No 18-7628

IN THE

SUPREME COURT OF THE UNITED STATES

ANTHONY BRIAN BEVAN, PETITIONER

Vs.

STATE OF FLORIDA, RESPONDANTS

ON A PETITION FOR REHEARING

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LIST OF PARTIES

All Parties appear in the caption of the case on the cover page

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Question 1:Did Governmental misconduct occur that warrants dismissal, when Probation Officer, Sedrick Watkins acted with deliberate indifference, in a wanton and willful manner, in violation of 48 USC 1983, a due process violation, as well as a Brady violation?

. QUESTION 2. Is it true that remedies under Florida Law, pertaining to Per Curium Affirmed (PCA) decisions without an opinion, are inadequate and unconstitutional, as they fail to afford full adjudication of federal contentions.

Question 3. Did the VOP Judge abuse his discretion, and/or commit misconduct in rendering a clearly improper ruling, in revoking the Petitioner's Probation, by issuing two separate Court Orders that falsely stated that the Petitioner admitted to willfully violating his conditions of Probation, whereas the Petitioner, in actuality stated under oath at the Hearing of 6/24/13 that he did not violate his Probation nor come within 6 feet of the "victim"? .

Question 4. Was the Petitioner denied Due Process protection enshrined in the 5th and 14th Amendments to the US Constitution that prohibit Florida Courts from turning a blind eye to governmental misconduct and ignore objective reasons to questions of impartiality when two false, wrongful Orders by Judge Volz violated the Petitioners Due Process rights under the 4th Amendment, the 5th Amendment, the 6th Amendment and the 14th Amendment of the U. S. Constitution by stating that the Petitioner pled guilty to the violation of probation whereas in actuality, the petitioner pled not guilty.?

Question 5. Can probation be revoked when the Probationer does not willfully violate the terms or conditions of the probation?

Question 6. Was the Petitioner denied Due Process when he asked the VOP Judge at the VOP Hearing of 6/24/13 to continue the hearing based on a request to take depositions of witnesses which was denied by the Judge?

Question 7. Does this Court uphold the determinations made in Florida Courts that such discovery at VOP Hearings to be of great public importance?.

Question 8. Was the Petitioner falsely imprisoned under the Fourteenth Amendment based on the fact that the New Case of 13CF16047 was Nolle Prossed and Dismissed which thereby nullified the Decision of the VOP Judge?

Question 9. Should this case be dismissed, reversed or remanded to the lower court based on additional "newly discovered evidence"?

Question 10. Shall judgement be rendered in favor of the Petitioner when Government Officials deliberately and intentionally destroyed evidence which was in their safe keeping at the Lee County Sheriff's Office, in violation of U.S. Code #242 and the *Stare Decisis Doctrine, and as per the sentinel case of Brady v. Maryland 3737 US LED 3D 216 (1963*

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PETITION FOR REHEARING AS PER COURTS ORDER OF MAY 28, 2019

Pursuant to the Office of the Clerk's Order dated May 28, 2019. This Appellant is correcting and submitting the petition for rehearing containing substantial grounds not previously presented.together with those previously limited to intervening circumstances in the rehearing submitted on April 12, 2019 . This Appellant respectfully asked this Honorable Court to review this Petition and the Prior Petition in the sincere hope that it meets the expectations of the Court, and states:

I.PRIOR RULES, JURISDICTION, OPINIONS

Pursuant to United States Supreme Court Rule 44.1 Brian Bevan respectfully petitions for Rehearing of the Courts decision issued on March 18, 2019. This Petition is timely filed under Rule 39, *Forma Pauperis.* Brian Bevan, Pro Se respectfully moves this Court to grant this Petition for rehearing and consider his case with merits. In *Ambler v. Whipple* 87 US (20 Wall) 546 (1874), Ambler explained that material omissions on the records that affect the disposition of a case provide a " *strong appeal for re-argument"*

JURISDICTION

The U.S. Supreme Court derives its authority from Article III of the U.S. Constitution.

OPINIONS

The United States Supreme Court , Office of the Clerk issued an Order dated April 15, 2019 to correct and resubmit parts of the Petition for Rehearing which was submitted, on April 12, 2019 by stating its grounds and adding certifications that the grounds are limited to intervening circumstances of substantial and or controlling effect or to other substantial grounds not previously presented and that the petition is presented in good faith and not for delay.

