Third District Court of Appeal

State of Florida

Opinion filed October 14, 2026.
Not final until disposition of timely filed motion for rehearing.

Nos. 3D25-1610, 3D25-1535
Lower Tribunal No. F13-10177B

State of Florida,
Petitioner,

vs.

Julio Montez Morris,
Respondent.

A Writ of Certiorari to the Circuit Court for Miami-Dade County, Alberto Milian, Judge.

James Uthmeier, Attorney General, and Jennifer A. Davis, Senior Assistant Attorney General, for petitioner.

Arnaldo Suri and J. Rafael Rodriguez, for respondent.

Before SCALES, C.J., and GORDO and GOODEN, JJ.

PER CURIAM.

ON PETITION FOR REHEARING, PETITION FOR REHEARING EN BANC AND MOTION FOR CERTIFICATION

We deny the petitions for rehearing, rehearing en banc and motion for certification but withdraw our previous opinion and substitute the following opinion in its stead.

The State of Florida petitions for a writ of certiorari to quash a non-final order requiring the case against Julio Montez Morris to proceed as a non-death penalty case. We grant the petition for writ of certiorari and quash the order below.

I.

Morris and Clifton Dickson were indicted for the first-degree murder of Jazzmon Parker and the attempted premeditated murder of Donnell Parker ("Original Indictment").[1] The State filed a Notice of Intent to Seek the Death Penalty against Morris under the Original Case Number.[2] Before his arrest, Morris—with Dickson serving as a lookout—attacked Ezell Finklea, a key witness who allegedly saw Morris murder Parker. Those charges were brought in a separate indictment and consolidated into the Original Case

[1] Case No. F13-10177B ("Original Case Number").
[2] The State waived the death penalty as to Dickson.

Number.[3]

Dickson was tried first and acquitted. Morris's trial followed. Mid-trial, Finklea and Ira Williams were murdered, and the court declared a mistrial.

A grand jury then indicted Morris, James William Kelly and Howard Tranard Waters for the murders of Finklea and Williams ("Superseding Indictment").[4] The State filed Notices of Intention to Seek Death against all three defendants under the new case number. The Superseding Indictment was later consolidated by the Clerk's Office into the Original Case Number. It charged Morris with three counts of first-degree murder—Parker (Count I), Finklea (Count II) and Williams (Count III).[5] Kelly and Waters were charged only in connection with the murder of Finklea and Williams.

Nearly two years later, in March 2021, while conducting routine tracking audits on death cases, the Deputy Chief Assistant for the Legal Division at the State—unaware of the Superseding Indictment or charges—

[3] Case No. F14-8198AB. The charges included retaliating against a witness, tampering with a witness, armed burglary with assault/battery, attempted premeditated murder, attempted felony murder and armed robbery.
[4] Case No. F19-5512C.
[5] The Superseding Indictment also charged Morris with conspiracy to commit first-degree murder; attempted premeditated murder; two counts of retaliating against a witness, victim or informant (bodily injury/firearm); two counts of tampering with a witness/victim in a life/capital felony; burglary with assault or battery therein while armed; and attempted premeditated murder with a deadly weapon or aggravated battery.

prepared and filed a form titled "Announcement of Death Penalty Waiver" as to Morris only, based on the prior waiver of the original charges.[6] By affidavit, she confirmed the filing was solely an administrative record-keeping item that she understood to apply only to the Original Indictment for Parker's murder. She did not know Morris was indicted on new charges for the murder of Finklea and Williams or that the State filed a Notice of Intention to Seek the Death Penalty against him on the Superseding Indictment. No waiver was filed for Kelly or Waters, and the record contains no evaluation or recommendation from the Death Penalty Committee for Morris's waiver.

