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IN THE
SUPREME COURT OF THE UNITED STATES

WILLIAM L. WHIPPLE — PETITIONER
(Your Name)

vs.
FLORIDA DEPARTMENT
OF CORRECTIONS — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

WILLIAM L. WHIPPLE
(Your Name)
TAYLOR CORRECTION INSTITUTION ANNEX
8619 HAMPTON SPRINGS ROAD
(Address)

PEMAY, FLORIDA 32348
(City, State, Zip Code)

N/A
(Phone Number)

QUESTION(S) PRESENTED

①

Where petitioner was not allowed to demonstrate actual innocence (equitable exception) pursuant to McDuggin v. Perkins, 133 S.Ct. 1974 (2013) a untimely first time § 2254 petitioner. Did the district court abuse its discretion not giving an explanation in denying petitioner's 60(b) Motion?

②

Where no Faretta (competency) hearing was conducted. Did the district court abuse its discretion by declining to reopen petitioner's § 2254 case pursuant to Rule 60(b). Where, as cause for procedural default appellate counsel was ineffective for failing to raise petitioner was denied his right to represent himself and subsequently denied his right to counsel?

③

In a Rule 60(b) Motion did the Court of Appeals have jurisdiction to rule on the merits of an § 2254 habeas appeal without first granting COA, or was the standard established in Bucks v. Davis, 137 S.Ct. 759, 197 L.Ed 2d 1 (2017) applied properly?

④

In determining a COA on a Rule 60(b) motion, can a Court of Appeal make a conclusion of fact that a void judgement appears to be debatable and then make a conclusion of law that reasonable jurist would not debate whether district court abused its discretion in denying the Rule 60(b) Motion?

⑤

Did the Court of Appeal's abuse its discretion denying motion for reconsideration that included arguments that could not have been raised prior to entry of judgement? Such as the Court of Appeal's (1) sidestepped the COA inquiry with a merits analysis, (2) failed to address claims, and (3) made an ambiguous conclusion of fact and law.

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:

| | |
|--------------------------------------|------------------|
| 1. WILLIAM L. WHIPPLE | Petitioner |
| 2. JULIE JONES | Respondent |
| 3. FLORIDA DEPARTMENT OF CORRECTIONS | Respondent |
| 4. PAMELA JO BONDI | ATTORNEY GENERAL |

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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 C, D to the petition and is

reported at 16-16581-E Whipple v. Fla. Dept. Corr. (11 Cir. 2016); 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 A to the petition and is

reported at 14-21536-Civ-Moreno Whipple v. Julie Jones; 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 _____ 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 _____ 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.

JURISDICTION

[] For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was October 15, 2017.

[] 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: August 6, 2017, and a copy of the order denying rehearing appears at Appendix D.

[] 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 _____. A copy of that decision appears at Appendix _____.

[] A timely petition for rehearing was thereafter denied 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. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Equal Access To Court
Right To Counsel
Right To Self-Representation
Ineffective Assistance of Appellate Counsel

Actual Innocence / Giglio Violation

28 U.S.C. § 1253

28 U.S.C. § 1254

STATEMENT OF THE CASE

After exhausting his claims in State Court, petitioner William Whipple filed his section 2254 habeas corpus in the Southern District Court of Florida. Therein Whipple raised: (1) Actual Innocence/Giglio Violation, (2) A cause for the procedural default Whipple alleged, and raised: Ineffective Assistance of Appellate Counsel for failing to raise (i) petitioner was deprived of his right to counsel, and (ii) petitioner was deprived of his right represent himself. Wherein no Faretta (competency) hearing was ever conducted.

The District Court dismissed the habeas petition as untimely. Pursuant to section 2253 COA was requested. Whipple was denied COA in both the District Court and the 11th Circuit Court of Appeal. Petition for Writ of Certiorari was filed in this Supreme Court, at which jurisdiction was denied. Approximately 2 1/2 months after the U.S. Supreme Court denied Certiorari, Whipple filed his Motion for Relief from Judgement. Contending pursuant to Rule 60(b) (5) Fraudulent Concealment of Records, 60(b)(4) Void Judgement, and 60(b) (6) Other Reason Justifying Relief Where extraordinary circumstances are present to justify relief from judgement. The District Court denied the Rule 60(b) motion without an explanation (Appendix "A").

Whipple sought COA pursuant to section 2253. The District Court and 11th Circuit Court of Appeals both denied COA. (Appendix "B", []). Petitioner Whipple filed a Motion For Reconsideration in the 11th Circuit Court of Appeals, which was denied on August 6, 2008. (Appendix "D").

REASONS FOR GRANTING THE PETITION

- 1) To determine whether 60(b) and CDA should where petitioner Whipple was denied equal access to the court when the section 1983 habeas court failed to consider Whipple's timely filed Objections to Magistrate's report and recommendation and failed to timely consider Whipple's timely filed Rule(11) Motion To Expand the Record.
- 2) To determine whether COA should issue an Rule 60(b) motion, where the Court of Appeal made a conclusion of fact that a COA judgement appears to be debatable and wherein made a contrary conclusion of law that reasonable jurist would not debate whether district court erred in denying Rule 60(b) motion.
- 3) To determine whether new arguments of merit warrants reconsideration, such as (a) the Court of Appeals side stepped the COA Inquiry with a merits analysis, (b) the Court of Appeals failed to address COA claims, and (c) the Court of Appeals made an ambiguous conclusion of fact and law.

CONCLUSION

The petition for a writ of certiorari should be granted. And Counsel should be appointed for the proceeding.

Respectfully submitted,

W.L.W.

Date: October 1, 2018