The United States Supreme Court entered an Order on March 18, 2019 stating "*The Petition for a writ of certiorari is denied"* (App. 'F')

The Supreme Court of Florida response to the Petitioner's Supplemental Petitions for Discretionary Review filed on August 31, 2018 and September 4, 2018 as "treated" the motions as "*motions for reinstatement pursuant to this Court's order dated August 17, 2018, said motions are hereby stricken as unauthorized". (App. 'A')*

The Supreme Court of Florida dismissed the Petitioner's case No: SC18-1373 on August 17, 2018 stating "*This Court lacks jurisdiction to review an unelaborated decision from a district court of appeal that is issued without an opinion or explanation or that merely cites to an authority that is not a case pending review in or reversed or quashed by this Court.*" *(App. 'B')*

The District Court of Appeal of the State of Florida Second District issued a Mandate on July 31, 2018 in Case No, 17-0533 and Lower Tribunal Case 11-CF-19491 (App. 'C')

The District Court of Appeal of the State of Florida Second District issued an Opinion on June 6, 2018 of PER CURIUM Affirmed in Case NO. 2D 17-533. (App.'D')

The District Court of Appeal of the State of Florida Second District issued and Opinion on August 26, 2015 of PER CURIUM Affirmed in Case No. 2D13-4892. (App.'E').

II. RELEVANT CONSTITUTIONAL PROVISIONS

The Fourth Amendment to the United States Constitution, provides in relevant part:" *The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures shall not be violated".*

The Sixth Amendment to the United States Constitution guarantees some crucial aspects of Due Process The defendant is guaranteed a fair trial under the 6th Amendment and there are legal procedures the State must observe when bringing a a criminal action against a person.

The Fourteenth Amendment to the United States Constitution provides the Due Process rights in a criminal prosecution and in equal protection which includes a rational basis, intermediate basis and strict basis against discrimination on *laws which infringe on fundamental rights*...and **the State Action Clause** which declares that a State cannot make or enforce any law that abridges the privileges or immunities of any citizens

OTHER RELEVANT PROVISIONS

Stare Decisis Doctrine is a legal doctrine that obligates the Court to follow historical landmark cases when making a ruling on a similar current or a future case. This doctrine is sacred to the integrity and sanctity of the Justice System. It binds the Court to follow legal precedent set by previous decisions and 18 US Codes No. 241-242: Deprivation of rights under color of law states

"It is a crime for one or more persons acting under color of law, willfully to deprive or conspire to deprive another person of any right protected by Constitution or laws of the United States

ARGUMENT

Question 1:Did Governmental misconduct occur that warrants dismissal, when Probation Officer, Sedrick Watkins acted with deliberate indifference, in a wanton and willful manner, in violation of 48 USC 1983, a due process violation, and a Brady Rule violation? 1.Probatioon Officer, Sedrick Watkins was asked to appear as a witness at the VOP Hearing. Petitioner's Attorney advised the Court at the onset of the 6/24/13 VOP Hearing that Probation Officer, Sedrik Watkins had just informed him that he could not appear at the Hearing, as he was being sent for training. **This was a complete lie, and a brazen act of Governmental misconduct.**

2. This Petitioner, through a Public Records Request, has just obtained a response from the Circuit Administrator of the Twentieth Judicial Circuit dated May 1, 2019 which reads *"Per your request, the search showed Officer Watkins completed 1 hour of training on June 10, 2013."*(App.2 "D ") The search reveals the exact dates in 2013 that Sedrick Watkins had training. It is incontrovertible that Sedrick Wtkins **was not in training** on June 24,2013, the day of the VOP Hearing.

3.This Petitioner states that it is clear that the State concealed a witness with Probation Officer Watkins who falsely claimed he was in training and could not appear at the 6/24/13 VOP Hearing. Consequently, the Petitioner had no opportunity to ask any questions of the Probation Officer. . This concealment of a witness, the Probation Officer, is indicative of a collusion of Government Officials to deprive the Petitioner of his Due Process rights and is compared with the Court findings in **Brady v. Maryland** 3737 USLED 3D216 91963), and meets the standard of *Stare Decisis.*