The waiver bypassed the State Attorney's Office recommendation-and-review process. It was never announced in open court or otherwise communicated to the court or counsel, and it went unnoticed by everyone—including penalty-phase counsel, who continued preparing Morris's case for trial for over 3 years. In June 2024, the current Assistant State Attorney assigned to Morris's case discovered the waiver and contacted Morris's defense counsel, Mr. Rodriguez. On June 18, 2025, the State filed a motion for clarification and an affidavit detailing the circumstances surrounding the mistaken filing.

[6] The attorney that filed the waiver was not assigned to the case or listed as an attorney of record.

Although the waiver certified service on defense counsel, counsel stated at a hearing on the record that he never received it.[7] And the prosecutor confirmed that the State never made an oral announcement on the record waiving the death penalty for Morris.[8]

At the hearing, defense counsel argued that the State's intent was irrelevant as the notice of waiver was now a filed document with the Court, used the present tense and contained no reference to any particular indictment. Thus, Morris's counsel argued that neither the rules nor statute permitted recission of a notice of waiver after the 45-day period for the State to file a notice of intent to seek the death penalty after an indictment is filed. The State responded that it never intended for the waiver to apply to the Superseding Indictment, that the filing bypassed the required review process and that it was never announced on the record.

The trial court acknowledged that based on the facts of the case, the waiver was probably filed in error but decided that the State was "stuck" with that mistake because it has to do with the death penalty—alluding to "death

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[7] See Pet. Cert. App. H at 15:11–13 (June 23, 2025) ([DEFENSE]: "In fact, we didn't even know about this until 2024. That's why we continued mitigation [be]cause I asked the State [to] look into it with your legal department.").

[8] See id. at 13:12–14 ([STATE]: "If this were to be waived[,] it would [have] gone through the process, it would have been an announcement in open court, so I'm not putting anything on defense counsel.").

is different."[9]

After hearing arguments by the parties, the trial court ruled that the waiver would apply to Morris' current indictment and all new charges. As such, the State would be prohibited from presenting the case as a death penalty case. This Petition for Writ of Certiorari followed.

II.

Our standard of review on a petition for writ of certiorari puts the jurisdictional element first. A petitioner must show "(1) a material injury in the proceedings that cannot be corrected on appeal (sometimes referred to as irreparable harm); and (2) a departure from the essential requirements of the law." Fla. Power & Light Co. v. Cook, 277 So. 3d 263, 264 (Fla. 3d DCA 2019) (internal quotation marks omitted) (quoting Nader v. Fla. Dep't of Highway Safety & Motor Vehicles, 87 So. 3d 712, 721 (Fla. 2012)); accord Am. Prime Title Servs., LLC v. Wang, 317 So. 3d 1183, 1185 (Fla. 3d DCA 2021) (quoting A.H. v. Dep't. of Child. & Fams., 277 So. 3d 704, 706–07

[9] "[T]he penalty of death is qualitatively different from a sentence of imprisonment, however long. Death, in its finality, differs more from life imprisonment than a 100-year prison term differs from one of only a year or two." Woodson v. North Carolina, 428 U.S. 280, 305 (1976); see also Strickland v. Washington, 466 U.S. 668, 704 (1984) (Brennan, J., concurring in part and dissenting in part) ("[W]e have consistently required that capital proceedings be policed at all stages by an especially vigilant concern for procedural fairness and for the accuracy of factfinding.").

(Fla. 3d DCA 2019)); State v. Lyons, 392 So. 3d 281, 284 (Fla. 2d DCA 2024). "Courts consider in tandem whether the contested order would cause the petitioner material injury and whether the petitioner has an adequate remedy on appeal, referring to the combined question as whether the petitioner would suffer irreparable harm." State v. Garcia, 350 So. 3d 322, 325 (Fla. 2022) (internal quotation marks omitted). "The requirement of irreparable harm is jurisdictional." Thomas-McDonald L. Firm, P.A. v. Silva, 400 So. 3d 753, 754 (Fla. 3d DCA 2024). "Unless the petitioner establishes irreparable harm, the court must dismiss the petition for lack of jurisdiction." Damsky v. Univ. of Miami, 152 So. 3d 789, 792 (Fla. 3d DCA 2014); accord Stockinger v. Zeilberger, 152 So. 3d 71, 73 (Fla. 3d DCA 2014) ("[I]rreparable harm is a condition precedent to invoking certiorari jurisdiction."); Miami–Dade Cnty. v. Dade Cnty. Police Benevolent Ass'n, 103 So. 3d 236, 238 (Fla. 3d DCA 2012) (quoting Bd. of Trs. of Internal Improvement Tr. Fund v. Am. Educ. Enter., LLC, 99 So. 3d 450, 454–55 (Fla. 2012)).

