18-7794

IN THE SUPREME COURT
OF THE UNITED STATES OF AMERICA

ORIGINAL

UNITED STATES SUPREME COURT APPLICATION NO. 18A507
ELEVENTH CIRCUIT CASE NO: 17-13674-CC

JOHN M. KROTT,

Petitioner / Appellant,

v.

Walton, C.I. Warden,
Attorney General, State of Florida,

Respondents / Appellees.

PETITION FOR CERTIORARI REVIEW

JOHN M. KROTT
(PRO-SE)
DC # 777266/D1147-S
WALTON CORRECTIONAL INSTITUTION
691 INSTITUTE ROAD
DEFUNIAK SPRINGS, FL. 32433

INTRODUCTION TO THE QUESTIONS PRESENTED FOR REVIEW

I understand the questions are to be short and concise. The concise part is easy enough, short, now that's going to be tough, but I will do the best that I can. This introduction is intended to minimize the length of the statement required with each question, ultimately shortening the question proposed. I'll minimize the questions hopefully enough, to convey the severity of the illegal actions committed by law enforcement used to create this case. Then I'll take it a step further to convey the illegalities that were continued by law enforcement, in concealing the fabrication of the warrant that was used to create this case. The warrant was needed to create the probable cause needed for an arrest. The arrest was needed to obtain a conviction in an unrelated case in which, probable cause to arrest the petitioner over, did not exist. Law enforcement continued the fraud by "backdating" a valid warrant, the valid warrant was placed into the fabricated warrant slot. This action created the false visual image that the fabricated warrant arrested over, was a valid warrant.

That all may appear good on paper, like something that can be left alone, set-aside, or ignored without any damage being done, because the fabricated warrant appears valid. That's not the circumstance in this case. The State, the U.S. District Court, and the United States Court of Appeals have all dismissed this case because of the time that has lapsed between the expiration of the sentence, and the filing of the §2254 Petition. With the expiration of the sentence imposed being the reason for dismissing the

case, that means the warrant over the charges sentenced on, **has been executed**. . . One of the problems with that lies in the fact that the valid warrant that was "backdated", and placed in the "spot" of the fabricated warrant, to conceal the fact that a warrant was fabricated for an arrest, is that the valid warrant, **has never been executed**. . . Ultimately, the **fabricated warrant** arrested over, on the charges challenged in the §2254 Petition, that's been dismissed because the sentence has expired, **is ACTIVE again**.

QUESTIONS PRESENTED FOR REVIEW

1) The petitioner was arrested a minimum of at least 14 times by Broward County Officials, during the years a Broward County warrant allegedly remained "active" in Broward County. The results of those arrests placed Krott "Under the Thumb" of either Broward County Jails, (serving a county jail sentence), or F.D.O.C., (serving a Florida State prison sentence), for a total of 7-years and 36-days, out of the 8-years and 328-days, while the alleged active Broward County warrant allegedly remained active in Broward County.

Legally or procedurally, can a warrant withstand the scrutiny of at least 30 N.C.I.C., and F.C.I.C. warrant searches, or of the defendant being in the custody of the same officials alleged to have possession of an "active" warrant, for about 81% of the time while the alleged warrant allegedly remained active?

2) Between the 6/30/2006 adjudication and sentencing date of the charges under the directive of the fabricated warrant, and the 6/2/2017 filing date of the §2254 petition challenging that conviction and sentence, over 100 entries to and from the respective court's were transmitted attempting to resolve this case. The filing of the timely proceedings ultimately maintained a "live" or "open controversy" status with this case.

Did the respective court's violate Krott's substantive due process rights by dismissing Krott's petition for lack of jurisdiction, with over 100 proceedings having been filed maintaining an "open controversy" status with this case ?

3) The State recommends in their jurisdictional claim, that the petition should be dismissed, stating that, the 6/30/2006 sentence has expired long before the 6/2/2017 filing date of the §2254 petition on that sentence. Yes, the sentence has expired, but in an attempt to conceal the fabrication of the 2/15/2006 arrest warrant, government records show that a valid warrant was "backdated", and placed into the 2/15/2006 fabricated warrant arrest slot. The valid warrant was issued on 3/31/2006, a-month-and-a-half after the 2/15/2006 arrest of cause and, was never determined by final judgment. As the valid warrant was never determined by final judgment, and was placed in the fabricated warrant slot, the current fabricated warrant being challenged, is "active" again.

