

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

STEPHEN D. LEONARD — PETITIONER
(Your Name)

vs.

FLORIDA — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

FLORIDA SUPREME COURT
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

STEPHEN DANIEL LEONARD
(Your Name)

3420 NE 168 St. # 448091
(Address)

OKeechobee, FL. 34972
(City, State, Zip Code)

N/A
(Phone Number)

QUESTION(S) PRESENTED

1. Can the State of Florida Refuse to Provide A Criminal Defendant the Records and Transcripts Requested on Appeal in a Direct Appeal of a State Courts Judgment and Sentence?

LIST OF PARTIES

[] All parties appear in the caption of the case on the cover page.

[✓] All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

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LIST OF PARTIES

10. Miller, Wayne M., Judge, Circuit Court of the Sixteenth Judicial Circuit (Fla)
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CORRECTED

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06/22/2018

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IN THE
SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

☐ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix _____ to the petition and is

- ☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the United States district court appears at Appendix _____ to the petition and is

- ☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

☒ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix A to the petition and is

- ☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished.

The opinion of the Third District Court of Appeal of Florida court appears at Appendix A to the petition and is

- ☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished.

JURISDICTION

☐ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was _____.

☐ No petition for rehearing was timely filed in my case.

☐ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ____ A ____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

☒ For cases from **state courts**:

The date on which the highest state court decided my case was 12/27/2017.
A copy of that decision appears at Appendix A.

☒ A timely petition for rehearing was thereafter denied on the following date: 01/10/2018, and a copy of the order denying rehearing appears at Appendix A.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ____ A ____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

FLORIDA

Article I § 24 Fla. Const. (1968)

Fla. Stat. § 119.07

Fla. Stat. § 119.10

Fla Stat § 924.28

FEDERAL

Article III § 2 United States Const. (1787)

Article IV §§ 1, 2 United States Const. (1787)

Article VI § 2 United States Const (1787)

Amendment XIV § 1 United States Const. Ann.

* All Const. and Stat. Provisions involved are in details in the Statement of the Case.

STATEMENT OF THE CASE

BACKGROUND

On 09/05/2017 this Petitioner filed a Petition for Writ of Mandamus in the Third District Court of Appeal of Florida (3d DCA). The 3d D.C.A. assigned the Petition for Writ of Mandamus Case No. 3D17-2031.

On 09/18/2017 the 3d D.C.A. Dismissed the Petition for Writ of Mandamus; Case no: 3D17-2031 based on the belief that "the Petitioner's Motion is a duplicate of a Motion to Produce Records in Case no: 3D16-2298, which is pending before the Court; therefore, this Petition is dismissed as duplicative of the pending appeal."

On 09/21/17 the Petitioner filed a Motion for Rehearing in 3D17-2031 pointing out the Courts Err in interpreting a Motion for Copies of the Records in 3D16-2203/2298 for a Motion to Compel the Record-on-appeal.

On 10/06/17 the Petitioner filed a Supplemental to the Motion for Rehearing in 3D17-2031.

On 10/16/17 the 3d D.C.A. Denied the Petitioner's Motion for Rehearing in 3D17-2031.

On 10/24/17 the Petitioner filed a Notice of Appeal (NOA) with the Clerk of Court at the 3d D.C.A., and also filed an N.O.A. and a Petition for Writ of Mandamus with the Clerk of the Florida Supreme Court.

On 11/06/17 the Clerk of Court at the Florida Supreme Court acknowledged and assigned the "Appeal" Case no: SC17-1951.

On 11/30/17 the Petitioner filed Directions to the Clerk and Designation to the Court Reporter in SC17-1951 Seeking the Court Records in all related Cases, i.e., 3D16-2203; 3D16-2298; 3D17-1383; 3D17-2031; and 2015-CF-665-A-K-W.

On or about 11/30/17 the Clerk of Court at the Florida Supreme Court discovered that a Petition for Writ of Mandamus was filed by this Petitioner on 10/24/17 and then acknowledged and assigned the Petition Case no: SC17-2084.

