
IN THE SUPREME COURT OF FLORIDA

TERRY HUBBARD,

Petitioner,

v.

Case No.: SC2024-1522

L.T. No.: 4D22-3429

STATE OF FLORIDA,

Respondent.

**BRIEF OF *AMICUS CURIAE* THE ASSOCIATION OF
PROSECUTING ATTORNEYS IN SUPPORT OF PETITIONER**

**QUINN EMANUEL URQUHART
& SULLIVAN, LLP**

2601 South Bayshore Drive,
Suite 1550
Miami, FL 33133
Tel.: (305) 439-5008
Samuel G. Williamson (Florida
Bar No. 1033817)
samwilliamson@quinnemanuel.
com

**QUINN EMANUEL URQUHART
& SULLIVAN, LLP**

295 Fifth Avenue, 9th Floor
New York, NY 10016
Tel.: (212) 849-7000
Temi Omilabu (*pro hac vice*
pending)
temiomilabu@quinnemanuel.com

Counsel for Amicus Curiae

TABLE OF CONTENTS

	<u>Page</u>
STATEMENT OF INTEREST OF <i>AMICUS CURIAE</i>	1
SUMMARY OF ARGUMENT	2
ARGUMENT	5
I. This Prosecution Exceeds OSP’s Constitutional and Statutory Authority	5
A. The Enabling Text and Long-Established Precedent Limit OSP’s Jurisdiction to Truly Multi-Circuit Crimes	5
B. Petitioner’s Charged Offenses Did Not Occur in Two or More Judicial Circuits as Part of a Related Transaction	9
C. Petitioner’s Charged Offenses Did Not Affect Two or More Judicial Circuits	16
II. Important Principles of Local Prosecutorial Independence Further Support Reinstating the Trial Court’s Decision.....	19
CONCLUSION	23
CERTIFICATE OF SERVICE.....	25
CERTIFICATE OF COMPLIANCE.....	26

TABLE OF AUTHORITIES

Page(s)

Cases

<i>Advisory Op. to the Governor re: Implementation of Amendment 4, the Voting Restoration Amendment, 288 So. 3d 1070 (Fla. 2020).....</i>	<i>10</i>
<i>Austin v. State ex Rel. Christian, 310 So. 2d 289 (Fla. 1975)</i>	<i>21, 23</i>
<i>Carbajal v. State, 75 So. 3d 258 (Fla. 2011)</i>	<i>9, 17</i>
<i>Cook v. State, 921 So. 2d 631 (Fla. 2d DCA 2005)</i>	<i>21</i>
<i>In re Final Rep. of the 20th Statewide Grand Jury, 343 So. 3d 584 (Fla. 4th DCA 2022)</i>	<i>7</i>
<i>Johnson v. State, 314 So. 2d 573 (Fla. 1975)</i>	<i>20, 21</i>
<i>King v. State, 790 So. 2d 477 (Fla. 5th DCA 2001)</i>	<i>8, 9</i>
<i>McNamara v. State, 357 So. 2d 410 (Fla. 1978)</i>	<i>7</i>
<i>Scott v. State, 102 So. 3d 676 (Fla. 5th DCA 2012)</i>	<i>9</i>
<i>Snyder v. State, 715 So. 2d 367 (Fla. 5th DCA 1998)</i>	<i>8</i>
<i>State v. Cain, 381 So. 2d 1361 (Fla. 1980)</i>	<i>21</i>
<i>State v. Greaux, 977 So. 2d 614 (Fla. 4th DCA 2008)</i>	<i>21</i>

<i>State v. Hubbard</i> , No. 22-8077CF10A (Fla. 17th Cir. Ct. Dec. 23, 2022)	11, 17
<i>State v. Miller</i> , 394 So. 3d 164 (Fla. 3d DCA 2024)	10, 15
<i>State v. Miller</i> , No. F22-015012 (Fla. 11th Cir. Ct. Dec. 7, 2022)	14
<i>State v. Ostergard</i> , 343 So. 2d 874 (Fla. 3d DCA 1977)	7
<i>State v. Suggs</i> , No. 4D23-1383 (Fla. 4th DCA 2023)	13
<i>State v. Suggs</i> , No. 22-008080CF10A (Fla. 17th Cir. Ct. May 22, 2023)	13, 14
<i>State v. Tacher</i> , 84 So. 3d 1131 (Fla. 3d DCA 2012)	8
<i>State v. Washington</i> , 403 So. 3d 465 (Fla. 6th DCA 2025)	10, 12, 13
<i>State v. Washington</i> , No. SC2025-0385 (Fla. Mar. 21, 2025)	13
<i>State v. Wood</i> , 400 So. 3d 661 (Fla. 3d DCA 2024)	10, 15
<i>State v. Wood</i> , No. F22-15009 (Fla. 11th Cir. Ct. Oct. 21, 2022)	15
<i>State v. Wood</i> , No. SC2024-1663 (Fla. Mar. 20, 2025)	15
<i>Thomas v. State</i> , 125 So. 3d 374 (Fla. 4th DCA 2013)	8
<i>Wilson v. Renfro</i> , 91 So. 2d 857 (Fla. 1956)	21