How can jurisdiction be lacking, over the conviction and sentence being challenged, if the warrant over the conviction and sentence being challenged, is currently "active" under case No. 97024022TC10A, the fabricated warrant case number arrested over, and being challenged in the §2254 petition?

4) The current "in-custody" conviction and sentence is a "fruit" of the illegal arrest, conviction, and sentence being challenged. Therefore, the current "incustody" sentence is just as illegal as the arrest over the fabricated warrant, and would not have taken place if it was not for that arrest.

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CERTIFICATE OF INTERESTED PERSONS AND CORPORATED DISCLOSURE STATEMENT

JOHN M. KROTT
(PRO-SE)
DC # 777266/D1147-S
WALTON CORRECTIONAL INSTITUTION
691 INSTITUTE ROAD
DEFUNIAK SPRINGS, FL. 32433

CERTIFICATE OF INTERESTED PERSONS
AND CORPORATED DISCLOSURE STATEMENT

In accordance with the United States Supreme Court Rule 14.1(b). the petitioner files the following notice certifying that the following have been involved one way or another with a judgment of this case currentl;y being reviewed;

Bondi, Pamela Jo; (Attorney General, State of Florida)

Carnes, The Honorable Judge, Ed; (United States Chief Judge)

Casey, The Honorable Judge, Rodgers, M.; (United States Chief Judge)

Chloupek, Joseph;(Broward County Assistant Public Defender)

Cohen, The Honorable Judge, Mardi Levey; (17th Circuit County Judge)

Finkelstein, Howard (Public Defender)

Lazarus, The Honorable Judge, Joel (17th Circuit Judge)

Nealon, Rebecca (Assistant State Attorney)

Ocksrider, Matthew Steven (Assistant Attorney General)

Satz, Michael J. (State Attorney)

Steinberg, Melissa (Assistant State Attorney)

Wilson, The Honorable Judge, (United States Circuit Judge)

Respectfully Submitted

_____

John M. Krott
DC # 777266 / D-1147-S

Does the United States Supreme Court have the power and authority to determine what the probable cause for the 2/15/2006 arrest was, and make the changes necessary to conform with the proper administration of justice, over the probable cause determined?

PETITION FOR WRIT OF CERTIORARI

Although certiorari review is discretionary, sometimes the challenge is peremptory, and as in this case, does not require a cause or reason to be reviewed. The Petitioner, John M. Krott, *pro-se,* respectfully petitions this Honorable United States Supreme Court for a writ of certiorari review.

The review is requested because probable cause was lacking under the prevailing legal standards required by law. Krott was arrested on 2/15/2006 over an alleged "active" at the time, 9-year old misdemeanor warrant. The current conviction and sentence is a "fruit" of that illegal arrest. The petitioner respectfully requests this Honorable Court's permission to include the targeted "fruit" of the unwarranted arrest that the petitioner is currently "in-custody" over.

REVIEW OF STATE COURT JUDGMENTS
(See Exhibit-A)

On 5/24/2014, Krott submitted a Rule 3.850 Motion in the Broward County, County Court over the two misdemeanor traffic citations arrested over on 2/15/2006. The current subject being newly discovered evidence on the two citations arrested over on 2/15/2006 under case number 97024022TC10A, had been previously assigned to case

number 97028053TC40A . Subsequently, Krott summoned the clerk on the jockeying of charges from one case number to another, Krott was informed, that does not happen. Case numbers are assigned to a particular charge, or charges, to keep the charge(s) seperate from any and all charges that might be similar to one another, including the charge of cause.

On 7/28/2014, due to the contents of the 3.850, and with it being 60-days or better without a notice of receipt, Krott requested a receipt from the clerk through a Notice of Inquiry. That request was ignored.

On 10/9/2014, Krott submitted another inquiry requesting a receipt, but this time, Krott compelled the clerk to respond.

On 10/24/2014, Krott received from the county court, (*Institutional Mail Log provided*), two "rubber stamped" orders, in the same envelope, over the same 3.850 motion filed on 5/24/2014. One order was dated 6/9/2014, while the other was dated 10/16/2014.

