

IN THE SUPREME COURT OF FLORIDA
**WARRANT SIGNED
EXECUTION SET**

ARTHUR D. RUTHERFORD,

Appellant,

v.

CASE NO. SC06-18

STATE OF FLORIDA,

Appellee.

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NOTICE OF SUPPLEMENTAL AUTHORITY

Pursuant to the rule of appellate procedure governing notice of supplemental authority, Rule 9.225, the State provides the following case as supplemental authority on ISSUE I regarding whether the trial court properly denied an evidentiary hearing on the newly discovered evidence claim:

Andrews v. State, - So. 2d -, 2005 WL 3533705 (Fla. 4th DCA December 28, 2005)(finding the trial court properly denied an newly discovered evidence claim in a postconviction motion because the affidavit submitted with motion was "inherently incredible" because it was in direct contradiction of codefendant's statements under oath at his plea hearing and several witnesses, including some of defendant's relatives, identified defendant as the participant in the robbery and as having possession of the

proceeds, and as possessing the weapon used in the robbery.).

Respectfully submitted,

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ATTORNEY GENERAL

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing NOTICE OF SUPPLEMENTAL AUTHORITY has been furnished by electronic mail Linda McDermott, Esq. at lindammcdermott@msn.com with a follow up hard copy by U.S. mail to Linda McDermott, 141 N.E. 30th Street, Wilton Manors, FL 32334 20th day of January, 2006.

Charmaine M. Millsaps
Attorney for the State of Florida