STATEMENT OF THE CASE

BACKGROUND

On or about 12/06/17 the Petitioner moved the Florida Supreme Court to Consolidate SC17-1951 and SC17-2084. The Florida Supreme Court denied the Motion.

On 12/11/17 the Florida Supreme Court, Sua Sponte, transferred SC17-2084 (Petition for writ of Mandamus) to the 3d D.C.A., generating Case no: 3D17-2661.

On or about 12/17/17 the Petitioner filed a Motion for Rehearing on the Florida Supreme Courts Order on 12/11/17.

On 12/27/17 the 3d D.C.A. dismissed the Petition for writ of Mandamus; 3D17-2661; SC17-2084 upon the belief that the Public Defender and the Monroe County Clerk of Court, and Court Reporter "located" records previously claimed not to exist and that "the record was being supplemented."

On 01/10/18 the Florida Supreme Court denied the Petitioner's Motion for Rehearing in Case No: SC17-2084 / 3D17-2661.

On 01/12/18 the Petitioner filed the N.O.A. in SC17-2084 / 3D17-2661.

STATEMENT OF THE CASE

This is a Case of the Florida Trial Court (Sixteenth Judicial Circuit), the Florida Appellate Court (Third District Court of Appeal) refusing to allow a Criminal Defendant the trial Court records sought on Direct Appeal.

The Petitioner; a Pro-Se defendant, was taken advantage of in the trial Court Proceedings, then moved the trial Court to withdraw the Plea taken under duress and Appoint Counsel, two day after the Plea was taken, had ineffective assistance of trial Counsel, "who then filed a Not Guilty Plea and Speedy trial by Demand", and then "Sentenced to 5 years in State Prison after refusing to take a Plea offer by the State of Florida" and having all Motions for a Continuance, Dismissal denied by the trial Judge in the Case. An amazing windfall of Errors and Constitutional Violations brought up on Appeal only now to be denied a Complete Record, and a Full and fair hearing.

REASONS FOR GRANTING THE PETITION

1. The Petitioner is entitled to fair hearings under the Due Process Clause of the Constitution of the United States.

See: Anders Vs. State of California, 386 U.S. 738 (1967), 87 S.Ct. 1396, 18 L.Ed. 2d 493.

("The Constitutional requirement of Substantial Equality and Fair Process can only be attained where Counsel acts in the role of an active advocate in behalf of his client, as opposed to that of amicus curiae. The no-merit letter and the procedure it triggers do not reach that dignity. Counsel should, and can with honor and without conflict, be of more assistance to his client and to the Court. His role as advocate requires that he support his clients appeal to the best of his ability."). Anders, 386 U.S. at 744.

See also: In Re: Anders Briefs, 581 So.2d. 149 (Fla. 1991) ("First, the lawyer should not move to withdraw before examining the record. Second, a record is necessary because the Court has an independent duty to review the record. The State is required to get the indigent defendant a transcript on appeal if the lawyer for the defendant has filed a Motion to Withdraw under the Anders Case.")

See also: Riggins Vs. Rees, 74 F.3d 732 (6th Cir. 1996) ("States refusal to provide Petitioner with transcripts, rather than merely Court reporters tape recordings of previous two trials which ended in a mistrial violated Equal Protection Clause.")

See also: Love Vs. Johnson, 57 F.3d 1365 (4th Cir. 1995) ("Trial judge violated due Process clause by quashing Petitioner's pretrial subpoenas duces tecum for state agency records without first conducting in-camera inspection of subpoenaed records to determine whether portions were material and favorable to defense.")

The trial Court, in the instant proceeding, omitted records that were requested in 2015-CF-665-A-K-W, and the Miami-Dade County Public Defender altered the dates for preparation of transcripts; to omit the key hearing dates from the record on appeal, then filed an Anders Brief and Motion to withdraw, without keeping the appellant advised or aware of anything until receiving an Anders Brief and Motion to withdraw in the mail (7) Seven months after being appointed.

REASONS FOR GRANTING THE PETITION

See: ~~Amend~~ XIV, U.S.C.A., which states in Pertinent Part: "No State shall make or enforce any law which shall abridge the privileges or immunities of Citizens of the United States; nor deny to any person within its jurisdiction the equal protection of the laws."