Krott went to the circuit court in its appellate capacity over the adverse decision from the Broward County, County Court, that was derailed with the "second", "rubber stamped" order, that never should've been issued. Krott alleged that the "second" order voided out the possibility of the first order being reduced down to writing. Who's to say why the "second" order was issued denying the 3.850 motion? A written decision would

be needed for future discretionary review proceedings. Krott sought certiorari review in the Fourth District Court of Appeals trying to get everything "back on track".

On March 25th, 2015, the Fourth District Court of Appeals issued an order converting the certiorari petition into a petition for mandamus compelling the county court to issue a final **appealable** order, denying the Rule 3.850 Motion in case number 97024022TC10A.

Broward County derailed the two traffic citations case again by transferring the case to the civil division in the Broward Courthouse. They even went as far as to provide Krott with an application for indigency status under the "new" civil case number. Krott filed a judicial notice with the circuit court in its appellate capacity, informing the court of the error made. An order to show cause was issued again, compelling the county court to issue an **appealable** order denying the Rule 3.850 Motion in case number 97024022TC10A. I'm not quite sure exactly what happened next, but I do know that the circuit court did have to issue a "final" third order granting mandamus relief compelling the county court again to issue an **appealable** order, denying the Rule 3.850 Motion in case number 97024022TC10A.

Now this is where the State physically shows their involvement in the fraud incorporated into this case. It's previously been mentioned that it's prohibited practice to jockey charges from one case number to another. The State in attempting to obtain influence over the decision going to be rendered over the Rule 3.850 Motion, filed a

Memorandum. On page two of the Memorandum, number 5, it's clearly stated that the capias was served again on 2/15/2006, and that the defendant was being held on another charge when the capias was served. The case was transferred to central courthouse to be resolved while the defendant was in custody, and that the case was assigned the referenced case number 97024022TC10A, while being held on the robbery charge on 2/15/2006. In coordination with the States recommendation, the Honorable Court denied the Rule 3.850 Motion on the 24th day of August, 2015. Krott went to the Fourth District Court of Appeals with a petition for certiorari review stating that there is no deadline time because, as shown in the memorandum, the State assigned a 1997 case number in 2006 to a 1997 case just so they could resolve the case. The fraud is blatantly obvious and there are no more standards to the case.

BASIS FOR INVOKING JURISDICTION
(See Exhibit-B)

On 6/30/2006, the petitioner entered a plea of NO CONTEST to the Broward County charges of Driving While License Suspended or Revoked, and Improper Change of Lanes. On July 28th 2006, a Motion to Withdraw the Plea was filed. On August 2nd 2006, the motion was denied. A timely Notice of Appeal followed. On the 29th day of February 2008, an Opinion of the court was received, affirming without prejudice, the denial of the motion to withdraw the plea. A Motion for a Rehearing was timely filed. On July 15th 2009, an Order Denying the Motion for Rehearing was received.

Immediately after the appeal was filed denying the request to withdraw the plea, Krott sought and received appellate representation from the Broward County Appellate Division. An appellate attorney was assigned, he refiled the appeal followed by an initial brief. The appeal had been pending for a bit, when Krott was transferred from the Broward County Jail to the State prison system, over the charge that was attached to the fabricated warrant arrest case currently being challenged. Appellate counsel failed to forward the decision on the appeal to Krott in prison. Krott did what he needed to do to get the appeal process back on track and, here we are eight years or so later.

The United States Court of Appeals entered a judgment over the case of cause on June 20th, 2018. A petition for Rehearing En Banc was timely filed, that petition was denied on the 16th day of August, 2018. It was virtually impossible to effectively meet the standards required on the petition for certiorari review, by the 14th day of November, 2018. So an application seeking a 60 day extension was requested and, thankfully granted. The deadline to file the certiorari petition was extended to, and included the 13th day of January, 2019. Pursuant to U.S. Sup. Ct. Rule 13.3, this petition has been timely filed.

CONSTITUTIONAL PROVISIONS

Some of the actions utilized to create this case, have violated some of the United States Constitutional Provisions. The following Amendments have been violated, and are supported by the appropriate citations that follow the Amendments;

A) Neither United States Supeme Court precedent, nor the United States Constitution permits the arrest of a citizen, when neither reasonable grounds nor probable cause for that arrests exists.