<i>Winter v. State</i> , 781 So. 2d 1111 (Fla. 1st DCA 2001)	17, 18
---	--------

Constitutional Provisions & Statutes

Article IV, § 4(b) Fla. Const.....	2, 5, 12, 16, 20
Article V, § 17, Fla. Const.....	20, 21
§ 104.011(1) Fla. Stat. (2020)	15
§ 104.15 Fla. Stat. (2020).....	12, 15
§ 16.56(1)(c) Fla. Stat. (2023).....	3, 5, 16
§ 16.56, Fla. Stat. (2022).....	2, 15, 16, 17
§ 905.34 Fla. Stat	7

Other Authorities

American Bar Association’s Model Rule of Professional Conduct 3.8	20
Gov. Graham’s Remarks Concerning the Statewide Prosecutor Amendment (Mar. 6, 1985)	6
Joseph Story, <i>Commentaries on the Constitution of the United States</i> (1833).....	10
R. S. Palmer & Barbara M. Linthicum, <i>The Statewide Prosecutor: A New Weapon against Organized Crime</i> , 13 FLA. ST. U. L. REV. 653 (1985)	5, 6, 7
Robert L. Misner, <i>Recasting Prosecutorial Discretion</i> , 86 J. CRIM. L. & CRIMINOLOGY 717 (1996)	22
William T. Pizzi, <i>Understanding Prosecutorial Discretion in the United States: The Limits of Comparative Criminal Procedure as an Instrument of Reform</i> , 54 OHIO ST. L.J. 1325 (1993).....	22

STATEMENT OF INTEREST OF AMICUS CURIAE

The Association of Prosecuting Attorneys (“APA”) is a national non-profit organization created by prosecutors from across the country to strengthen their efforts in ensuring safer communities and improving their performance in the criminal justice system. The APA provides resources such as training and technical assistance to develop proactive and innovative prosecutorial practices. It acts as a global forum for the exchange of ideas, allowing prosecutors to collaborate with each other and other criminal justice partners. The APA also serves as an advocate for prosecutors on emerging issues related to the administration of justice, including by submitting briefs as *amicus curiae* in appropriate cases. The APA’s board of directors includes current prosecutors from states throughout the nation. The APA has fifteen attorneys on staff with over 350 years of collective criminal justice experience.

The APA has a significant interest in the resolution of the jurisdictional issue in this case. As explained in the following brief, local state attorneys’ independence and discretion are the bedrock of the criminal justice system, and that vital role should inform the Court’s interpretation of the constitutional and statutory provisions

that govern the Office of Statewide Prosecution’s (“OSP”) jurisdiction to prosecute single-circuit voter-registration and voting crimes. Because the APA routinely grapples with and advocates for these critical issues, in contexts around the country, including in Florida, its participation as *amicus curiae* will provide valuable, informed insight that will benefit this Court.

SUMMARY OF ARGUMENT

This Court should reverse the District Court of Appeal’s decision reversing the trial court’s dismissal of OSP’s case against Petitioner for allegedly registering to vote and voting while ineligible. The constitutional and statutory provisions that govern OSP’s jurisdiction cannot, and should not, be interpreted to grant OSP the authority to prosecute the purely local, single-judicial-circuit crimes of which Petitioner has been accused.

First, the requirements for OSP jurisdiction that are set out in Article IV, Section 4(b) of the Florida Constitution and Section 16.56 of the Florida Statutes are not met here. Those provisions expressly limit OSP’s jurisdiction to cases where an offense (1) “occurred[] in ***two or more judicial circuits*** as part of a related transaction” or (2) “affected[] ***two or more judicial circuits***.” Art. IV, § 4(b), Fla.

