Deaths and Burials of the Former Arthur G. Dozier School for Boys in Marianna, Florida*, Univ. S. Fla. (Jan. 2016), <https://cloud.usf.edu/usf-news-archive/article/articlefiles/7173-usf-final-dozier-summary-2016.pdf> [hereinafter USF Report]. The University of South Florida is referenced as “USF.”

https://www.justice.gov/sites/default/files/crt/legacy/2011/12/02/dozier_findltr_12-1-11.pdf [hereinafter DOJ Report].³ Dozier “housed children as young as five committed for criminal and other offenses” or who were “orphaned and abandoned . . . when other placements were unavailable.” H.R. Analysis, at 1. Dozier was meant to be “a refuge for the children housed there, a place where they would receive education and training intended to mold them into productive citizens.” *Id.* at 2. It was the opposite.

To address overcrowding at Dozier, Florida opened the Okeechobee School in 1955. *Id.* at 1. Staff from Dozier were transferred to the Okeechobee School. *Id.*

Despite their intended purpose, the Schools provided no “refuge.” *Id.* at 2. Instead, as former Florida Governor Claude Kirk said after visiting Dozier in 1968, the Schools were “training ground[s] for a life of crime.” *Id.* Indeed, Florida recently recognized the horrors imposed on children at the Schools in legislation granting compensation to a class of survivors.

³ The DOJ Report is in the Record at 773-800.

A. Students at the Schools, including Mr. Jones, were tortured by the State.

From the very beginning, the Schools subjected children to appalling abuse and trauma. *See id.* at 1 (“Allegations of abuse at [Dozier] began as early as 1901; allegations of abuse at the Okeechobee School began shortly after it opened . . .”). Children were “chained to walls in irons,” hogtied, and beaten by adult guards. *Id.*; accord Greg Allen, *Florida’s Dozier School for Boys: A True Horror Story*, NPR (Oct. 15, 2012), <https://www.npr.org/2012/10/15/162941770/floridas-dozier-school-for-boys-a-true-horror-story>. Students at the Okeechobee School were forced to participate in “fight clubs,” where the guards would “forc[e] kids to fight one another and plac[e] bets on the fights.” Mot. Postconviction Relief After Death Warrant Signed, *State v. Bell*, No. 1994-CF-9776 (Fla. 4th Jud. Cir. June 18, 2025), at 23 [hereinafter *Bell Mot.*]; accord H.R. Analysis, at 1.

In 1968, after various reports of terrible physical abuse, “Florida officially banned corporal punishment” at the Schools. H.R. Analysis, at 1. However, such punishments likely continued off-camera and unreported by staff. *See DOJ Report*, at 13.

Guards also used other tactics to coerce and control children, including “food deprivation and turning on the heat in summer and the air conditioning in winter.” *Bell Mot.*, at 23; *accord* H.R. Analysis, at 2-3. When Governor Kirk visited Dozier in 1968, he “found holes in leaking ceilings, broken walls, bucket toilets, bunk beds crammed together, overcrowding, and a lack of heat in the winter.” H.R. Analysis, at 2. A U.S. Department of Health official who visited Dozier around the same time called it a “monstrosity.” *Id.*

In late 1979, Jack Levine (a teacher with Florida Health and Rehabilitative Services credentials) visited Dozier unannounced and found “a lockup facility at the back of the campus, consisting of a long hallway with metal doors enclosing cells reeking of body odor and urine.” *Id.* at 3. When Mr. Levine asked to see one of the occupants, he “found a very thin, small boy with a shaved head and pajama bottoms but no shirt lying on a concrete slab with no mattress.” *Id.* A guard told Mr. Levine “the boy had been in the cell for some time” and was placed there “for his own protection, as the

other boys were sodomizing him with a broom handle.” *Id.*⁴ The guard said “the boy’s head was shaved because he had been pulling out his own hair.” *Id.*

In addition to physical and mental abuse, students were raped and fondled by adult guards employed by the State. *Id.* at 1. Other children witnessed their peers being sexually assaulted by guards. *See id.* A juvenile court judge said that Dozier “was so understaffed that children were left alone at night and ‘sexual perversion’ was common.” *Id.* at 2.