2. The Petitioner is entitled to a full and complete record on appeal.

See: Fla. R. App. P. 9.200(b)(2), which states in Pertinent Parts: "Within 30 days of Service of A Designation the Court Reporter shall transcribe and file with the Clerk of the lower tribunal the Designated Proceedings..."

Here, in the instant proceeding, the Clerk and Court reporter received Directions and A Designation as to the Record on Appeal when it was filed on 10/11/16 in the Appellate Case no 3D16-2203.

See: Fla. R. App. P. 9.200(b)(3), which states in Pertinent Parts "On Service of the Designation, the Court reporter shall acknowledge... the fact that it's been received and the date the Court reporter expects to have the transcripts completed and shall serve the so endorsed Designation on the parties and file it with the Court within 5 days..."

In the instant proceeding the Court Reporter failed to acknowledge the Directions and Designation filed in 3D16-2203 / 2015-CF-665-A-K-W on 10/11/16, or anytime thereafter, and both the Clerk of Court for Monroe County, Florida's Sixteenth Judicial Circuit, and the Court reporter failed to prepare and transmit appeal papers as required.

See: Fla. Stat. § 924.28 (2016), which states: "Failure of the Clerk to transmit appeal Papers within the time provided shall not prejudice the rights of the parties. The appellate Court or trial Court may direct the Clerk to transmit the Papers on its own motion and shall do so on the motion of either party."

Here, the Petitioner discovered what the Clerk, Court Reporter and Public Defender's had done (omitting the record and failing to acknowledge, prepare and transmit the record and altering the dates of the transcripts to be prepared) when receiving the Anders Brief, and an incomplete record on 05/04/17, and immediately filed a Motion To

REASONS FOR GRANTING THE PETITION

Compel the Record-on-Appeal. However, the Public Defender's opposed the Motion to Compel the Record-on-Appeal filed by the "Pro-se Appellant", failed to copy the Pro-se appellant on the Public Defender's Court Ordered Response filed on 05/17/17 and on the next day 05/18/17 the Appellate Court Denied the Motion to Compel the Record-on-Appeal in violation of Fla. R. App. P. 9.260; Fla. Stat. § 924.28 (2016), and also Fla. R. Jud. Admin. 2.420(a); Fla. Stat. § 119.07; Fla. Stat. § 119.10; Article I § 24 Fla. Const. (1968); Article III § 2 United States Const. (1787); Article IV § 8 1, 2 United States Const. (1787); Article VI § 2 United States Const. (1787); Amendment XIV United States Const.; Title 18 U.S.C. § 241; Title 18 U.S.C. § 242; Title 42 U.S.C. § 1983; Title 42 U.S.C. § 1985; and Title 42 U.S.C. § 1986.

When the Appellate Court "denied" the Petitioner's Motion to Compel the Record-on-Appeal, Appellant / Petitioner had no other means to obtain a Complete Record, and thus filed a Motion for Rehearing and Petition for Writ of Mandamus. When the Appellate Court's Dismissed Appellant's / Petitioner's Petitions for Writ of Mandamus, the State of Florida Essentially deprived the Appellant / Petitioner of the right to "the Public Acts, Records, and judicial Proceedings of every other State".

See: Fla. R. Judicial Admin. Rule 2.420(a), which states in Pertinent Part: "The Public shall have access to all records of the judicial branch of government".

See: Fla. Stat. § 119.07 (1)(a) F.S., which states in Pertinent Part: "Every Person who has Custody of a public record shall permit the record to be inspected and copied by any person desiring to do so..."

See: Fla. Stat. § 119.10 (1)(b) F.S., which states in Pertinent Parts: "(1) Any Public officer who: (b) knowingly violates the provisions of S. 119.07 is subject to Suspension and removal or impeachment and: in addition, commits a misdemeanor of the first degree..."

Here is where this case gets good. Please humor me and follow along.

