

IN THE  
**SUPREME COURT OF THE UNITED STATES**

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**No. 18-6784**

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SAMUEL RIVERA,

*Petitioner/Appellant*

versus

STATE OF FLORIDA,

*Respondent/Appellee.*

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**AFFIDAVIT IN SUPPORT OF WRIT OF HABEAS CORPUS FOR REHEARING**  
(Under S.C. Rule 39.1.3 and Rule 44.2)(2017)

Petitioner, Samuel Rivera, swears and affirms under penalty of perjury that because of my poverty, I cannot prepay the docket fees of my appeal or post a bond for them. I believe I am entitled to redress. I swear and affirm under penalty of perjury that my answers on this form are true and correct. (28 U.S.C. §1746; 18 U.S.C. §1621.

Dated: 2 / 15 /2019



Samuel Rivera, DC#180695  
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1. My claims for the Petition for Writ of Habeas Corpus for Rehearing under Title §2241(a)(1)(3) and 18 U.S.C.A. 18 U.S.C.A. §242, are “it is difficult to see why a conviction and punishment under an unconstitutional law is more a violation of a person’s constitutional rights, than an constitutional conviction judgment of acquittal granted by the trial court, crime not charged in the indictment by the grand jury and conviction without probable cause. The State Attorney and the trial court punished the Petitioner a valid law: The due process clause contained in the 4<sup>th</sup>, 5<sup>th</sup> 8<sup>th</sup> and 14<sup>th</sup> Amendments of the United States prohibits a conviction of a crime where (1) the trial court granted a judgment of acquittal of the firearm offense. The firearm charge is not part of the indictment.

2. The Judgment was entered for a crime not charged in the indictment by the grand jury as a principle theory and (3), the State Attorney, the trial court judge took the Petitioner’s case to trial without any existing evidence and no probable cause that can prove the Petitioner committed the crime. The jury found the Petitioner guilty as charged in the indictment because there was no evidence at trial and the indictment is not evidence.

The trial court’s conviction and judgment together with the State Court’s and Federal Court is contrary to the Constitution of the United States. The Federal policy adopted by the Act of Congress and the United States Supreme Court the power under the U.S. Constitution, this power “is not limited to constitution - -

requirements no less [‘every law enacted by the courts must be based on one or more of its power enumerated in the United States Constitution’]” In *U.S. v. Windsor*, 133 S.Ct. 2675, 2695 (2013), the U.S. Supreme Court held, that: [27]: The power the Constitution grant is also restrain and though Congress has great authority to design law to fit its own conception of sound national policy, it cannot deny due process clause of the Fifth Amendment.

Since the Petitioner’s conviction is unlawful and he is detained contrary to the United States Constitution as determined by the United States Supreme Court, the power under the constitution, it follows that this power “is not limited to the constitutional – requirement no less the Petition for writ of habeas corpus for rehearing shall and must be granted with this court’s instruction to the trial court for the resolution in this illegal detention in 30 days the Petitioner must be released from prison according to the U.S. Constitution and Court Record. (Appendix “A” “B” “C” “D” and “E”.

Respectfully submitted,



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**Additional material  
from this filing is  
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