Dozens of students did not survive the Schools. *See Allen, supra* (“Some 81 boys are known to have died there”); *see also* H.R. Analysis, at 1. So many students died that there was a cemetery of unmarked graves on Dozier’s campus. *See* H.R. Analysis, at 1; USF Report, at 44 (reporting that USF’s archaeological project located “55 burials . . . in the environs of the Boot Hill Burial Ground at” Dozier). Several students’ causes of death are unknown. USF Report, at 106. Where known, students’ causes of death ranged from fire, disease or

⁴ *See Bell Mot.*, at 22-23 (Mr. Hamza “witnessed a child running out of a dorm with a broom handle protruding from his rectum and blood spewing everywhere.”).

labor-related causes (*id.* at 44) to “gunshot wounds or . . . blunt force trauma.” H.R. Analysis, at 1.

Death was a prevalent threat at the Schools. Guards would take “new arrivals to the cemetery where there were freshly dug graves” and warn students “that is where they would end up if they misbehaved.” *Bell* Mot., at 23. When students died, others were forced to clean up their remains, dig their graves, and attend their burials. USF Report, at 109-10; Def.’s Successive Mot. Vacate J. Conviction & Sentence Death Pursuant Fla. R. Cim. P. 3.851 After Signed Death Warrant, *State v. Cole*, No. 42-1994-0498-CF-A-X (Fla. 5th Jud. Cir. Aug. 3, 2024), at 9-10 [hereinafter *Cole* Mot.].

Those who made it out alive, including Mr. Jones, suffered life-altering trauma. Mr. Jones was sent to the Okeechobee School four times in his childhood. (R. 871.) While there, Mr. “Jones was beaten multiple times with the thick leather strap, witnessed frequent gang-rapes of other vulnerable children in so-called ‘blanket parties,’ and to avoid being gang-raped himself had to fight off other boys, which resulted in his placement in solitary confinement.” (R. 871.)⁵ Long

⁵ This is consistent with the DOJ’s finding that students were confined to excessively long periods of isolation as a form of

after being released, Mr. Jones suffered from effects of the abuse, including “Post Traumatic Stress Disorder” and “suicidal ideation.” (R. 871.)

B. The damaging treatment to children at the Schools has been the subject of extensive litigation and investigation.

In 1983, due in part to Mr. Levine’s reports after visiting Dozier (*supra* Part I.A), a class action was filed related to the “conditions of confinement” at the Schools. DOJ Report, at 6; see H.R. Analysis, at 3; *Bobby M, et al. v. Chiles*, 907 F. Supp. 368 (N.D. Fla. 1995). “[T]he plaintiffs alleged that youth were hogtied, shackled, and often held in solitary confinement.” DOJ Report, at 6; see also *Bobby M, et al.*, 907 F. Supp. 368. In 1987, the parties settled. *Bobby M, et al.*, 907 F. Supp. at 369.

In 2010, the DOJ opened its investigation into Dozier. DOJ Report, at 3. The investigation relied on video evidence, testimony of juveniles and staff, and an examination of Dozier’s reporting to the State, which overall had a tendency to obfuscate details necessary to detect abuse. See *id.* at 3, 14-16.

punishment for minor infractions such as “being uncooperative.” DOJ Report, at 17-18.

While the DOJ investigation was pending, in February 2011, another class action was filed related to the conditions at Dozier, “alleging constitutional violations, including abusive and unsafe conditions of confinement.” *Id.* at 6.⁶ Also while the DOJ investigation was pending, in June 2011 after more than a century of operations, the State closed Dozier, citing budget constraints. *See id.* at 5; H.R. Analysis, at 1.

In December 2011, after Dozier had closed but while the Okeechobee School remained open (H.R. Analysis, at 1), the DOJ issued its final report to document the widespread abuse as a warning that the harm Florida inflicted on children at Dozier was likely not limited to Dozier. DOJ Report, at 7. Although Dozier had amended its policies and procedures in the years before the DOJ investigation, the culture of abuse and the lack of accountability was so pervasive that such procedural changes had little to no impact on the Schools’ abusive and harmful practices. *Id.* at 6-7.