Const.; § 16.56(1)(c), Fla. Stat. (2023).¹ (emphasis added). Decades of case law interpreting OSP’s jurisdiction holds that it does not have authority to prosecute crimes that occur only in one circuit. The history behind the creation of OSP similarly evidences a role that is limited to multi-circuit crimes. And case law interpreting the authority of the statewide grand jury, on which OSP’s jurisdiction is modeled, points to the same lack of jurisdiction here. The District Court of Appeal’s contrary interpretation cannot be squared with the text of the constitutional and statutory provisions that govern OSP’s authority or the history behind OSP’s creation. As Judge May’s dissent recognized in the court below, OSP “is not some Marvel superhero that can magically extend its long arm of the law into a single judicial circuit and steamroll over the local state attorney.” R. 1009.

¹ Before the District Court of Appeal below, Respondent contended that the court should interpret and apply Section 16.56 as that statute was amended after the Circuit Court of the 17th Judicial Circuit dismissed Petitioner’s case. See State of Florida’s Initial Br. before the District Court of Appeal at 10–14. *Amicus curiae* APA takes no position as to which version of Section 16.56 this Court should apply. The arguments, observations, and perspectives offered in this brief apply to either version of Section 16.56.

Second, recognizing that the purely local offenses with which Petitioner is charged should be exclusively addressed by local state attorneys will vindicate the importance of prosecutorial independence and accountability to the communities they serve. These values are at the core of the criminal justice system. Florida's Constitution charges state attorneys with the responsibility of prosecuting crimes that occur in the circuits in which they are elected. As discussed *infra*, some state attorneys have prosecuted cases like this one, while others have not. It is their responsibility to make those decisions. Permitting OSP to prosecute Petitioner for the purely local crimes alleged here would erode state attorneys' independence. It would also usurp the traditional method by which Florida voters can assure themselves that the State's vast power to prosecute will not be abused: the democratic principle that local elected officials are responsible to the electorate of their circuits.

For these reasons, the Court should reverse the District Court of Appeal's ruling and reinstate the trial court's dismissal of the case against Petitioner.

ARGUMENT

I. This Prosecution Exceeds OSP's Constitutional and Statutory Authority

This appeal centers on whether the charged offenses (1) “occurred[] in ***two or more judicial circuits*** as part of a related transaction,” or (2) “affected[] ***two or more judicial circuits***[.]” Art. IV, § 4(b), Fla. Const. (emphasis added); § 16.56(1)(c), Fla. Stat. (2023). The plain text of the constitutional and statutory provisions that govern OSP’s jurisdiction, the history behind OSP’s creation, and long-standing Florida jurisprudence confirm that neither condition is met. This Court should reverse the contrary ruling below.

A. The Enabling Text and Long-Established Precedent Limit OSP’s Jurisdiction to Truly Multi-Circuit Crimes

OSP originated as a response to the belief that, in the 1970s and 1980s, “Florida [was] a haven for organized crime elements that operate without regard to jurisdictional boundaries ... because local state attorneys do not have the authority to pursue these elements across jurisdictional lines.” R. S. Palmer & Barbara M. Linthicum, *The Statewide Prosecutor: A New Weapon against Organized Crime*, 13 FLA. ST. U. L. REV. 653, 676 (1985). To address this threat, in 1984 Governor Daniel Robert Graham formed the Governor’s Commission

on the Statewide Prosecution Function (the “Commission”), which drafted the constitutional amendment and enabling legislation that created OSP. *Id.* at 664. In 1985, adopting the Commission’s recommendations, Governor Graham described OSP as part of “the war on drugs and organized crime.” *Id.* at 669 (quoting Gov. Graham’s Remarks Concerning the Statewide Prosecutor Amendment (Mar. 6, 1985)).

At the recommendation of the Commission, the Legislature narrowly tailored OSP’s jurisdiction to multi-circuit crimes to ensure it would not usurp the authority of state attorneys. And at the request of state attorneys, this jurisdictional limitation was codified in the constitutional amendment as opposed to solely in OSP’s enabling statute, so as to make any expansion beyond the limitation more difficult. *Id.* at 677–78. OSP’s framers even rejected a suggestion to empower OSP to prosecute single-circuit political corruption cases, which some saw as the quintessential example of a case that could be better tried by a statewide prosecutor, because such authority “would detract from the statewide prosecutor’s ability to prosecute large criminal organizations.” *Id.* at 668.

