

No. \_\_\_\_\_

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IN THE

SUPREME COURT OF THE UNITED STATES

JEFFREY LATIMORE - PETITIONER

(Your Name)

vs.

JULIE L. JONES, etc. - RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

SUPREME COURT OF FLORIDA

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

PETITION FOR WRIT OF CERTIORARI

MR. JEFFREY LATIMORE

(Your Name)

DADE CORRECTIONAL INSTITUTION

1900 SW 377<sup>TH</sup> STREET / C-1112-U

FLORIDA CITY, FL 33034-6409

(Address)

UNKNOWN

(Phone Number)

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## **QUESTION(S) PRESENTED**

WHETHER TRIAL COURT ABUSED THEIR AUTHORITY BY DENYING PETITIONER LATIMORE A COMPETENCY HEARING BEFORE A PLEA AGREEMENT

WHETHER THE STATE ATTORNEY OFFICE VIOLATE PETITIONER DUE PROCESS RIGHT, BY CONDONING A COMPETENCY HEARING BEFORE A PLEA AGREEMENT

WHETHER THE TRIAL COURT, AS WELL AS STATE ATTORNEY OFFICE VIOLATED PETITIONER'S CONSTITUTIONAL DUE PROCESS RIGHTS

WHETHER THE SUPREME COURT OF FLORIDA VIOLATED PETITIONER'S DUE PROCESS, AS WELL AS CONSTITUTIONAL RIGHT, BY REFUSING TO ACCEPT JURISDICTION TO ADDRESS PETITIONER'S COMPETENCY SITUATION BEFORE A PLEA AGREEMENT

WHETHER PETITIONER'S CLAIM WERE A CONFLICT WITH OTHER STATE AND SUPREME COURT CASES ON THE SAME COMPETENCY ISSUE

## LIST OF PARTIES

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

[ X ] 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:

1. Ms. Julie L. Jones, etc., Secretary Florida Dept. of Corrections, Appellee; 501 South Calhoun Street; Tallahassee, Florida 32399-2500

2. Attorney General Office, Mrs. Pamela Jo. Bondi; The Capitol, Suite PL-01; Tallahassee, Florida 32399-1050

3. Judge Elizabeth Senterfitt, 4<sup>th</sup> Judicial Circuit Court; 501 West Adams Street; Jacksonville, Florida 32202 & 330 Bay Street; Jacksonville, Florida 32202.

4. Attorney General Office; 444 Seabreeze Blvd., Suite 500; Daytona Beach, Florida 32118.

5. Clerk of the Court, Supreme Court of Florida; 500 South Duval Street; Tallahassee, Florida 32399.

6. Office of the State Attorney; 220 East Bay Street; Jacksonville, Florida 32202.

## **TABLE OF CONTENTS**

OPINIONS BELOW .....	1
JURISDICTION .....	3
STATEMENT OF THE CASE .....	5
REASONS FOR GRANTING THE WRIT .....	6
GROUND ONE .....	7
CONCLUSION .....	10
RELIEF SOUGHT .....	10

## **INDEX TO APPENDICES**

EXHIBIT (A) – Writ of Habeas Corpus, dated June 6, 2018 .....	
EXHIBIT (B) – Order by Supreme Court of Florida, Denying Petitioner Writ of Habeas Corpus, dated July 3, 2018 .....	

## TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
Boggs v. State, 575 So.2d 1274 (Fla. 1991) .....	7
Brockman v. State, 852 So.2d 330 (Fla. 2003) .....	8
Drope v. Missouri, 95 S.Ct. 896 (1975) .....	6, 8, 9
Dusky v. U.S., 80 S.Ct. 788 (1960) .....	6, 9
Jackson v. State, 880 So.2d 1241 (Fla. 2004) .....	9
Panel v. Hollins, 261 F.3d 210 (2 <sup>nd</sup> Cir. 2001) .....	10
Peede v. State, 955 So.2d 480 (Fla. 2007) .....	9
Presley v. State, 199 So.3d 1014 (Fla. 2016) .....	9
Rumph v. State, 217 So.3d 1092 (2 <sup>nd</sup> DCA 2017) .....	9
Sheheane v. State, 228 So.3d 1178 (Fla. App. 2017) .....	9
Tingle v. State, 536 So.2d at 203 (Fla. 1988) .....	8
Trueblood v. State, 193 So.3d 1060 (Fla. 2016) .....	9
Warren v. State, 543 So.2d 315 (Fla. 5 <sup>th</sup> DCA 1989) .....	8
Watts v. State, 593 So.2d 198 (Fla. 1992) .....	10
 OTHER	
U.S.C.A. Const. 1 <sup>st</sup> , 6 <sup>th</sup> , 8 <sup>th</sup> , and 14 <sup>th</sup> Amendment .....	10
F.S. 916.11(1)(b) (1987) .....	10
Fla.R.C.P. 3.210(b) .....	7, 8, 9