4.The Petitioner has only recently obtained a copy of the State of Florida Department of Corrections Affidavit :Violation of Probation sworn to by Probation Officer, Sedrick Watkins on May 13, 2013, three days after the Petitioner's arrest of May 10, 2013. (2d App."C") This Affidavit fails to meet the requirements of such an Affidavit. It states: Violation of Condition (5) "by failing to live and remain at liberty without violating any laws **committing** the criminal offences of Aggravated Battery-Offender knew/should have known Pregnant on May 10, 2013 and Violation of Condition (5) by failing to live and remain at liberty without violation any law by

committing the criminal offense of resist Officer-Obstruct without violence on May 10, 2013. Sedrick Watkins signed this Affidavit making the determination that the Petitioner violated Probation and not alleging that the Petitioner violated Probation and made this determination without even taking a statement from the Petitioner or informing him of the Affidavit. He falsely swore, under penalty of perjury, in his report, that the Petitioner had actually committed crimes.

5. Sedrick Watkins failed to include in his report: 1) Any statement from the Petitioner to include whether the violation was denied or admitted, nor if the Petitioner was not available to be interviewed. This Petitioner states that he was in the Lee County Jail at the time of the report being formulated, which is located a few blocks away from the Probation Office. Sedrick Watkins could have interviewed him within the three days he wrote his report. 2) Any discussion of the history of the Petitioners Supervision and progress made during supervision. 3) any discussion if Petitioner was in a stable residence, if he was employed, retired or disabled, if he was current on payments for costs of supervision, 4) Any recommendation which would include whether it is appropriate to order programs or treatment or further supervision or a sentence in accordance with Florida Sentencing Guidelines. 5) Failed to attach a warrant to his Affidavit.

6. The Petitioner further states that not only did Sedrick Watkins fail to meet with him, he was never provided with this Affidavit Violation of Probation and it is a fact that it was not entered into the Court file until Friday, June 20, 2013, a few days before the Monday, June 24, 2013 VOP Hearing. The attorney of record for the Petitioner had not received the information in a timely manner.

7. The Petitioner states that Government Official Sedrick Watkins and his supervisor, committed acts of deliberate Indifference, which go beyond mere negligence, and has caused the Petitioner serious harm by denying him Due Process. Under 48 USC 1983, a state actor is liable for violating the rights of other when the official acts are made with deliberate indifference when he has 1) a subjective knowledge of a risk of serious harm 2) he disregards that risk 3) there is conduct more than mere negligence.

8. A Government Misconduct landmark case which meets the standard of *Stare Decises* that is relevant in the case at bar, is the U.S. Supreme Court Case of U.S. v. Russell 411 US 423 (1973) The court held that "*Due Process defense based on governmental misconduct is.. where the conduct of law enforcement is so outrageous that due process principles would absolutely bar the*

government from invoking judicial processes to obtain a conviction... Government misconduct which violates the constitutional due process right of a defendant requires dismissal of criminal charges. " and in Glosson 462 So. 2d at 10882 (1985) the Court stated "*Governmental misconduct which violates the constitutional due process right of a defendant, regardless of that defendant's predisposition, requires the dismissal of criminal charges.*"

9. Wherefore, the Petitioner, respectfully requests this Honorable Court find that there was Governmental Misconduct and the case should be Dismissal. And grant relief as the Court deems appropriate.

. **QUESTION I1. Is it true that remedies under Florida Law, pertaining to Per Curium Affirmed (PCA) decisions without an opinion, are inadequate and unconstitutional, as they fail to afford full adjudication of federal contentions.**

10. The State of Florida affords NO remedy for Appeal of PCA Decisions without an opinion, by the District Courts, because in reality, the remedy offered by State Law proves in practice to be unavailable or seriously inadequate and therefore the Rule of Comity and the *Stare Decisis Doctrine* should apply.

11.The rule of comity reduces the friction between the State and Federal courts where the State remedies failed to afford a full and fair adjudication of federal contentions raised, either because the State affords NO remedy or because the remedy offered by State Law proves in practice to be seriously inadequate. In this case at Bar, the Petitioner was denied a remedy in state law as the Second District Appellate Court denied his Appeal with a Per Curium Affirmed (PCA) without an opinion

12..The U.S. Supreme Court may review a Per Curium Affirmed (PCA) rendered by the Florida District Court of Appeal. This was reinforced in Davis v. State 953 S 2d 62 (Fl 2nd DCA 2007) with Judge Altebrand concurring *"Mr. Davis attempted to have the U.S. Supreme Court review our affirmance. That Court does have the Power by Writ of Certiorari to review a decision from a Florida District Court of Appeal even when no written opinion is issued".*