III.

We first examine whether the State has demonstrated irreparable harm to overcome the first jurisdictional hurdle. Because the trial court's ruling will prevent the State from prosecuting its case against Morris as a death penalty

case under the Superseding Indictment, we find the State clears the first jurisdictional hurdle.[10] "Irreparable harm in the criminal context, when the petition is brought by the State, is a unique issue due to the State's limited ability to appeal."[11] State v. Kilburn, 418 So. 3d 275, 278 (Fla. 2d DCA 2025) (quoting State v. Milbry, 219 So. 3d 160, 161 (Fla. 5th DCA 2017)); accord State v. Pettis, 520 So. 2d 250, 253 (Fla. 1988) ("[T]here will be some circumstances in which the [S]tate is totally deprived of the right of appellate review of orders which effectively negate its ability to prosecute. If a nonfinal order does not involve one of the subjects enumerated in [Fla. R. App. P.] 9.140(c)(1), the [S]tate would not be able to correct an erroneous and highly prejudicial ruling . . . [and] could only proceed to trial with its ability to present

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[10] We recognize the Florida Supreme Court has abolished comparative proportionality review—and its relative-culpability corollary—as a component of appellate review of death sentences. See Lawrence v. State, 308 So. 3d 544, 552 (Fla. 2020); Cruz v. State, 372 So. 3d 1237, 1244–45 (Fla. 2023). But that abolition addresses the scope of appellate review; it does not reach the practical consequences at the trial level, where a capital defendant remains free to argue to the penalty-phase jury that death is unwarranted in light of the disparate treatment of an equally or even more culpable codefendant who received a death-penalty waiver.

[11] See Lyons, 392 So. 3d at 285 (citing Pettis, 520 So. 2d at 253) ("It is well-settled that certiorari jurisdiction exists to review nonfinal orders that impair the State's ability to prosecute its case."); see also § 924.07(1)(h), Fla. Stat. (2026) (authorizing the State to appeal "[a]ll other pretrial orders"); 2 Philip J. Padovano, Florida Appellate Practice pt. 3, ch. 27, § 27:24 n.4 (2026 ed.) ("Because there is no comparable court rule for nonfinal orders, an appeal to the district court of appeal under this section must be treated as a petition for certiorari.").

the case significantly impaired."). And "the Florida Supreme Court has held that where an order forces the State to proceed to trial with a significant impairment, and no appeal from the order would be available on an acquittal, the State may properly invoke certiorari review." Milbry, 219 So. 3d at 161 (citing Pettis, 520 So. 2d at 253).

The order causes irreparable harm by permanently barring the State from seeking the death penalty against Morris pursuant to the Superseding Indictment and accompanying Notice of Intent to Seek the Death Penalty. That bar is not curable post-trial. Unlike an ordinary prosecution, a capital case is bifurcated: upon a determination of guilt, the court conducts a separate, trial-like penalty proceeding where the State must prove the aggravating factors necessary to support a death sentence. See § 921.141(1), Fla. Stat (2026). Because that proceeding resembles a trial on guilt, declining to impose the death sentence carries a consequence without analogue in noncapital cases: it operates as an "acquittal" of the death penalty, whereas ordinary sentencing carries no such finality. Brown v. State, 521 So. 2d 110, 112 (Fla. 1988) (finding a trial court's ruling at a capital sentencing proceeding that the death penalty is inapplicable to the defendant operates as an acquittal of the death sentence). Should the case then proceed to a noncapital verdict, double-jeopardy principles may