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 N/A to the petition and is

- ☐ reported at N/A; 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 N/A to the petition and is

- ☐ reported at N/A; 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 B to the petition and is

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

The opinion of the N/A court appears at Appendix N/A to the petition and is

- ☐ reported at N/A; 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 N/A.

☐ 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: N/A, a copy of the order denying rehearing appears at Appendix N/A.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including N/A (date) on N/A (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 July 3, 2018. A copy of that decision appears at Appendix B.

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

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

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

## MEMORANDUM OF LAW

The word “law” as used in this commandment means an enactment by the State Legislature, not by a city, or state commission or any other political body. See: [FN2]. This clause, the purpose of which is to identify the statute as an act of Legislature by expressing the authority behind the act. [FN5] is the essential to the validity of a statute [FN4].

## JURISDICTION

This court has jurisdiction pursuant to 28 U.S.C., Sec. (1254)(1) and F.S. 79.01(5)(9), *Bradford v. State*, 93 So.3d 1180 (Fla. 2012). When any person detained in custody, whether charged with a criminal offense or not, applies the U.S. Supreme Court, U.S. Court of Appeals, U.S. District Court of Appeal, or any Judge thereof or any Circuit Judge for a Writ of Habeas Corpus and shows by affidavit or evidence probable cause to believe that he or she is detained without lawful authority, the Court, Justice or Judge to whom such application is made shall grant the writ forthwith, against the person in whose custody the appellant is detained and returnable immediately before any of the Court’s Justices or Judges as the writ directs.

Facially unconstitutional means that no set of circumstances exist under which the statute would be valid. See: *State v. Bales*, 343 So.2d 911 (Fla. 1977); *Cashatt v. State*, 873 So.2d 430 (Fla. 1<sup>st</sup> Dist. 2006); *Fla. Dept. of Rev. v. City of Gainesville*, 918 So.2d 250, at 256 (Fla. 2005). As the Courts stated in *Herrera v. Collins*, 113 S.Ct. at 853 (1992) ... Federal Habeas Court’s sit to ensure that individuals are not imprisoned in violation of the Constitution, also not to correct errors of fact. See: *Moore v. Dempsey*, 261 U.S. 86-88, 43 S.Ct. 265, 67 L.Ed. 543 (1923); “Judge Holmes” what we have to deal with on habeas review is not the Petitioner’s



innocence or guilt, but solely the question of whether their Constitutional Rights have been preserved, *Hyde v. Shine*, 199 U.S. 62, 84, 25 S.Ct. 760-764, 50 L.Ed. 90 (1905). "It is well settled that upon habeas corpus the court will not weigh the evidence of any case."

Absence of Jurisdiction of the convicting court is a basis for certiorari review, cognizable under the due process clause. See: *Lowery v. Estelle*, 696 F.2d 333 (5<sup>th</sup> Cir. 1983); *Crosby v. Bradstreet*, U.S. 83 S.Ct. 1300 (1963); *Cotton v. U.S.*, 122 S.Ct. 1781 (2002).

In reference to my civil rights being violated by the trial judge, 5<sup>th</sup> D.C.A., Supreme Court of Florida, as well as my 1<sup>st</sup>, 5<sup>th</sup>, 6<sup>th</sup>, 8<sup>th</sup>, and 14<sup>th</sup> Amendments. Review the Civil Right Act of 1866, which Judges are required to adhere with the laws of that State.