13. The U.S. Supreme Court in Gideon v. Wainright 372 US 335 (1963) a Landmark and a *Stare Decisis Standard* Case is notably a Florida Case and in fact a case that came of the very same 2nd District Court of Appeal which ruled against this Petitioner with the issuance of a PCA without an

1999 indicate that 73.2% of all case were PCA;s. It is astounding that according to the Florida District Court of Appeals Tables in 2016 Florida Appellate Courts averaged 74.85% of all cases as being PCA;s and the Second District Court's average was a shocking 84.64%. This is clearly a denial of Due Process Rights of the citizens of Florida and is Unconstitutional.

17.This Petitioner states the Abuse of a PCA is a Denial of Due Process and by issuing a PCA and refusing to write an opinion in the Case at bar the Second District Court of Appeal denied the Petitioner equal access to the Florida Supreme Court and Due Process of Law. This is a matter of Great Public Importance that this Petitioner respectfully requests this Court to address.

Question 3. Did the VOP Judge abuse his discretion, and/or commit misconduct in rendering a clearly improper ruling, in revoking the Petitioner's Probation, by issuing two separate Court Orders that falsely stated that the Petitioner admitted to willfully violating his conditions of Probation, whereas the Petitioner, in actuality stated under oath at the Hearing of 6/24/13 that he did not violate his Probation nor come within 6 feet of the "victim"? .

Question 4. Was the Petitioner denied Due Process protection enshrined in the 5th and 14th Amendments to the US Constitution that prohibit Florida Courts from turning a blind eye to governmental misconduct and ignore objective reasons to questions of impartiality when two false, wrongful Orders by Judge Volz violated the Petitioners Due Process rights under the 4th Amendment, the 5th Amendment, the 6th Amendment and the 14th Amendment of the U. S. Constitution by stating that the Petitioner pled guilty to the violation of probation whereas in actuality, the petitioner pled not guilty.?

Question 5. Can probation be revoked when the Probationer does not willfully violate the terms or conditions of the probation?

18. The relevant part the Due Process rights under the 14th Amendment in a criminal prosecution and in equal protection includes a rational basis, intermediate basis and strict basis against discrimination on *laws which infringe on fundamental rights*...and the State Action Clause which declares that a State cannot make or enforce any law that abridges the privileges or immunities of any citizens.

19. Matters involving willfulness and compliance with the conditions of probation are guided by the Supreme Court's decision in Bearden v. Georgia 461 U.S.660 (1983), the court stated that

there first must be a finding on the issue of willfulness and if it was not willful, there must then be an examination of alternative penal measures. In this case at bar the Petitioner strongly and adamantly testified at the 6/24/13 VOP Hearing, denying the allegations and stated that he never physically put his hands on Ms. Vasquez. "*I was not within seven feet of her I went past her* (App.G. Pg. 18). When asked if he ever shoved or pushed Ms. Velasquez on any part of her body at any time, he responded: "*A complete lie....I never came within six to eight feet of her*". (App.F. P.97-99). The significance of the Petitioner's denial of the allegations cannot be understated.

20.It was only through the due diligence of the Petitioners Appellate Attorney, Public Defender Robert Rosen, who discovered the sentencing error by Judge Volz in his Order of 9/9/13 which read :"2. *At hearing, the defendant admitted to the allegations of violations of conditions (5 (x2)....& 3.The court accepts the admissions to the violations, finds the violations to be willful and substantial and revokes and terminates the defendant's probation*" . (2nd App :"A") Attorney Rosen filed a Motion to Correct Sentencing Error on 2/5/15, some two years after the sentencing. and stated that in the revocation of probation, the court stated that the "*defendant admitted to the allegations of violations of condition... **it was incorrect**. Mr. Bevan did not admit to violating his probation*" (2nd App:.'B') An Order granting Motion to correct sentencing error was signed by Judge Joseph Fuller Jr. on 2/16/15. who stated "*2. At hearing, the defendant contested the allegations of violation of condition 5(x2).* Was this a trial Court error rendered as a result of **passion or prejudice** and/or a **technical error** which is one of the two prong test that the Court should consider in this Petition for Rehearing. In addition the sentencing errors were harmful errors, were not discovered until nearly 2 years after being issued thereby creating irrefutable harm to the Petitioner who continued to be incarcerated.