well treat the resulting acquittal or life sentence as foreclosing any later attempt to seek death—regardless of whether the order that produced that result was legally correct. Cf. Arizona v. Rumsey, 467 U.S. 203, 211 (1984) ("Reliance on an error of law, however, does not change the double jeopardy effects of a judgment that amounts to an acquittal on the merits."); Brown, 521 So. 2d at 112 (finding that despite the trial judge's ruling as a matter of law that the death penalty was inapplicable was erroneous, "the procedure was correct," and it would be a violation of double jeopardy for the court to reopen the sentencing phase); accord Lyons, 392 So. 3d at 285. We need not decide the precise reach of those principles to recognize that the State would have no way to undo that loss on plenary appeal. See Pettis, 520 So. 2d at 253. That prospect is the essence of irreparable harm required for certiorari review.

IV.

Next, we must determine whether the trial court departed from the essential requirements of law. A departure from the essential requirements of law is "a violation of a clearly established principle of law resulting in a miscarriage of justice." Combs v. State, 436 So. 2d 93, 96 (Fla. 1983). It is more than mere legal error. Id. at 95; cf. Jones v. State, 477 So. 2d 566, 569 (Fla. 1985) (Boyd, C.J., concurring specially) ("It means an inherent illegality

or irregularity, an abuse of judicial power, an act of judicial tyranny perpetrated with disregard of procedural requirements, resulting in a gross miscarriage of justice. The writ of certiorari properly issues to correct essential illegality but not legal error.").

> "[C]learly established law" can derive from a variety of legal sources, including recent controlling case law, rules of court, statutes, and constitutional law. Thus, in addition to case law dealing with the same issue of law, an interpretation or application of a statute, a procedural rule, or a constitutional provision may be the basis for granting certiorari review.

Allstate Ins. Co. v. Kaklamanos, 843 So. 2d 885, 890 (Fla. 2003); accord City of Miami v. Blanco, 336 So. 3d 1268, 1271 (Fla. 3d DCA 2022) ("A departure from the essential requirements of law can be demonstrated based on statutes, rules of procedure, or case law."). Thus, the sources of "clearly established law" are not confined to decisional authority on the same issue but may also derive from "an interpretation or application of a statute, a procedural rule, or a constitutional provision"—any of these may furnish the basis for certiorari review. Allstate Ins. Co., 843 So. 2d at 890. Because it cannot pass constitutional muster, an order violating the separation of powers doctrine necessarily departs from the essential requirements of law. See, e.g., Dep't of Corr. v. Harrison, 896 So. 2d 868, 870 (Fla. 5th DCA 2005) ("[T]he order under review violates the separation of powers doctrine and thus departed from the essential requirement of law[.]" (footnote omitted)

(citing Dep't of Corr. v. Grubbs, 884 So. 2d 1147, 1147–48 (Fla. 2d DCA 2004))); Dep't of Child. & Fams. v. K.R., 946 So. 2d 106, 107 (Fla. 5th DCA 2007) ("Because we conclude that the order in question violates the separation of powers doctrine, and thus departed from the essential requirements of law, we grant certiorari relief.").

A.

"The cornerstone of American democracy known as separation of powers recognizes three separate branches of government—the executive, the legislative, and the judicial—each with its own powers and responsibilities." Bush v. Schiavo, 885 So. 2d 321, 329 (Fla. 2004). The Florida Constitution codifies this separation, mandating: "No person belonging to one branch shall exercise any powers appertaining to either of the other branches unless expressly provided herein." Art. II, § 3, Fla. Const. This provision "encompasses two fundamental prohibitions. The first is that no branch may encroach upon the powers of another. The second is that no branch may delegate to another branch its constitutionally assigned power." Chiles v. Child. A, B, C, D, E, & F, 589 So. 2d 260, 264 (Fla. 1991) (citations omitted). This case concerns the former.