## **STATEMENT OF THE CASE**

On March 19, 2009 in case number 162009CF-002862, indictment information, against petitioner Jeffrey Latimore, charging him with one count of armed robbery, and two counts of possession of a firearm by a convicted felon, Assistant State Attorney Khary O. Gaynor, bar number 527858, in the Circuit Court of the Fourth Judicial Circuit in and for Duval County, Florida.

On December 4, 2009, Petitioner Latimore made a guilty plea to the charges against him. On December 4, 2009, Petitioner Latimore was sentenced to 25 years, 10 years mandatory sentence imposed, F.S. 775.087 as to Count One and three years minimum mandatory sentence imposed for Count Two, to run concurrent.

## REASONS FOR GRANTING THE PETITION

Rule 10(b), a State Court of Last Resort has decided an important federal question in a way that conflicts with the decision of another State court of last resort of a United States Court of Appeals;

(c) A State court or a United States Court of Appeals has decided an important question of federal law that has not been, but should be, settled by this court, or has decided an important federal question in a way that conflicts with relevant decisions of this court.

In: *Drope v. Missouri*, 95 S.Ct. 896 (1975). It is incumbent upon the United States Supreme Court to analyze the facts in order that the appropriate enforcement of the federal right may be assured, where there is no dispute as to the evidence possibly relevant to the Petitioner's mental condition that was before the trial court.

In: *Dusky v. U.S.*, 80 S.Ct. 788 (1960); in view of the doubts and ambiguities regarding the legal significance of the psychiatric testimony in this case and the resulting difficulties of retrospectively determining the Petitioner's competency as of more than a year ago. We reverse the judgment of the court of appeals affirming the judgment of conviction, and remand the case to the District court for a new hearing to ascertain Petitioner's present competency. However, Petitioner Jeffrey Latimore due process rights, as well as constitutional right, were violated. A clear case of conflict, by the trial court was committee din Petitioner Jeffrey Latimore case.

## **GROUND ONE**

### **TRIAL COURT DENIED PETITIONER LATIMORE PROCEDURAL DUE PROCESS TO HAVE A COMPETENCY HEARING BEFORE PLEA AGREEMENT, VIOLATE F.S.A.R.CRIM.P. 3.212 RESULTING IN A MANIFEST INJUSTICE**

On January 29, 2010 Petitioner was sentence in court without having a competency hearing before a plea agreement was issued. However, review attach legal documents transcripts to verify Petitioner had a competency issue which Trial Court condone. Fla.R.Crim.P. 3.210(b) provides in part that if, at any material stage of a criminal proceeding, the Court has reasonable ground to believe that Petitioner is not mentally competent to proceed, the Court shall immediately enter its order setting a time for a hearing to determine Petitioner's mental condition and shall order Petitioner to be examined by no more than three, nor fewer than two, experts prior to the date of said hearing. If a "reasonable ground" exists, the language of Rule 3.210(b) is mandatory. Which was not done in the instant case.

## **ARGUMENT**

In *Boggs v. State*, 575 So.2d 1274 (Fla. 1991); Fla.R.Crim.P. 3.210(b) provided in part that if, at any material stage of a criminal proceeding, the court has reasonable ground to believe that the defendant is not mentally competent to proceed, the Court shall immediately enter its order setting a time for a hearing to determine the Petitioner's mental condition and shall order the Petitioner to be examined by no more than three, nor fewer that two, experts prior to the date of said hearing. If a "reasonable ground" exists, the language of rule 3.210(b) is

mandatory. However, Petitioner Latimore, was denied access to have two, or three mental health experts to examine Petitioner before that plea agreement.

In: *Brockman v. State*, 852 So.2d 330 (Fla. 2003); Holding criminal proceedings when a defendant is mentally incompetent denies that defendant his constitutional right to a fair trial. However, the trial court must order a hearing and examination. Fla.R.Crim.P. 3.210(b). A trial court's independent investigation into the defendant's competency is not sufficient to ensure that the defendant is not deprived of his due process right not to be tried while incompetent. See: *Tingle v. State*, 536 So.2d at 203 (Fla. 1988); *Warren v. State*, 543 So.2d 315 (Fla. 5<sup>th</sup> DCA 1989); even if a defendant has previously been declared competent, the trial court must hold another competency proceeding if a bona fide doubt is raised as to the defendant's continued competence. However, Petitioner Latimore was denied due process, as well as constitutional violation.