21. Florida law provides that a revocation of probation is appropriate when a defendant violates "in a material respect" Fla. Stat. 948.05, Appellate Courts have further added that "*probation may be revoked only upon a showing that the probationer deliberately and willfully violated one or more conditions of probations*" Steiner 604 S. 2d at 1267 (citing Chatman v. State 365 S, 2d (Fl 4th DCA 1978), In this instance, the Petitioner vehemently denied making any contact with the "victim" several times and under oath at the 6/24/13 VOP Hearing. He made reasonable efforts to comply with the terms of his probation by relocating to a "safe house" which turned out to be unsafe on May 10, 2013. In Thorpe v State 642 S 2d 628(Fl 1st DCA 1994) the Court stated "*where*

a probationer has made reasonable efforts to comply with the terms of probation, his or her failure to do so has been held not to be willful"

22.The VOP Judge revoked the Petitioners Probation based on his belief of the victim and her friend's testimony and did not believe the contradictions by other witnesses and the Petitioner's statements made under oath that he did not touch the "victim". The standard used to state whether discretion has been abused is one of reasonableness. In Delno v. Market Ry Co. 124 F2d 965 (9Th Cir. 1042) the court stated " discretion has been abused where the decision is "arbitrary, fanciful or unreasonable: The court's finding and ruling in this case at bar is improper and he revocation was unreasonable and wrongful.

Question 6. Was the Petitioner denied Due Process when he asked the VOP Judge at the VOP Hearing of 6/24/13 to continue the hearing based on a request to take depositions of witnesses which was denied by the Judge?

Question 7. Does this Court uphold the determinations made in Florida Courts that such discovery at VOP Hearings to be of great public importance?.

23..In his Opening remarks, Attorney Raheb, for the Petitioner, asked the Court for a continuance in order to take depositions of several witnesses.to include the "victim". The Court response was " Okay, are we ready for hearing?" (2d App 'B") and so the hearing proceeded and ended by the Court stating " I have found that the defendant has violated the terms and conditions by a preponderance"

24. The Florida Supreme Court in Cuciak v. State 410 S2d 916 (1982) The Fourth District Court of Appeal certified the following question to be of great public importance: "Is a defendant in a violation of probation proceeding entitled to full discovery under the Florida Rules of Criminal Procedure, is a Richardson Inquiry required as to noncompliance?. " The Court held that the defendant is entitled to reasonable discovery pursuant to Florida Rule of Criminal Procedure 3.220 and an inquiry pursuant to Richardson v. State 246 S 2d 771 (Fl 1971) should be made by the trial court when a violation of the discovery rules occurs." It is basic philosophy that underlying discovery is the prevention of surprise and the implementation of an improved fact finding process. It was stated 384 S2nd at 505, *"trial by ambush is so unfair as to be violative of due process*" There are many decisions referencing the Defendants rights to discovery in Florida cases to

include: Hines v. State 358 S2d 184 (Fl 10978) wherein the Court stated "If a probationer needs additional information in order to properly prepare a defense to the charges, the various methods of discovery under our rules are available to him" and in Cioeta v. State 367 S2d718(Fl3d DCA 1979) the court stated that "*Fair Play and Justice require that a defendant in a probation revocation hearing be entitled to a reasonable pursuant to rule 3.220*".

25.The Petitioner was denied Due Process by not being afforded the opportunity to depose the crucial witnesses which included the "victim" and the Probation Officer who failed to show up for the VOP Hearing and therefore denied the opportunity to prepare. This lack of discovery has prejudiced him and was not harmless. See Taylor v. State of Florida 436 S 2d 124 (1982)

26.The Florida Supreme Court has agreed with the Appellate Court that Discovery at a VOP Hearing is a matter of Great Public Importance.

Question 8. Was the Petitioner falsely imprisoned under the Fourteenth Amendment based on the fact that the New Case of 13CF16047 was Nolle Prossed and Dismissed which thereby nullified the Decision of the VOP Judge?