"Under Florida's constitution, the decision to charge and prosecute is an executive responsibility, and the state attorney has complete discretion in

deciding whether and how to prosecute." State v. Bloom, 497 So. 2d 2, 3 (Fla. 1986); accord Cleveland v. State, 417 So. 2d 653, 654 (Fla. 1982). That discretion yields to judicial oversight only in the narrowest of circumstances:

> [T]he decision of whether or not to prosecute in any given instance must be left to the discretion of the prosecutor. This discretion has been curbed by the judiciary only in those instances where impermissible motives may be attributed to the prosecution, such as bad faith, race, religion, or a desire to prevent the exercise of the defendant's constitutional rights.

Bloom, 497 So. 2d at 3 (quoting United States v. Smith, 523 F.2d 771, 782 (5th Cir. 1975)). Applying that principle, the Florida Supreme Court held "that article II, section 3, of the Florida Constitution prohibits the judiciary from interfering with this kind of discretionary executive function of a prosecutor." Id. That deference is not a matter of policy but of constitutional structure: "[P]rosecutorial discretion is itself an incident of the constitutional separation of powers, and that as a result the courts are not to interfere with the free exercise of the discretionary powers of the prosecutor in his control over criminal prosecutions." State v. Cain, 381 So. 2d 1361, 1367 n.8 (Fla. 1980) (collecting cases); see Art. II, § 3, Fla. Const. And nowhere is that discretion broader than at the charging stage. See State v. Jogan, 388 So. 2d 322, 323–24 (Fla. 3d DCA 1980).

This prosecutorial discretion includes whether to seek or waive the

death penalty. See Bloom, 497 So. 2d at 3 ("We conclude that the circuit judge has no authority to interfere with the prosecutor's discretion in proceeding with this cause as a death penalty case. If we allowed the circuit judge to make pre-trial determinations of the death penalty's applicability, we would be modifying the death penalty's statutory scheme."). Indeed, "article II, section 3, of the Florida Constitution prohibits the judiciary from interfering with the prosecutor's decision to seek the death penalty in a first-degree murder case." State v. Donner, 500 So. 2d 532, 533 (Fla. 1987); Valdes v. State, 728 So. 2d 736, 738–39 (Fla. 1999) ("This Court has long held that as the prosecuting officer, the state attorney has complete discretion in the decision to charge and prosecute, and the judiciary cannot interfere with this discretionary executive function." (internal quotation marks omitted) (citations omitted)). And "[t]he decision to charge first-degree murder and prosecute the case as a capital offense through adjudication remains within the discretion of the state attorney." State v. Jones, 209 So. 3d 6, 10 (Fla. 2d DCA 2016). Accordingly, "[t]he trial courts simply have no authority to determine the applicability of the death penalty to defendants who have not been convicted of capital felonies." Id. at 11; cf. Jogan, 388 So. 2d at 323 (recognizing that the pretrial prosecutorial discretion lies solely with the state attorney).

B.

Florida law sets forth how the State pursues the death penalty. "If the prosecutor intends to seek the death penalty, the prosecutor must give notice to the defendant and file the notice with the court within 45 days after arraignment." § 782.04(1)(b), Fla. Stat. (2025); accord Fla. R. Crim. P. 3.181. Once the prosecutor provides that notice, other procedural rules come into play.[12] See Fla. R. Crim. P. 3.202 (mental-mitigation expert notice); Fla. R. Crim. P. 3.203 (intellectual-disability bar); Fla. R. Crim. P. 3.780 (capital sentencing hearing). But there is no statutory equivalent as to how the death penalty is waived once sought.