The history and jurisprudence interpreting § 905.34, Fla. Stat., which sets out the jurisdiction of the statewide grand jury and on which OSP’s jurisdiction was modeled, *see id.* at 666–67, is also instructive. Like OSP, the statewide grand jury’s jurisdiction is explicitly limited to offenses that are “occurring, or ha[ve] occurred, in two or more judicial circuits as part of a related transaction[.]” § 905.34, Fla. Stat. And this identically-defined jurisdiction has consistently been extended only to situations where the charged offense includes criminal activity in multiple circuits. *See, e.g., McNamara v. State*, 357 So. 2d 410, 413 (Fla. 1978) (crediting defendant’s argument that the statewide grand jury’s “jurisdiction is statutorily limited to **multi-county criminal activity**” and reversing conviction) (emphasis added). As Judge Barkdull explained in one such case, “a local crime”—that is, “a crime committed in a single county”—is simply outside of the jurisdiction of such statewide bodies, to whom “[t]he Legislature might have given ... such power, but it did not.” *State v. Ostergard*, 343 So. 2d 874, 877 (Fla. 3d DCA 1977) (Barkdull, J., concurring); *see also In re Final Rep. of the 20th Statewide Grand Jury*, 343 So. 3d 584, 590 (Fla. 4th DCA 2022)

(repressing parts of statewide grand jury's report that contained allegations of local crimes).

It therefore comes as no surprise that—in stark contrast to Mr. Hubbard's case—cases in which OSP has properly exercised jurisdiction have typically involved criminal enterprises and co-conspirators across multiple judicial circuits. The Third, Fourth, and Fifth District Courts of Appeal have found that OSP had authority in circumstances including: a conspiracy involving taking delivery of shipments of drugs from New Jersey and carrying them through seven Florida judicial circuits by bus prior to sale (*State v. Tacher*, 84 So. 3d 1131 (Fla. 3d DCA 2012)); grand theft offenses occurring in four different judicial circuits pursuant to a unified scheme (*Snyder v. State*, 715 So. 2d 367 (Fla. 5th DCA 1998)); burglary offenses committed in one judicial circuit arising from a “chop shop” operation which depended in part on motorcycles stolen from another circuit (*King v. State*, 790 So. 2d 477 (Fla. 5th DCA 2001)); racketeering and other offenses for which predicate acts were physically committed in one county, but were allegedly part of related transactions and connected to an organized criminal conspiracy affecting multiple judicial circuits (*Thomas v. State*, 125 So. 3d 374 (Fla. 4th DCA

2013)); and a cocaine trafficking conspiracy in which substantial evidence demonstrated the existence of a criminal organization and illegal activities that originated in a different judicial circuit than where the crime was charged (*Scott v. State*, 102 So. 3d 676 (Fla. 5th DCA 2012)).

B. Petitioner's Charged Offenses Did Not Occur in Two or More Judicial Circuits as Part of a Related Transaction

In line with the purpose and textual limits of OSP jurisdiction, Florida courts have consistently held that an offense does not “occur[] in two or more judicial circuits as part of a related transaction” unless the prosecuted “criminal enterprise operates or has operated” in those circuits. *King*, 790 So. 2d at 479. This “broad view of the OSP’s prosecutorial authority” requires a showing of “**criminal activity** in two or more judicial circuits.” *Scott*, 102 So. 3d at 677 (emphasis added). Indeed, this Court has held that what matters is the **location of the criminal actions** by the defendant and its co-conspirators. *See Carbajal v. State*, 75 So. 3d 258, 262 (Fla. 2011) (“Carbajal is correct that if **his criminal activity** in Florida actually occurred in only Lee County, Florida, the OSP was not authorized to prosecute charges arising from that conduct.”) (emphasis added).

These limits on OSP’s authority are consistent with the “supremacy-of-text” principle in Florida courts, and represent the “plain, obvious, and common sense” meaning of the constitutional and statutory provisions that govern OSP’s jurisdiction. *Advisory Op. to the Governor re: Implementation of Amendment 4, the Voting Restoration Amendment*, 288 So. 3d 1070, 1078 (Fla. 2020) (quoting Joseph Story, *Commentaries on the Constitution of the United States* 157–58 (1833)). And they cannot be squared with extending OSP’s jurisdiction to the voting fraud prosecutions that have recently been the subject of a split between the courts of appeal over OSP’s jurisdiction.² The District Court of Appeal’s decision that OSP had jurisdiction to prosecute Petitioner accordingly amounts to reversible error.