27.The Petitioner has now discovered that the First Appearance Court Order was officially cancelled as Nolle Prossed 12/16/13. The warrant from the Lee County Sheriff's Warrant Unit was not added to this First Appearance Court Order until May 12, 2015 some two years later. The Petitioner was denied Bond and remained jailed as per order of Judge Volz, who became the VOP Judge. The Petitioner remained incarcerated, even though he filed motions, and appeals for release and reversal of the charges. (2d. App.'E')

28.The Petitioner claims that he was falsely imprisoned based on the New Case of 13CF16047 being nolle prossed and dismissed on 12/16/2013, which nullified the Judgement in the VOP Case and reinforces The Petitioner's denial of touching or pushing the "victim" at the 6/24/13 VOP Hearing. He states that *under the Fourteenth Amendment the due process clause includes the right to be free from continued detention after it was or should have been known that the detainee was entitled to release.* See Campbell v. Johnson 586 F3d 835 (2009). The Petitioner, however, served his entire sentence.

Question 9. Should this case be dismissed, reversed or remanded to the lower court based on additional "newly discovered evidence"

29. In 2015 and 2016,"newly discovered evidence" was found with a 12/1/15 affidavit by Larry Cowan. He stated "*my stepdaughter, Savannah Vasquez, told me and my wife, Pat Cowan that she made up the story that Brian pushed her and that she asked Tiffany to lie for her... I am sad to discover that Savannah was a drug dealer and a drug user*" On 1/19/16, Pat Cowan, in an affidavit stated "*Savannah Vasquez told me and my husband, Larry Cowan that she made up the story that Brian had pushed her and that she asked Tiffany to le for her* "(app.N).

30.In U.S. v. Johnson 327 US 106 (1946) the Court granted Certiorari and then reversed and remanded the District Court to enforce the judgment based on newly discovered evidence. It has been accepted that Judges do not look kindly upon the witnesses or parties whose testimony turned out to be not only blatantly self-serving but knowingly false. In the case at bar, not only are there inconsistencies in the sworn testimony of the "victim" and the witnesses, now there is newly discovered evidence which categorically states that the "Victim" is a drug dealer and lied about pushing the Petitioner.

Question 10. Shall judgement be rendered in favor of the Petitioner when Government Officials deliberately and intentionally destroyed evidence which was in their safe keeping at the Lee County Sheriff's Office, in violation of U.S. Code #242 and the *Stare Decisis Doctrine, and as per the sentinel case of Brady v. Maryland 3737 US LED 3D 216 (1963*

31.A Rehearing is appropriate for this Court to review Florida's decisions to insulate an arguably unconstitutional decision about the court's denial of the Petitioner's constitutional scrutiny because it resulted in the inconsistent application of the law In Ornelas v. US 517 US 690 (1996) the court cited the 4th Amendment and stated: "*Independent review is necessary if the Appellate Courts are to maintain control and to clarify the legal principals, because otherwise, it increases the arbitrariness and likelihood of error.*"

32.The Court may have overlooked the Petitioner's history of the destruction of the evidence by the Lee County Sheriff, who are Government Officials. The documents from the Lee County Sheriff's Office Property Receipt clearly demonstrates that a Sony Cyber shot digital camera and a Phillips voice recorder were placed into evidence on 11/1/11 and the Phillips Voice Recorder was destroyed on 6/27/14. In addition a False Sim Card was present when the Lee County Sheriff's Forensic Person, Jennifer Lindblad examined the Cyber shot camera (A00.P)

33.The voice recorder contained the voice of the Petitioner of the audio of the events in an accurate and true timely manner of 11/1/11 incident. However this was destroyed on 6/27/14 while this case was still being appealed. The original SIM Card had over 100 photographs taken by this Petitioner in an accurate depiction of the 11/1/11 incident. The original SIM Card was replaced with what was called a "false" card.

34.Surely, the above described destructions by the government officials in the case at bar meets the standard set in the Landmark U.S. Supreme Court Case of Brady v. Maryland 3737 US LED 3D 216 (19630 and Considered as a *Stare Decisis Doctrine case.* The Court ruled *"the suppression of evidence by prosecution of evidence favorable to an accused, violates due process where the evidence is material either to guilt or punishment, irrespective of the good faith or bad faith of the prosecution".*

35.Wherefore, this Petitioner requests that a consideration be made to dismiss this this case cites another landmark U.S. Supreme Court Case of U.S. v. Russell 411 US 423 (1973) wherein the Court held that: *"Due Process defense based on governmental misconduct is.... Where the conduct of law enforcement is so outrageous that the process principles would absolutely bar the government from invoking judicial processes to obtain a conviction... Governmental misconduct which violates the constitutional due process right of a defendant requires* ***dismissal of criminal charges***

Question 11. Was there bias and collusion between Government Officials to deny the Petitioner Due Process ?