⁶ *See generally* Compl., *J.B., et al. v. Walters, et al.*, No. 4:11-cv-00083-RH-WCS (N.D. Fla. Feb. 25, 2011). The docket indicates the parties settled in July 2011.

The DOJ found that, in direct violation of official policy, staff used force—including choking, prone restraints, and handcuffs—as a first resort against the students at Dozier in response to students’ non-violent and non-threatening behavior. *Id.* at 9-13. Students were subjected to frisk searches up to ten times a day, during which they were groped by staff. *Id.* at 25.

Beginning in 2012, USF began an extensive archaeological and multidisciplinary investigation into student deaths at Dozier during the years in which the state records and school ledgers were public record (1900 to 1960). USF Report, at 14. In 2016, USF published a report finding that the Schools were never run with the idea of “reforming” but rather with a mind towards exploiting child labor and imposing arbitrary and excessive punishment, through Dozier’s closure. *See id.* at 25-27; *see also* DOJ Report, at 26-27.

Ultimately, USF found a record of nearly 100 deaths at Dozier between 1900 and 1960, with 55 burials located on-site. USF Report, at 14, 44. USF also uncovered a racial bias in the treatment of children confined at Dozier, reporting that the majority of the boys at Dozier from 1900 to 1960 were African American. *Id.* at 15. After accounting for a 1914 fire that killed several white boys, more African

American boys died than white—and at a younger age. *Id.* In addition, African American boys were more often sent to Dozier for non-criminal charges such as “incorrigibility” or running away. *Id.*

The DOJ investigation and the USF Report focused on Dozier. Despite the findings in both, the Okeechobee School continued to fly under the radar and maintained operations until 2020, when it was finally closed by the State. See R. 873 (“[T]he Okeechobee School was never investigated like the Dozier School.”); H.R. Analysis, at 1.

C. Florida recently passed legislation apologizing to and compensating survivors for the abuse they endured at the Schools.

It was not until recently that the State *finally* recognized and compensated victims of the Schools.

In 2017, the Florida Legislature passed a resolution issuing a formal apology to those who attended the Schools and acknowledging that their treatment was cruel, unjust, and a violation of human decency. S.R. 1440 (Fla. 2017); H.R. 1335 (Fla. 2017). In the resolution, the Legislature expressed its continued commitment to protecting Florida’s children from the kind of abuse that took place at the Schools. S.R. 1440 (Fla. 2017); H.R. 1335 (Fla. 2017).

More significantly, in 2024, the Florida Legislature passed the Dozier School for Boys and Okeechobee School Victim Compensation Program (the “Program”), granting \$20 million in compensation to be distributed among survivors who attended the Schools between 1940 and 1975. § 16.63, Fla. Stat. (2024); ch. 2024-254, Laws of Fla. Governor DeSantis approved the Program on June 21, 2024; it went into effect on July 1, 2024. Ch. 2024-254, Laws of Fla.

The Program’s legislative history is rife with the dark past of the Schools. The Preamble calls the Schools “a unique and shameful chapter in the history of this state.” H.B. 21, Reg. Sess. (Fla. 2024). Speaking in support of the bill at a House Judiciary Committee hearing, Attorney Troy Rafferty clarified that while they were intended as “reform schools,” the Schools were actually forced labor camps where children as young as five, who were guilty of merely skipping school or being “incorrigible,” faced abuse by State employees. Fla. H.R. Judiciary Committee Hearing, at 7 (Feb. 7, 2024).