With these principles in mind, we turn to the case at hand. The State administratively filed a notice of waiver in the court file directed to the Original Indictment. The trial court, the parties and the attorneys on the case were unaware of its existence. They continued to litigate this as a capital case for several years.[13]

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[12] See Fla. R. Crim. P. 3.112(b) (stating that any waiver directed to a death-penalty charge is effective only if the State affirmatively makes the waiver "on the record").

[13] See Pet. Cert., supra note 7; see also id. at 13:6–11 ([STATE]: "No one at that point was believing that the State had waived. In fact, at that point the defense was continuing with their mitigation method as reflected in the docket, and the Court was under the impression it was still a death case, so everyone was acting under the assumption it was a death case.").

When the State informed the trial court of the waiver, the court applied it as a waiver of death on all of Morris's charges and decided the State was "stuck" with its mistake because it was death-penalty related. In doing so, the trial court not only fashioned a "Catch-22" or "gotcha" result this Court has long refused to endorse but also, through judicial decree, supplanted the executive branch's exclusive charging discretion by extending a waiver beyond the charges to which it was directed. See Salcedo v. Asociacion Cubana, Inc., 368 So. 2d 1337, 1339 (Fla. 3d DCA 1979) ("[T]he courts will not allow the practice of the 'Catch–22' or 'gotcha!' school of litigation to succeed."); Nelson v. State, 855 So. 2d 132, 133 n.1 (Fla. 4th DCA 2003) (collecting cases); Andreaus v. Impact Pest Mgmt., Inc., 157 So. 3d 442, 445 (Fla. 2d DCA 2015) ("The trial court should not have rewarded this 'gotcha' tactic, and we will not do so here."); Harley v. Lopez, 784 So. 2d 447, 448 (Fla. 3d DCA 1999) (refusing to reward "gotcha" tactics, which have been "long abhorred by this court"); M–5 Commc'ns, Inc. v. ITA Telecomms., Inc., 708 So. 2d 1039, 1039 (Fla. 3d DCA 1998) ("[R]eversal is . . . mandated by an application of the anti-gotcha rule in its original and purest form.").

We have found no constitutional, statutory or decisional authority allowing a trial court to strike or overrule a prosecutor's notice of intent to seek the death penalty. To the contrary, the Florida Constitution provides

that the decision to charge and prosecute is an exclusively executive function, and the state attorney has complete discretion in deciding whether and how to prosecute. See Art. V, § 17, Fla. Const. ("[T]he state attorney shall be the prosecuting officer of all trial courts . . . ."); accord Bloom, 497 So. 2d at 3; Cain, 381 So. 2d at 1367; State v. Mancuso, 355 So. 3d 942, 944–45 (Fla. 4th DCA 2023).

Applied here, these principles bar any judicial interference. The trial court had neither the constitutional nor statutory authority to encroach on the State's exclusive prosecutorial authority to seek the death penalty or infringe on the prosecutorial function of the State regarding the administrative waiver of death notice. See Bloom, 497 So. 2d at 3. And it is the state attorney—not the trial courts—who wields "complete discretion in making the decision to charge and prosecute." Cleveland, 417 So. 2d at 654; accord Johnson v. State, 314 So. 2d 573, 577 (Fla. 1975) (footnotes omitted) ("The prosecutorial discretion to which the appellant objects is no more than that which is inherent in our system of criminal justice. Its origin is found in the common law of England. Similarly in the Federal system the Federal Courts have consistently held that the discretion of the Attorney General in choosing whether to prosecute or not to prosecute, or to abandon a prosecution already started, is absolute."); State v. Bauman, 425 So. 2d 32, 34 (Fla. 4th

DCA 1982) (quoting Cain, 381 So. 2d at 1367) ("[T]he discretion of a prosecutor in deciding whether and how to prosecute is absolute in our system of criminal justice."); State v. D.W., 821 So. 2d 1179, 1180 (Fla. 3d DCA 2002) ("The prosecutor is the only one who has the authority to make decisions relating to the allocation of prosecutorial resources."); State v. D.D.B., 737 So. 2d 1178, 1179 (Fla. 2d DCA 1999) (concluding that the trial judge did not have discretion to dismiss criminal mischief charge against juvenile on court's own motion, and doing so encroached upon prosecutor's authority).