Petitioner’s alleged offenses—the actions that he allegedly took in registering to vote and voting while ineligible—did not “occur in two or more judicial circuits,” because he only acted in one place. As the parties before the trial court stipulated, and the trial court

² See *State v. Miller*, 394 So. 3d 164 (Fla. 3d DCA 2024); *State v. Wood*, 400 So. 3d 661 (Fla. 3d DCA 2024); *State v. Washington*, 403 So. 3d 465 (Fla. 6th DCA 2025).

recognized, Petitioner did not “physically enter” or “mail or electronically transfer anything to” another judicial circuit, and was not “involve[d in] a criminal conspiracy.” *State v. Hubbard*, No. 22-8077CF10A, 3 (Fla. 17th Cir. Ct. Dec. 23, 2022) (“*Hubbard* Trial Decision”). Given that all the alleged criminal activity in this case—the actions taken by the Petitioner—occurred solely in Broward County, the “offenses” in question could not have “occurred[] in two or more judicial circuits.”

Contrary to the majority of the District Court of Appeal’s view, the actions of State election officials in Leon County in verifying and processing Petitioner’s voter registration application and vote cannot be offenses that are part of a related transaction with the alleged voter fraud—not least because those actions are not offenses at all. As Judge Odom recognized in the trial court, “[t]he crime has been committed and completed in the jurisdiction of where the registration application was submitted and/or where the Defendant submitted his vote. Thereafter, it doesn’t matter who or what entity moves or transmits the fraudulent ballot.” *Hubbard* Trial Decision at 9. This becomes even more apparent when considering the entirety of the definition of OSP’s jurisdiction, which asks not just whether a

“offense occurred ... in two or more judicial circuits,” but in fact whether it did so “**as part of a related transaction.**” Art. IV, § 4(b), Fla. Const. (emphasis added); *see also Washington*, 403 So.3d at 475–76 (in *obiter*, indicating OSP was required to show how the charged offense, illegal voting, “occurred in multiple circuits *and* was part of a related transaction”).

Other courts have properly applied these principles to cases like this one. In *Washington*, the Sixth District Court of Appeal held that the relevant criminal act for the purpose of the § 104.15 offense is voting, not the transmission of voter information between government officials, and thus excluded any non-criminal activity by those officials from the scope of the offense. *Washington*, 403 So.3d at 474–76. That led the court to unanimously limit OSP’s jurisdiction to a “**multi-circuit offense** (‘occurring in multiple circuits’) that is also part of a multi-person venture or undertaking connected to the offense (‘part of a related transaction’),” and thus affirm dismissal of OSP’s charges under § 104.15, Fla. Stat. (2020). *Id.* at 474. Notably, the *Washington* court certified conflict with the holding of the District Court of Appeal in this case, endorsing Judge May’s view that Petitioner’s alleged offense was “single-circuit” and that “view[ing] it

otherwise” would “expand the OSP’s reach beyond its constitutional and statutory limits”. *Id.* at 479–80;³ *see also* R. 1009.⁴

Similarly, in *State v. Suggs*, No. 22-008080CF10A (Fla. 17th Cir. Ct. May 22, 2023),⁵ Judge Farmer held OSP lacked authority to prosecute a defendant who allegedly registered and voted while ineligible in the Seventeenth Judicial Circuit “because the law in effect at the time the charges were filed did not confer jurisdiction ... and because even as amended the statute does not confer jurisdiction to the OSP because ***the Defendant*** did not commit elements of the crimes charged in two different circuits” (emphasis added). *Id.* at *2. In so holding, Judge Farmer reasoned:

[T]he mere fact that the Secretary of State erroneously verified or certified that Defendant was legally entitled to

³ On March 21, 2025, this Court stayed proceedings in *Washington* pending the disposition of the present appeal. *See State v. Washington*, No. SC2025-0385 (Fla. Mar. 21, 2025). Should this Court find that the OSP did not have jurisdiction to prosecute Mr. Hubbard, the same conclusion would likely extend to Mr. Washington in that case.

⁴ The Sixth District Court of Appeal’s analysis in this respect was limited to OSP’s “occurrence” jurisdiction; it refrained from doing the same with respect to OSP’s “affect” jurisdiction because OSP had not preserved that issue for review in the case before it. *See Washington*, 403 So.3d at 476–77.