36.In the case at bar, it is apparent that bias and collusion by Government Officials has existed for decades against the Petitioner. Who has a longstanding record as an advocate for Justice for those who have been wrongfully convicted and incarcerated and as of today with this Petition. ,it is apparent that this hostile environment remains as evidenced by the facts contained herein, along with newly discovered evidence.

37.The issues of governmental misconduct and/or conspiracy and/or being complicit in the denial of Due Process could be construed in the issues that 1) The Petitioner has long been involved (over 40 years) as an Advocate for those unfortunates who were wrongfully charged and/or incarcerated such as Delbert Tibbs, a case mentioned in the Petitioners Writ of Certeriorari and 2)

the Petitioner's involvement in the Jackman "suicide" where the Judge Volz, who was the VOP Judge in this case at bar, was the Lead District Attorney in the Grand Jury investigation and Hearings, which exonerated the State Attorney and the Sheriff. Judge Volz refused Petitioners request for depositions at the VOP hearing, used a civil standard and not a criminal standard in making a decision of violation of probation and sentencing the Petitioner to 3 years of incarceration and who could have continued the VOP case until the new Case against the Petitioner which was Nolle Prossed and dismissed. Judge Volz, at the sentencing Hearing of 9/8/2013 stated: *The court is aware of some four decades of Mr.Bevan having contact with law enforcement and court system in one way or the other as a complainant or whatever. I even sat, I believe, one case when I was county Judge on a disorderly conduct case"* The reality is that , Judge Volz presided on a case: Anthony Brian Bevan and Jane Bevan v. William E. Bean Case # 94-02492. Judge Volz awarded fees and costs to Surveyor Bean which on Appeal the Appellate Court reversed and stated: *"the trial court had no statutory authority to award fees and costs"* (App J)

38.Other cases in which Judge Volz was involved with as the State Attorney, Supervisor, for the 20th Judicial Circuit where Attorney Joseph D'Alessandro was the State Attorney is Bevan v. D'Alessandro. Appeals Case No 80-1662 wherein the court ruled that the Petitioner has the *absolute right to voluntarily dismiss his replevin action at any time before a hearing was held on a motion to dismiss his claim"*. In Bevan v. Wanicka 487 S. 2d 298 Fl. 1986), a cse wich involved the Sheriff of Lee County Florida, Frank Wanicka, the Appellate Court held that the Petitioner was entitled to obtain Public Records under the Florida Public Records Act. (AppK) Judge Volz was the Assistant State Attorney in charge of all Charlotte County cases at the time of the so called "suicide" of Brad Jackman a young man home on leave from the service who was killed at the Sheriff's Hunting Lodge during a New Year's eve party where many government officials were present This Petitioner became involved in the "suicide", with others with the case going to a 42. Grand Jury. Judge Volz was instrumental in overseeing and protecting the government employees to include the Sheriff and the State Attorney (App.L). Unfortunately, the Petitioner was unaware of Judge Volz's duties in the "suicide" case until well after Judge Volz adjudged him guilty and sentenced him to three years in State Prison. On the Violation o Probation charges.

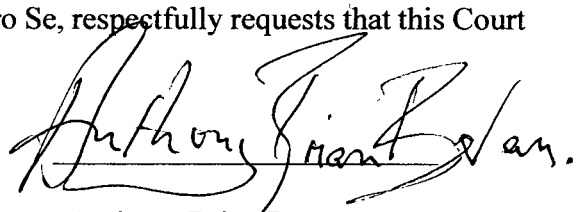
39. Bias and Collusion is noted with a)the Lee County Sheriff who purposefully destroyed the evidence held in their possession to include a Phillips recorder and the original SIM Card in the

Sony Camera as referred to in the case at bar 2) The neighbor in the 1/11/11 incident admitted to making a full payment to the Off Duty Officer "if it went down"(Petitioner's Arrest) 3) the false affidavit and statements of the Probation Officer. 4) The Prosecutor who declined to stop a deposition of the Sheriff's deputy, an important witness, knowing that the Petitioner was no longer represented by Counsel.

