

Provided to Madison C.I. on
Vp

16/12/2018 for mailing by DSN
Initials
Date

IN THE SUPREME COURT OF
THE UNITED STATES
WASHINGTON, DC

VERNON ROBINSON,
A-060180#

V.

Case No.: 18-6331

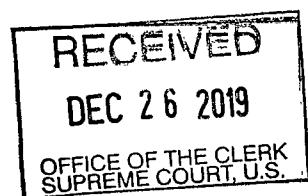
STATE OF FLORIDA
Respondent

MOTION FOR BELATED REHEARING EN BANC

Comes now, the Petitioner, Vernon Robinson, *pro se*, in the above styled cause herein and thus respectfully moves this Honorable Court to entertain said motion for rehearing and the Petitioner would show the following.

STATEMENT OF FACTS

1. Petitioner filed a Petition for a Writ of Certiorari with this Honorable Court on September 28, 2018.
2. Petitioner received an order from the Honorable Clerk of the United States Supreme Court, that an order had been entered by this Court denying said writ on the approximate said date of December 10, 2018.



GROUND ONE

ON MAY 7, 1982, THE HONORABLE CIRCUIT COURT JUDGE RALPH NIMMONS JR. IN AND FOR THE FOURTH JUDICIAL CIRCUIT, IN DUVAL COUNTY, JACKSONVILLE, FLORIDA SENTENCED THE PETITIONER TO A TERM OF 60 YEARS IN EXCESS OF THE STATUTORY MAXIMUM FOR A YOUTHFUL OFFENDER. THIS VIOLATED THE PETITIONER'S U.S. 14TH AMENDMENT CONSTITUTIONAL RIGHT UNDER DUE PROCESS, AND THE EQUAL PROTECTION CLAUSE THEREIN.

*** ARGUMENT ***

In the interest and the ends of justice so require this Honorable Court to grant Petitioner's said rehearing and also in greater interest of the public that a youthful offender would be given an adult punishment of a 60 years sentence on May 7, 1982, and that the said Petitioner is now almost 58 years old and is still suffering from this injustice and illegal, and unlawful sentence ever since May 7, 1982.

This Honorable Court decided in Dorzynski v. Unites States, 418 U.S. 424, 41 L. Ed. 2d 855, 94 S. Ct. 3042. A court without jurisdiction to impose a sentence which had been given because the Court failed to make a finding that the Petitioner would not derive benefit from treatment under § 5070 (b) or (c) or assertedly required by § 5090 (d) of the youth corrections act of 1950 (18 USCS § 5005 et seq.) The District Court denied relief, and the United States Court of Appeals for the Seventh Circuit affirmed, rejecting the view that trial judges must make an explicit finding that youth offender would not benefit from treatment under the act and holding that such a determination may be implied from the record as a whole (F. 2d 849).

On ***Certiorari*** the United States Supreme Court reversed and remanded. In an opinion by Burger, Ch. J., expressing the view of five members of the Court, it was held that a Federal District Court must make an express finding on the record that the offender would not benefit from treatment under § 501 (b) or (c) of the act, but that the act does not require such a finding be accompanied by a supporting reason.

Marshal J. joined by Douglas, Brennan, and Steward, JJ, concurring in the result, agreed that 18 USCS § 5010 (d) requires an explicit finding of "no benefit" as a condition *precedent to sentencing an eligible offender as an adult, but expressed the view that such a finding should be required to be augmented by a statement of the reason for imposing an adult sentence. *See > also Rhoden v. State, 448 So. 2d 1013 (Fla. 1984).*

This was not the case with Petitioner, on May 7, 1982, the Trial Court did not make an express finding that the Petitioner would no longer benefit from the Youthful Offender Act.

Florida Youth Corrections Act is patterned behind the Federal Youth Corrections Act. See> Allen v. State, 526 So. 2d 69 (Fla. 1988); at page # 70. See> State v. Arnette, 604 So. 2d 482 (Fla. 1992); also, Greene v. State, 398 So. 2d 1011 (Fla. 1st Dist. 1981). Petitioner's federal right under the U.S. 14th Amendment Due Process and Equal Protection clause had been violated under equal treatment therein.

RELIEF SOUGHT*

Petitioner so prays that this Honorable Court would gracefully consider granting this motion for rehearing. In RE Winship; (1970) 397, U.S. 358, 90 S. Ct. 1068, 25 L. Ed. 2d 368; Haley v. Ohio, (1948) 322, U.S. 596, 68 S. Ct. 302, 92 L. Ed. 224. Fair Treatment under the Juvenile Justice System Act, which requires adjudicatory hearing before imposition of adult punishment.

CONCLUSION

This motion for rehearing is presented in good faith and not for any delay.

Vernon Robinson

Vernon Robinson

On this 16th day of December, 2019.