⁵ The State of Florida voluntarily dismissed its appeal of this case. *See State of Florida v. Suggs*, No. 4D23-1383 (Fla. 4th DCA 2023).

have his right to vote restored and was otherwise eligible to vote does not constitute an act or element of the charges committed by Defendant in a circuit other than the 17th Judicial Circuit. Defendant committed every act – registering to vote, attesting to his eligibility to do so (based on an erroneous certification received from the State), and casting a vote – only in the 17th Circuit in and for Broward County, Florida.

Id.

Also instructive are the dissenting and concurring opinions of Judge Scales in two decisions of the Third District Court of Appeal. In *State v. Miller*, the trial court had reasoned that because the defendant “never physically entered” another judicial circuit, “never mailed or electronically transferred anything” to another circuit, and “was not part of a criminal conspiracy,” OSP did not “have jurisdiction to investigate and prosecute him as part of a related transaction in two or more judicial circuits.” *State v. Miller*, No. F22-015012, *3 (Fla. 11th Cir. Ct. Dec. 7, 2022). Judge Scales, dissenting from the majority’s reversal of the trial court’s decision, emphasized that “for the OSP to have statutory prosecutorial authority, the voting offense must *both* ‘occur in two or more judicial circuits’ *and* the occurrences must be ‘part of a related transaction;’” the mere fact that the defendant’s voter registration had been processed in another

circuit did not confer jurisdiction on OSP. *Miller*, 394 So.3d at 172. Then, in *Wood*, 400 So. 3d at 661–62, but for the controlling majority decision in *Miller*, Judge Scales, specially concurring, would have affirmed the trial decision below, which explained: The “merely ministerial transmission of completed forms” by postal workers and Florida’s election authorities is not **criminal** activity, and thus not sufficient to meet Section 16.56’s “demand[] that the crime itself **occur**, that it **be committed, in more than one jurisdiction**. For a crime to be prosecutable by OSP, it is that crime, and not its mere consequences or related activities, that must occur in two or more Florida jurisdictions.” *State v. Wood*, No. F22-15009, *5 (Fla. 11th Cir. Ct. Oct. 21, 2022) (emphasis added).⁶

Consistent with the above, the Petitioner’s alleged offenses are complete upon the false affirmation of one’s eligibility on a voter registration application (§ 104.011(1)) or the casting of a vote (§ 104.15)—not later, when those registrations or votes are transported

⁶ On March 20, 2025, this Court stayed proceedings in *Wood* pending the disposition of the present appeal. *State v. Wood*, No. SC2024-1663 (Fla. Mar. 20, 2025). Should this Court find that the OSP did not have jurisdiction to prosecute Mr. Hubbard, the same conclusion would likely extend to Mr. Wood in that case.

elsewhere. Indeed, crediting a contrary interpretation would compel the conclusion that the State carried out part of the charged crimes by approving Petitioner’s voter registration application, sending him a voter information card, and processing his ballot, despite his alleged ineligibility. Neither the court below nor Respondent’s pleadings before it identified any case, of any type, in which a defendant with no co-conspirators takes relevant actions only in one judicial circuit and is nonetheless deemed to have committed an offense that “occurred[] in two or more judicial circuits as part of a related transaction.” Art. IV, § 4(b), Fla. Const; § 16.56(1)(c), Fla. Stat. (2023). For decades, such offenses have been limited to those involving criminal activity by a defendant or his associates that actually occurs in multiple circuits. That is absent from this case, and thus so is OSP’s authority to prosecute.

C. Petitioner’s Charged Offenses Did Not Affect Two or More Judicial Circuits

The District Court of Appeal’s reasoning under the second prong of the amended Section 16.56, that the charged offense “is affecting, or has affected, two or more judicial circuits,” fares no better. R. 1005; § 16.56(1)(c), Fla. Stat. (2023); *see also* Art. IV, § 4(b), Fla.

Const. Election integrity and voter confidence are important values, but the statewide interest in deterring, investigating, and punishing violations of election statutes does not confer authority on OSP to prosecute every voting offense.

As noted by Judge Odom in his trial court decision:

Most would agree with the idea that any crime committed against any citizen in Florida affects all Floridians. However, this premise does not establish jurisdiction for the purposes of the OSP. If it did, then the OSP would have unlimited authority to prosecute anyone who commits a crime in one circuit but that persons [sic] actions “affected”, no matter how directly or indirectly, those in another circuit. Where does it end.

Hubbard Trial Decision at 7–8.