The Program allows survivors of the Schools who attended from 1940 to 1975 and suffered abuse to apply for compensation. § 16.63,

Fla. Stat.⁷ The Department of Legal Affairs is charged with reviewing the applications and may approve or deny compensation. *Id.* § 16.63(2). The Program also gives the Commissioner of Education authority to award a high school diploma to compensated persons who have not received a high school diploma. Ch. 2024-254, Laws of Fla., § 2.⁸

The State accepted applications for compensation through December 31, 2024. § 16.63(4), Fla. Stat. Over 1,000 survivors of the Schools applied for compensation. Dara Kam, *Reform school abuse survivors to receive \$21K checks in historic reparations effort*, Tallahassee Dem. (Jun. 26, 2025), <https://www.tallahassee.com/story/news/local/state/2025/06/26/florida-reform-school-abuse-victims-receive-21k-reparations-checks/84375450007/>. Of the 1,023 applicants, 926 were approved, and 13 were still outstanding as of June 26, 2025. *Id.* This number exceeded the estimated number of victims. See Mitch Perry, *DeSantis*

⁷ Applicants must submit proof of abuse they experienced while confined to the Schools. § 16.63(3), Fla. Stat.

⁸ The Schools were not accredited, so students' grades could not be transferred to Florida public schools for consideration. Fla. H.R. Judiciary Committee Hearing, at 12 (Feb. 7, 2024).

signs bill that will provide \$20 million in compensation to Dozier School for Boys victims, Fla. Phoenix (Jun. 21, 2024), <https://floridaphoenix.com/2024/06/21/desantis-signs-bill-that-will-provide-20-million-in-compensation-to-dozier-school-for-boys-victims/>. Each confirmed victim expected to receive \$21,253.98. Kam, *supra*.

While no amount of compensation can erase or justify the abuse victims suffered, the Program was a step towards justice and an important recognition by the State of the harm it imposed on those who were forced to live in the Schools.

II. The unrelenting abuse survivors suffered at the Schools must be considered as significant mitigation in the capital sentencing process.

Under the Eighth Amendment to the U.S. Constitution (and therefore, the Florida Constitution),⁹ a capital defendant has the right to present mitigation for the jury's consideration at sentencing. See *Gregg v. Georgia*, 428 U.S. 153, 198 (1976) (“[T]he circumstances of

⁹ See art. I, § 17, Fla. Const. (“The prohibition against cruel or unusual punishment, and the prohibition against cruel and unusual punishment, shall be construed in conformity with decisions of the United States Supreme Court which interpret the prohibition against cruel and unusual punishment provided in the Eighth Amendment to the United States Constitution.”).

the crime or the character of the defendant” must be weighed in the capital sentencing process.). This right is also enshrined in Florida’s capital sentencing statutes. See § 921.141(7)(h), Fla. Stat. (2024) (allowing presentation as mitigation “any . . . factor[] in the defendant’s background that would mitigate against imposition of the death penalty”); *id.* § 921.142(8)(h) (same); *id.* § 921.1425(8)(g) (same). The jury’s consideration of mitigation is critical in the capital sentencing process. See, e.g., *Lockett v. Ohio*, 438 U.S. 586, 605-06 (1978) (“The nonavailability of corrective or modifying mechanisms with respect to an executed capital sentence underscores the need for individualized consideration as a constitutional requirement in imposing the death sentence.”).

Despite the horrific abuse they suffered at the hands of the State, several survivors, including Mr. Jones, were sentenced to death without a jury considering their experiences at the Schools as mitigation. As a result, survivors’ death sentences—and certainly their executions—stand in direct violation of the Eighth Amendment.

A. Florida has sentenced several survivors of the Schools to death, and several have been executed.

It is well known that untreated childhood abuse can cause the victim to develop harmful behaviors. *E.g.*, Janet Currie & Erdal Tekin, *Does Child Abuse Cause Crime?*, Nat'l Bureau Econ. Rsch. (Apr. 2006), <https://www.nber.org/papers/w12171>. This acting out seen in abused children often translates to criminal behavior as adults; abused children are twice as likely to engage in criminal behavior. *Id.*

Further, children who experience abuse develop long-term alterations of the central nervous system that impair executive functioning and cognitive flexibility. Felicia Gould, et al., *The Effects of Child Abuse and Neglect on Cognitive Functioning in Adulthood*, 46 J. Psychiatric Rsch. 500, 501 (2012). This can lead to psychiatric disorders, lower intelligence, and poorer academic performance compared to children who did not experience abuse. *Id.*