In: *Drope v. Missouri*, 95 S.Ct. 896 (1975); in reviewing State court criminal proceedings involving a claim that the defendant's due process right to a fair trial had been denied by the trial court's refusal to order a psychiatric examination to determine the defendant's competency to stand trial, it is incumbent upon the United State Supreme Court to analyze the facts in order that the appropriate enforcement of the Federal Right may be assured, where there is no dispute as to the evidence possibly relevant to the defendant's mental condition that was before the trial court, and where the dispute instead concerns the inferences that are to be drawn from the undisputed evidence and whether the trial court's failure to make inquiry into the defendant's competence to stand trial denied defendant a fair trial.

In: *Dusky v. U.S.*, 80 S.Ct. 788 (1960); a Federal District Court, acting under the statute (18 USC 4244) permitting a Federal Court in which criminal proceedings are pending to make a finding regarding the mental competency of the accused to stand trial, may not make a determination that an accused is mentally competent merely because he is oriented to time and place and has some recollection of events; the test must be whether the accused has sufficient present ability to consult with his lawyer with a reasonable degree of rational understanding and whether he has a rational as well as a factual understanding of the proceedings against him.

In: *Sheheane v. State*, 228 So.3d 1178 (Fla. App. 2017); “Newly Discovered”, where defendant plead guilty to violating probation, the trial court erred in failing to make an independent determination of his competency under Fla.R.Crim.P. 3.210, after finding reasonable grounds to believe he was not competent. Two competency issues are within the trial court’s discretion: The threshold determination of whether reasonable grounds exist to question a defendant’s competency, and the ultimate determination of whether a defendant is competent. See: *Peede v. State*, 955 So.2d 480 (Fla. 2007); *Trueblood v. State*, 193 So.3d 1060 (Fla. 2016). In contrast, our standard of review is de novo for the legal questions of waiver and due process in competency proceedings. See: *Presley v. State*, 199 So.3d 1014 (Fla. 2016). “The failure to observe procedures adequate to protect a defendant’s right not to be tried or convicted while incompetent to stand trial deprives him of his due process right to a fair trial.” (quoting: *Drope v. Missouri*, 420 U.S. 162, 95 S.Ct. 896 (1975); *Rumph v. State*, 217 So.3d 1092 (2<sup>nd</sup> DCA 2017); *Jackson v. State*, 880 So.2d 1241 (Fla. 2004).

In: *Watts v. State*, 593 So.2d 198 (Fla. 1992), a defendant has a fundamental right to a constitutionally adequate determination of his competency to stand trial when there is reasonable cause to believe that he is not mentally competent to proceed. Although in Florida this determination is ultimately for the trial court, Fla. Stat. Ch. 916.11(1)(b) (1987) and Fla.R.Crim.P. 3.210 provide for the appointment of no more than three nor fewer than two experts to examine a defendant and provide "advisory" reports regarding the defendant's competency to proceed. However, this was not done in defendant Jeffrey Latimore case before receiving his plea.

However, Petitioner Latimore has "sufficient showing of possible merit to warrant a fuller exploration by the U.S. Supreme Court of Washington D.C." Petitioner Latimore has been denied access to due process of the law, as well as violate Petitioner's Constitutional rights under my 1<sup>st</sup>, 6<sup>th</sup>, 8<sup>th</sup>, and 14<sup>th</sup> Amendments. However, the trial court denied Petitioner access to be examined by two experts to confirm Petitioner's competency status before that plea agreement.

### **CONCLUSION / RELIEF SOUGHT**

Based upon the arguments and authorities herein and in Petitioner's Petition for A Writ of Certiorari, Petitioner Latimore respectfully request this court to investigate, review, remand back to the trial court to have a competency hearing. See: *Panel v. Hollins*, 261 F.3d 210 (2<sup>nd</sup> Cir. 2001). Grant this Petition for Writ of Certiorari. Also, grant Petitioner a new trial.

Respectfully submitted,

Jeffery Latimore  
Jeffrey Latimore

## OATH

Under the penalties of perjury, I declare that I have read the foregoing petition for a writ of certiorari, and the facts stated are true and correct.

Jeffrey Latimore

Jeffrey Latimore  
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