Relying on dictionary definitions, the majority of the court below interpreted the term “affect” broadly: “[T]o produce an effect on; to influence in some way”, or “to produce a material influence on or alteration in”. R. 1005. However, prior decisions have properly interpreted the “affect” prong of Section 16.56 much more narrowly. For example, in *Winter v. State*, 781 So. 2d 1111 (Fla. 1st DCA 2001),⁷ the defendant was charged with defrauding the Florida State

⁷ *Winter* was disapproved of on other grounds in *Carbajal*, 75 So. 3d at 260 (finding that an error regarding the jurisdiction of OSP does not render a conviction void *ab initio*).

Employees' Health Self Insurance Fund, a crime that "affected all of its equitable owners," that is, "employees all over Florida." *Id.* at 1115. Though the *Winter* court accepted that the defrauded fund was one "to which employees in various judicial circuits may have contributed," it held that even this depletion of funds owned by people in every circuit "falls short of the showing required to invoke an OSP prosecution." *Id.* at 1116.

If, as *Winter* held, defrauding a fund beneficially owned by specific Florida citizens (state employees) scattered throughout the State does not suffice to confer authority on OSP, the attenuated effects invoked by the District Court of Appeal below also fall short. To hold that every vote cast in a Florida election "affects two or more judicial circuits" simply because it is included in the tally of races for state and federal office and can affect voters' confidence in the electoral system would expand OSP's authority beyond its constitutional and statutory bounds. The fact that a voting offense committed in one circuit may inherently involve government action in a different circuit is also not sufficient to transform that offense into one the OSP can prosecute. As noted by Judge May in dissent, such logic would mean that offenses such as "driving with a

suspended driver's license" or any "violation of a state-issued license or state agency regulation" would automatically fall "within the grasp of the OSP's overreaching arm." R. 1009.

Nor does the impact of voter fraud on "the public's confidence in elections throughout the state" necessarily trigger OSP authority, contrary to what the majority of the District Court of Appeal held. R. 1005. Any crime in Florida can, at some level of generality, be traced to a statewide effect, whether it be from a decrease to state revenues, an increase from state spending, a change in perceptions of the state's success in law enforcement, or any number of other consequences. Nonetheless, Florida's Constitution and statutory law have long committed responsibility for prosecuting local crimes to state attorneys, not OSP. Holding otherwise would blur the lines of authority between OSP and local state attorney's offices, and would risk whittling the jurisdiction of the latter into nothingness.

II. Important Principles of Local Prosecutorial Independence Further Support Reinstating the Trial Court's Decision

In addition to contradicting the constitutional and statutory provisions that govern OSP's authority, allowing this case to proceed would risk eroding local state attorneys' independence. It would also

risk encroaching on the constitutional powers vested in state attorneys and long recognized by Florida's judiciary.

Prosecutorial independence for state attorneys is an express and well-established feature of Florida's constitutional scheme. The Constitution provides that each "state attorney," who must "reside in the territorial jurisdiction of the circuit," "**shall** be **the** prosecuting officer of all trial courts in that circuit and shall perform other duties prescribed by general law." Art. V, § 17, Fla. Const. (emphasis added). That OSP's "concurrent jurisdiction with the state attorneys" is limited to crimes occurring in or affecting "two or more judicial circuits" underscores the primacy of state attorneys. Art. IV, § 4(b), Fla. Const.

As the constitutional prosecuting officers, state attorneys are vested with the authority "[i]n any particular case . . . to prosecute or not."⁸ *Johnson v. State*, 314 So. 2d 573, 577 (Fla. 1975). Some state attorneys have decided to bring similar charges against individuals with felony convictions who allegedly registered or voted while

⁸ State attorneys are guided by ethical standards, adhere to the Rules Regulating the Florida Bar, and follow the American Bar Association's Model Rule of Professional Conduct 3.8 "Special Responsibilities of a Prosecutor."

ineligible, while others have not. That discretion “is inherent in our system of criminal justice,” and “[i]ts origin is found in the common law of England.” *Id.* (citing *Wilson v. Renfroe*, 91 So. 2d 857 (Fla. 1956)). This Court has repeatedly affirmed its holding that “the discretion of a prosecutor in deciding whether and how to prosecute is absolute in our system of criminal justice.” *State v. Cain*, 381 So. 2d 1361, 1367 (Fla. 1980) (footnote omitted); *see also State v. Greaux*, 977 So. 2d 614, 615 (Fla. 4th DCA 2008) (“The prosecutor has the sole discretion to charge and prosecute criminal acts[.]”).