We find the trial court departed from the essential requirements of law by treating a mistaken administrative filing as a binding exercise of prosecutorial discretion. The record evidence established that the State's Deputy Chief Assistant for its Legal Division who filed the waiver—who was not assigned to the case or listed as an attorney of record—was unaware of the Superseding Indictment, intended the filing only to reference the Original indictment and bypassed the State Attorney's Office recommendation-and-review process. Moreover, the waiver was never announced in open court.[14]

[14] See Pet. Cert. App. C ¶ 5 (June 18, 2025) (The process for evaluating a death penalty waiver begins with a death penalty evaluation prepared by the assigned ASA and presentation to the State Attorney's Office Death Penalty Committee—composed of the SAO Chief Assistant and Deputy Chief Assistant, the Chief of the Legal Division and another member of the Legal

To be clear, no prosecutor exercising informed discretion ever decided to waive the death penalty for the Superseding Indictment in this case.

Yet the trial court applied the waiver to the Superseding Indictment anyway. In doing so, the trial court did not enforce a prosecutorial decision but supplanted one, effectively shedding its judicial robes to assume an executive role that separation of powers forbids it to occupy. The decision whether to seek the death penalty is committed exclusively to the executive branch, therefore, the trial court's unilateral extension of the waiver to the Superseding Indictment impermissibly interfered with the state attorneys constitutionally protected prosecutorial discretion.

The trial court's order did more than misconstrue a filing—it transformed a document directed at one indictment into a binding waiver of another. That intrusion departs from the essential requirements of law by usurping a charging decision constitutionally reserved for the state attorney by the express mandate of the Florida Constitution. See Harrison, 896 So. 2d at 870; Bush, 885 So. 2d at 329 ("This Court . . . has traditionally applied a strict separation of powers doctrine." (internal quotation marks

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Unit. Once the Committee makes the decision to waive, that decision is relayed to defense counsel, and in such case, the assigned prosecutor is responsible for making an oral announcement on the record advising the Court and defense counsel (and the defendant) that the death penalty is waived. That process did not occur.).

omitted) (quoting State v. Cotton, 769 So. 2d 345, 353 (Fla. 2000))); State v. W.D., 112 So. 3d 702, 704–05 (Fla. 4th DCA 2013) (holding separation of powers doctrine prohibits one branch from encroaching upon powers reserved to another).

And so, certiorari lies. Accordingly, we grant the petition for writ of certiorari and quash the order under review. As this case is grounded on unusual and specific facts, we emphasize that our holding should be narrowly construed. This case shall proceed as a capital case until and unless the State announces a formal waiver of the death penalty on the record as to the current charges.

Petition granted; order quashed. [15]

[15] While we find this matter meets the requirements for certiorari, we note that prohibition is the traditional remedy when a trial court attempts to block a prosecutor's right to pursue the death penalty. See Bloom, 497 So. 2d at 3 ("A writ of prohibition is the appropriate remedy when a trial court attempts to interfere with the prosecutorial discretion of a state attorney."); accord State v. Demons, 351 So. 3d 10, 16 (Fla. 4th DCA 2022); State v. Chapman, 227 So. 3d 626, 627 (Fla. 4th DCA 2017); State v. Lopez, 219 So. 3d 865, 865 (Fla. 4th DCA 2017); Jones, 209 So. 3d at 8–9 (Fla. 2d DCA 2016). While prohibition cannot be used to revoke an order already entered, Bloom remains instructive because it recognizes prohibition as a proper remedy to thwart a trial court's improper interference with a prosecutor's right to pursue the death penalty.