Consistent with these studies, the abuse students endured at the Schools often led to further criminalization after their release. *See* Initial Br., *Cole v. State*, No. SC2024-1170 (Fla. Aug. 13, 2024), at 19

[hereinafter *Cole Br.*]. One study found that “174 of the 180 boys who graduated in 1988 were subsequently rearrested.” *Id.*

Many survivors of the Schools ended up on Florida’s death row. See Leonor Lapeter Anton, *Dozens of Teens Who Spent Time at Abusive Florida Reform School Ended Up on Death Row*, The Marshall Project (July 14, 2025), <https://www.themarshallproject.org/2025/07/14/florida-death-row-teens-abuse> (“[A]t least 34 boys who stayed at Dozier and another 16 sent to Okeechobee [School] . . . ended up on Florida’s death row”); see also *Bell Mot.*, at 24 (“At least 29 former Dozier students wound up on death row”). Survivors currently on Florida’s death row, in addition to Mr. Jones, include Jesse Guardado, Joe Nixon, William Sweet, and Craig Wall.¹⁰

¹⁰ *Sweet v. State*, 810 So. 2d 854, 864 (Fla. 2022) (stating that William Sweet, who is currently on Florida’s death row, “was sent away to” Dozier); *Wall v. State*, 238 So. 3d 127, 137 (Fla. 2018) (“At fifteen, Wall attended [Dozier]. During his time there, Wall was taken to the emergency room for stitches to close a wound.”); Pet. Writ Certiorari, *Guardado v. Jones*, No. 17-7171 (U.S. Dec. 18, 2017), at 5 (Guardado was sent to Dozier, “where he was made to work in the slaughterhouse.”); Answer Br. Appellee, *Nixon v. State*, No. SC01-2486 (Fla. Aug. 20, 2002), at 23-24 (Nixon was committed to Dozier in 1972 at age 10 and attended until 1976.); see also Anton, *supra*; *Death Row Roster*, Fla. Dep’t Corrs.,

What's more, Florida has executed several survivors of the Schools, including members of the class eligible for remuneration under the Program. See Anton, *supra* (reporting that nine former Dozier students have been executed). Most recently, Florida executed Michael Bell on July 15, 2025. See *Execution List: 1976-Present*, Fla. Dep't Corrs., <https://www.fdc.myflorida.com/institutions/death-row/execution-list-1976-present> (last visited Sept. 11, 2025) [hereinafter *Execution List*]. Bell was sent to Dozier when “[t]he failure to intervene in [his] developmental, educational, and behavioral issues as a young child” led to his involvement with the juvenile justice system. *Bell Mot.*, at 22. Bell attended Dozier “from late 1986 to early 1987.” *Id.* at 24.¹¹ While at Dozier, Bell “was sexually assaulted by a guard” and was “forced by guards to fight in a club where guards forced the children to fight and placed bets on who would win.” *Id.* at 22; see H.R. Analysis, at 1.

On August 29, 2024, less than two months after the Program went into effect, Florida executed Loran Cole. *Execution List, supra*.

<https://pubapps.fdc.myflorida.com/OffenderSearch/deathrowroster.aspx> (last visited Sept. 12, 2025).

¹¹ Based on his years of attendance, Bell would not have been eligible for compensation under the Program. See § 16.63(1), Fla. Stat.

Cole attended Dozier from June 1 to November 14, 1984. *Cole Mot.*, at 9.¹² While at Dozier, Cole was “anally raped by a guard.” *Id.*; see also *Cole Br.*, at 9. He was beaten “2 to 3 times a week.” *Cole Mot.*, at 9. When Cole tried to escape and was captured, “the staff punished him by breaking both his legs.” *Id.* On one occasion, Cole was forced “to clean up the remains of guts and brains from another child, who jumped off the roof of one of the cottages.” *Id.* at 9-10. Cole was never treated for the suffering he endured at Dozier and “carried trauma from the experiences with him throughout his adult life.” *Id.* at 10.