Florida courts have long held that state attorneys are constitutional officers, charged with the responsibility of prosecutions in the circuit in which they are elected, and that, as elected officials, they are “responsible to the electorate of [their] circuit[s], this being the traditional method in a democracy by which the citizenry may be assured that vast power will not be abused.” *Austin v. State ex Rel. Christian*, 310 So. 2d 289, 293 (Fla. 1975); *see also Cook v. State*, 921 So. 2d 631, 644 (Fla. 2d DCA 2005) (“The State has established the offices of the state attorneys for the purpose of prosecuting crimes. Article V, Section 17 of the Florida Constitution specifically provides that the state attorney of each

circuit ‘shall be the prosecuting officer of all trial courts in that circuit.’ With respect to the prosecution of crimes, the State acts exclusively through the offices of the state attorneys. No other officers or agencies of the State are vested with that responsibility or power.”) (internal citation omitted).

At the heart of this constitutionally prescribed role is the well-founded idea that local prosecutors are better positioned than a centralized governmental authority to apply the laws of the State in their local jurisdictions. See Robert L. Misner, *Recasting Prosecutorial Discretion*, 86 J. CRIM. L. & CRIMINOLOGY 717, 731 (1996) (“The history of the development of the office of prosecutor has the clear theme ... of ‘local representation applying local standards to the enforcement of essentially local laws.’”); William T. Pizzi, *Understanding Prosecutorial Discretion in the United States: The Limits of Comparative Criminal Procedure as an Instrument of Reform*, 54 OHIO ST. L.J. 1325, 1342 (1993) (“[P]rosecutorial discretion in the American legal system must be seen as part of a political tradition that is built on a preference for local control over political power and on an aversion to strong centralized governmental authority and power.”).

Florida's Constitution expressly recognizes that a local electorate's duly-elected state attorney should have the independence and discretion to prosecute crimes committed in the community. Critically, these principles of local prosecution ensure that the State's vast power is not abused. *See Austin*, 310 So. 2d at 293. To allow OSP to prosecute single-circuit crimes, notwithstanding the prosecutorial decisions made by the constitutional officers elected by the citizens of those specific circuits, would fly in the face of fundamental constitutional principles on which the criminal justice system is built.

CONCLUSION

For the foregoing reasons, *amicus curiae* APA respectfully requests this Court reverse the District Court of Appeal's decision below and reinstate the trial court's dismissal of the case against Petitioner.

DATED: Miami, Florida
June 2, 2025

QUINN EMANUEL URQUHART &
SULLIVAN, LLP

By: /s/ Samuel G. Williamson

**QUINN EMANUEL
URQUHART & SULLIVAN,
LLP**

2601 South Bayshore Drive,
Suite 1550

Miami, FL 33133

Tel.: (305) 439-5008

Samuel G. Williamson (Florida
Bar No. 1033817)

samwilliamson@quinnemanue
l.com

**QUINN EMANUEL
URQUHART & SULLIVAN,
LLP**

295 Fifth Avenue, 9th Floor
New York, NY 10016

Tel.: (212) 849-7000

Temi Omilabu (*pro hac vice*
pending)

temiomilabu@quinnemanuel.c
om

Counsel for Amicus Curiae

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 2nd day of June, 2025, a true and correct copy of the foregoing was filed via the Florida Court's E-Filing Portal and served via email to the following counsel of record:

ALISON E. PRESTON

Deputy Solicitor General
Florida Bar No. 1011415
Office of the Attorney General
The Capitol - PL-01
Tallahassee, FL 32399
(813) 785-4680
alison.preston@myfloridalegal.com

Counsel for the State of Florida

CRAIG TROCINO

1311 Miller Drive
Suite B400
Coral Gables, FL 33146
(305) 284-8201
ctrocino@law.miami.edu

MICHAEL GOTTLIEB

Michael Gottlieb, PA
1311 SE 2nd Ave.
Ft. Lauderdale, FL
33136
(954) 462-1005
mike@mgottlielaw.com

*Counsel for Petitioner
Terry Hubbard*

By: /s/ Samuel G. Williamson
Samuel G. Williamson
Florida Bar No. 103381

CERTIFICATE OF COMPLIANCE

Pursuant to Florida Rules of Appellate Procedure 9.045, 9.210 and 9.370, *Amicus Curiae* the Association of Prosecuting Attorneys hereby certifies that the foregoing brief complies with the applicable font and word count requirements. It was prepared in 14-point Bookman Old Style font, and it contains 4614 words.

By: /s/ Samuel G. Williamson
Samuel G. Williamson
Florida Bar No. 1033817