The Florida State Appellate Court Judges knew the correct procedures, knew the laws

REASONS FOR GRANTING THE PETITION

and the Constitution, of Florida and the United States, yet choose to ignore all of the Fundamental Core fibers of Jurisprudence, and further ignored the Pillars that hold up our Society upon its Foundation in Democracy.

See: Politics of Change, Dr. Robert M. Crittenden, Hargrave Publishing:

("Plato became distinctly reactionary when he considered the form of an ideal state. This was probably due to 'his disillusionment' with the society and governments of his day. As a young man, he had entered political life during the rule of the Oligarchy of thirty, but he found that their rule was of poor quality. So, also, did most Athenians.

Eventually, the citizens of Athens regained control and 'reconstituted their democracy.'")

Like Plato, and Socrates before him, and Thomas Aquinas after him, the Petitioner finds the State of Florida government "ignorant, prejudice, and unreasoning".

"Thomas Aquinas position on government was that all authority originally resided in the people but that they transferred it to the Monarchy 'So long' as he or she ruled with 'justice', where justice means in a manner 'conformable with the Supreme Law of the Land'." (Quoting Politics of Change, Dr. R.M. Crittenden).

With that said, the State of Florida Courts, and Court officers, knew what they were doing when they omitted, suppressed and withheld the Records from the Appellant / Petitioner, or should have known. The laws and Constitution are clear.

See: Title 18 U.S.C. § 241, which states in Pertinent Parts: "If two or more persons conspire to injure, oppress, threaten or intimidate any person in any state... in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same... they shall be fined under this title or imprisoned not more than 10 years, or both."

See: Title 18 U.S.C. § 242, which states in Pertinent Part: "Whoever, under color
9.

REASONS FOR GRANTING THE PETITION

of any law, Statute, Ordinance, Regulation, or custom willfully subjects any Person in any State... to the deprivations of any rights, privileges, or immunities Secured or Protected by the Constitution or laws of the United States... Shall be fined under this title or imprisoned not more than 1 year, or both;... and if bodily injury results from the acts committed in violation of this Section... Shall be fined under this title or imprisoned not more than 10 years, or both.

See also: Article III § 2 United States Const. (1787), which states in Pertinent Part: "The judicial Power shall extend to all Cases in Law and Equity, arising under this Constitution, the laws of the United States, and Treaties made, or which shall be made, under their authority; - to all Cases affecting Ambassadors, other Public Ministers and Consuls; to all Cases of admiralty and maritime jurisdiction; - to Controversies... between... a State, or the Citizens thereof..."

See: Article IV §§ 1, 2 United States Const. (1787), which states in Pertinent Parts: "Full Faith and Credit shall be given in each State to the Public Acts, Records, and judicial Proceedings of every other State..."

"The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States."

See: Article VI § 2 United States Const. (1787), which states in Pertinent Part: "This Constitution, and the Laws of the United States... shall be the Supreme Law of the Land; and the Judges in every State shall be bound thereby..."

See: Amendment XIV, United States Const., which states in Pertinent Part: "No State shall make or enforce any law which shall abridge the Privileges or Immunities of Citizens of the United States... nor deny to any Person within its jurisdiction the Equal Protections of the laws."

The actions of the Florida Courts and its Court officers trigger a Civil Rights Review pursuant to Title 42 § 1983 (violation of Const. Rights); 42 § 1985 (violation of Conspiracy to Violate Civil Rights); and 42 § 1986 (Neglect to prevent after notification).

The State of Florida has violated the Petitioner's rights to records; Public records in a Criminal Proceeding, records necessary for review of the claims on appeal.

For all of the foregoing reasons, the petitioner humbly submits this case for Certiorari review in effort to obtain the Records-on-Appeal in 3D16-2263 / 2298.

See: Article I § 24(c) Fla. Const. (1968), which states: "Every Person who has Custody of a Public Record shall Permit the record to be inspected and Copied by any Person desiring to do so..."

CONCLUSION

Based upon the Constitution and Laws...

The petition for a writ of certiorari should be granted.

Respectfully submitted,

 #4480011

Date: 07/23/18