In 2013, Florida executed William Van Poyck. *Execution List, supra*. Van Poyck was sent to the Okeechobee School in October 1968. Answer Br. Appellee, *Van Poyck v. State*, No. 84,324 (Fla. July 25, 1995), at 4. While there, he was “hog tied, drenched in water and left over night in the ‘wet room,’ and frequently sent to the ‘ice cream room,’ where he was given thirty licks with straps and paddles, the process being repeated if he cried out during the beating.” *Van Poyck v. State*, 694 So. 2d 686, 700 (Fla. 1997) (Anstead, J., concurring in part). Van Poyck’s jury was not presented with this mitigation. See

¹² Based on his years of attendance, Cole would not have been eligible for compensation under the Program. See § 16.63(1), Fla. Stat.

id. (“In the post-conviction hearing below the appellant presented a vast array of mitigating circumstances of the most serious nature that should have been thoroughly investigated and presented at the original penalty phase.”). Based on his years of attendance, Van Poyck would have been eligible for remuneration but was executed too soon. *See* § 16.63(1), Fla. Stat.

Even more striking, Frank Lee Smith was confined to the Okeechobee School at the age of 13.¹³ After his release, Smith was sentenced to death for crimes that occurred in 1985. *Smith v. State*, 515 So. 2d 182, 183 (Fla. 1987). This Court affirmed his death sentence on direct appeal. *Id.* at 185. After the Governor signed Smith’s death warrant, this Court “grant[ed] a stay of execution and remand[ed] the case to the trial court” for “an evidentiary hearing to evaluate new evidence” *Smith v. Dugger*, 565 So. 2d 1293, 1297

¹³ Jeff Walsh, *Frank Lee Smith’s Long Hard Life*, <https://www.pbs.org/wgbh/pages/frontline/shows/smith/etc/longhard.html> (last visited Sept. 10, 2025). Smith was born on July 20, 1947, so he would have been sent to the Okeechobee School in 1960. *See id.*; *see also Inmate Release Information Detail* (Frank Lee Smith), Fla. Dep’t Corrs., <https://pubapps.fdc.myflorida.com/offenderSearch/detail.aspx?Page=Detail&DCNumber=016296&TypeSearch=IR> (last visited Sept. 10, 2025) [hereinafter *Smith Release*].

(Fla. 1990). After remand, in 1998, this Court granted Smith postconviction relief. *Smith v. State*, 708 So. 2d 253, 255 (Fla. 1998). Smith died on death row in 2000. *Smith Release*, *supra* note 12. Less than a year after his death, Smith was exonerated based on “exculpatory DNA testing results.” *Frank Lee Smith*, Innocence Project, <https://innocenceproject.org/cases/frank-lee-smith/> (last visited Sept. 10, 2025). Smith would have been eligible for compensation under the Program. See § 16.63(1), Fla. Stat.

In addition to Smith, other survivors of the Schools died while on Florida’s death row. See Anton, *supra* (reporting that five Dozier survivors died on Florida’s death row). Others, including Richard Gibson and Kristopher Sanders,¹⁴ were originally sentenced to death and later “resentenced to life in prison for various reasons.” *Id.*

¹⁴ See *Gibson v. State*, 351 So. 2d 948, 951-52 n.6 (Fla. 1977) (affirming Gibson’s death sentence on direct appeal and stating Gibson attended Dozier “for eight and one-half months”); *Inmate Release Information Detail* (Richard Gibson), Fla. Dep’t Corrs., <https://pubapps.fdc.myflorida.com/offenderSearch/detail.aspx?Page=Detail&DCNumber=031204&TypeSearch=IR> (last visited Sept. 10, 2025) (Gibson resentenced to life in prison before his death in 2014); *Sanders v. State*, 707 So. 2d 664, 666 (Fla. 1998) (reversing Sanders’ death sentence on direct appeal and stating Sanders “had been admitted to” Dozier).

These cases illustrate the imminent threat in Mr. Jones' case of the State executing a victim recognized by the State who suffered the horrors of the Schools.

B. In several instances, including Mr. Jones' case, the jury was not presented with information about the defendant's experience at the Schools.