CONCLUSION

Petitioner, Anthony Brian Bevan, Pro Se respectfully requests this Court not to let or permit form, to override substance or procedural technicalities to defeat fairness and justice and that this Court treat this Petition as whatever vehicle needed for relief, that the Court deems proper and view the Petition with Lenity. Petitioner, Anthony Brian Bevan Pro Se, respectfully requests that this Court grant the Petition for rehearing.

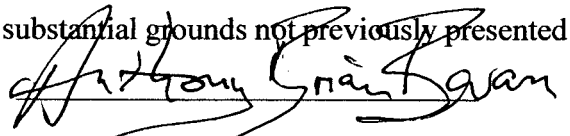
Respectfully submitted by:



Anthony Brian Bevan

CERTIFICATE STATING THE ENCLOSED GROUNDS ARE LIMITED TO INTERVENING CIRCUMSTANCES OR TO OTHER SUBSTANTIAL GROUNDS NOT PREVIOUSLY PRESENTED

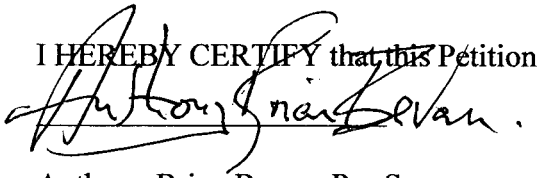
I HEREBY CERTIFY that the grounds are limited to intervening circumstances of substantial or controlling effect or to other substantial grounds not previously presented and is presented in good faith and not for delay.



Anthony Brian Bevan

CERTIFICATE OF COUNSEL

I HEREBY CERTIFY that this Petition for Rehearing is presented in good faith and not for delay.



Anthony Brian Bevan, Pro Se

CERTIICATE OF SERVICE

I HEREBY do swear or declare that on this date, June 12th, 2019, as required by Supreme Court Rule 20, I have served the enclosed Petition for Re-Hearing and enclosed Motion for Leave to Proceed in Forma Pauperis on each party to the above proceeding by depositing an envelope containing the above documents in the U.S. Mail properly addressed with first class postage prepaid for delivery within 3 calendar days to: Office of the Attorney General of Florida; 3507 East Frontage Road Suite 200, Tampa Florida 33107. I declare, under penalty of perjury that the foregoing is true and correct. Executed on June 12th, 2019 by

Anthony Brian Bevan,

Anthony Brian Bevan
P.O. Box 494946
Port Charlotte Fla. 33949
Ph: 239-939-4900

SUPREME COURT OF THE UNITED STATES
OFFICE OF THE CLERK
WASHINGTON, DC 20543-0001

May 28, 2019

Anthony Brian Bevan
PO Box 494946
Port Charlotte, FL 33949

RE: Bevan v. Florida
No: 18-7628

Dear Mr. Bevan:

The petition for rehearing in the above-entitled case was postmarked April 12, 2019, and received May 28, 2019, and is herewith returned for failure to comply with Rule 44 of the Rules of this Court.

In addition to certifying that the grounds are limited to intervening circumstances of substantial or controlling effect or to other substantial grounds not previously presented, you must also certify that the petition for rehearing is presented in good faith and not for delay.

Also, after applying the exclusions listed in Rule 33.1(d), the petition exceeds the 15 page limitation set out in Rule 33.2(b).

Please correct and resubmit as soon as possible. Unless the petition is submitted to this Office in corrected form within 15 days of the date of this letter, the petition will not be filed. Rule 44.6.

Sincerely,
Scott S. Harris, Clerk
By:

Clara Houghteling
(202) 479-5955

Enclosures

SUPREME COURT OF THE UNITED STATES
OFFICE OF THE CLERK
WASHINGTON, DC 20543-0001

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Sincerely,
Scott S. Harris, Clerk
By: Clara Houghteling
Clara Houghteling
(202) 479-5955

6/12/19
To Scott Harris
Please find enclosed corrected Petition & the Appendixes
We have just received a CD from Dept of Corrections RE Probation officer tried to copy it out but the CD is "damaged"
We chose to submit this as a Supplement
Thank you for your Patience & Consideration

Enclosures Sincerely
Jane Bevan for
Anthony Brian Bevan
Ph 239-939-4900

RECEIVED
JUN 18 2019
OFFICE OF THE CLERK
SUPREME COURT, U.S.

Additional material from this filing is available in the Clerk's Office.