Unfortunately, capital juries often don't hear about the abuse survivors suffered at the Schools in considering whether a death sentence is appropriate. In most cases, the trial occurred well before the full extent of the horrors of the Schools was understood.

Neither Smith's nor Bell's jury heard *any* mitigation, let alone mitigation about their time at the Schools. *Smith*, 515 So. 2d at 185 (stating that "there were no mitigating circumstances to counterbalance the . . . aggravating circumstances"); *Bell* Mot., at 26. Similarly, Cole's "jury was never informed about his attendance" at Dozier, "the severe abuse he experienced," or how the abuse affected his brain chemistry. *See Cole* Mot., at 11-12; *accord Cole* Br., at 7. All three—Smith, Cole, and Bell—died under sentences of death without a jury ever considering the State-sanctioned abuse each man suffered as a child.

The same injustice is threatened in Mr. Jones' case. (See R. 868; R. 658-62 (Sentencing Order listing mitigation considered but not found, without any mention of Mr. Jones' time at the Okeechobee School).) Mr. Jones' trial occurred decades before Florida recognized the extent of the horrors at the Schools, while Florida still operated the Schools, and long before Florida acknowledged survivors like Mr. Jones as victims entitled to compensation for the physical, mental, and sexual abuse they endured at the hands of school personnel. (See R. 654.) When sentencing Mr. Jones to death, the trial court did not find *any* mitigation. (See R. 658-62.) Therefore, the Sentencing Order in Mr. Jones' case (R. 654-64) stands in direct contravention of the Program, which explicitly acknowledged the abuse Mr. Jones suffered at the Okeechobee School (R. 811)—mitigation that must be considered in the capital sentencing process. Therefore, Mr. Jones' sentence stands in violation of the Eighth Amendment. *See Gregg*, 428 U.S. at 198.

III. Executing survivors of the Schools, especially a member of the legislatively recognized class of victims, is a grave miscarriage of justice.

Capital cases often involve significant mitigation in the defendant's background that began from childhood—child abuse,

child neglect, mental illness, etc. The difference in cases like Mr. Jones', where the prisoner attended the Schools, is that *the State*—the same entity that seeks to kill the prisoner—is to blame, at least in part, for the trauma the prisoner endured early in life.

With the Program, the State recognized the harm it inflicted on survivors of the Schools, including Mr. Jones. (R. 811); *see supra* Part I.C. For the State to now execute Mr. Jones is inconsistent with the entire purpose of the Program. It is unfathomable that the State can grant reparation to a person for subjecting him to the horrors of the Schools and then, just a short period of time after the State's apology, inflict upon that person the ultimate punishment of death.

CONCLUSION

Consistent with the legislative purpose of the Program and to maintain the legitimacy of the State's recognition of the wrongs it perpetuated at the Schools, the State should stop executing survivors of the Schools—starting with Mr. Jones.

Date: September 16, 2025

Respectfully submitted,

/s/ Melanie C. Kalmanson

QUARLES & BRADY LLP

Melanie C. Kalmanson, Esq.

Florida Bar No. 123855
101 East Kennedy Blvd.
Suite 3400
Tampa, FL 33602
melanie.kalmanson@quarles.com
Secondary Emails:
blaize.ryan@quarles.com
docketFL@quarles.com

Counsel for Amici Curiae

CERTIFICATE OF COMPLIANCE

I hereby certify that this Brief of *Amici Curiae* complies with the applicable font and word-count requirements in Florida Rules of Appellate Procedure 9.210 and 9.370(b). It was prepared in Bookman Old Style 14-point font and contains 5,000 words, excluding the cover sheet, the tables of contents and citations, the certificates of compliance and service, and the signature block for the brief's author. See Fla. R. App. P. 9.210(a)(E), 9.370(b).

/s/ Melanie C. Kalmanson
Melanie C. Kalmanson, Esq.

CERTIFICATE OF SERVICE

I hereby certify that on September 16, 2025, a true and correct copy of the foregoing Brief of *Amici Curiae* was filed electronically with the Court via the Florida E-Filing Portal, which provides notice to all parties.

/s/ Melanie C. Kalmanson
Melanie C. Kalmanson, Esq.