A-1) **United States Constitutional Amendment IV**; The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and **no warrants shall issue, but upon probable cause**, supported by Oath or affirmation, and particularly describiing the place to be searched, and the person or things to be seized.

A-2) **Citations;** *Demjanjuk v.* Petrovsky- 10 F.3d 338 (6th Cir. 1993); *Franks v. Delaware*- 93 S.Ct. 2674 (1978): *Hazel Atlas Glass Company*-88 LED 1250, 322 U.S. 238 (1944): *Rochin v. People of California*- 341 U.S. 939, 71 S.Ct. 997, 95 L. Ed. 1366: Mapp *v. Ohio*- 81 S. Ct. 1684; 367 U.S. 643; 84 A.L.R. 2D 933; 6 l. Ed. 2d 1081(1961): *United State v. Leon*- 104 S. Ct. 3405 (1985): *Whitely v. Warden, Wyoming State Penitentiary*- 91 S. Ct. 1031 (1971): *Wong Sun v. United States*- 371 U.S. 471; 83 S.Ct. 407, (1963).

B) Neither United States Supeme Court precedent, nor the United States Constitution permits successive prosecutions for the same criminal act.

B-1) **United States Constitutional Amendment V;** No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia,

when in actual service in time of War or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

B-2) **Citations;** *Blockburger v. United States*- 284 U.S. 299, 304, 36 L.Ed. 306, 52 S. Ct. 180 (1932). *Rodney Class v. United States*- 583 U.S. ____, 138 S.Ct. ____, 200 L. Ed. 2d 37 2018 U.S. LEXIS 1378: *Menna v. New York*- 423 U.S. 61, 96 S.Ct. 241, 46 L.Ed. 195: *United States v. Broce*- 488 U.S. 563, 579, 109 S. Ct. 757; 102 L.Ed. 2d 927: *Blackledge v. Perry*- 417 U.S. 21, 40 L. Ed. 2d 628, 94 S.Ct. 2098 (1974).

C) When fraud has been discovered to exist in obtaining a conviction, resulting in a sentence being imposed over that fraudulent conviction, so long as when the fraud was discovered, the defendant diligently sought relief in a timely manner over the dispute in that judgment and sentence; or, if the current sentence being served, is a "fruit" of that illegal arrest, and the defendant has created a "live" case, or a "live controversy", by diligently challenging, in a timely manner, the fraudulent conviction and sentence, even after the sentence from the illegal conviction has expired, United States Supreme Court precedent, and the United State Constitution both permit the full consideration of the court's determination in the matter.

Where defendant makes a substantial preliminary showing that a false statement knowingly or intentionally, or with reckless disregard for the truth, was included by the affiant in the affidavit for the arrest, and if that false statement was necessary in the finding of probable cause, upon request, the Fourth and the Fourteenth Amendments require a hearing be held.

C-1) **United States Constitutional Amendment XIV; Section 1;** All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny any person within its jurisdiction the equal protection of the laws.

C-2) **Citation;** *Franks v. Delaware*- 93 S.Ct. 2674 (1978): *Hazel Atlas Glass Company*-88 LED 1250, 322 U.S. 238 (1944)

STATEMENT OF THE FACTS

(See Exhibit-C)

Krott was released on 6/28/2005, from a mandatory 5-year Florida State Prison sentence. Within the mandated time allotted after release, Krott registered in the Broward County Sheriff's Department, and was released again, warrant free. Krott found a job immediately, and maintained that job. Before leaving prison, F.D.O.C. lined up Krott's living arrangements in the Salvation Army across the street from the Ft. Lauderdale Police Station. Krott maintained that address for at least two months after his release from prison. If there was a warrant for his arrest, **everyone** knew where to find him. After 2 or 3 months, Krott began living in motels closer to the jobs. He continued working for the same construction company. Local law enforcement arrested Krott on 2/15/2006, over an alleged "active" 9-year old misdemeanor warrant.

Local law enforcement jockeyed two misdemeanor traffic citations from the original case number they had previously been determined by final judgment under, to an unrelated "case number". The unrelated case number had been intentionally fabricated and used as the directive over the misdemeanor charges, to create the false visual image, that under the unrelated case number, the misdemeanor charges had never been disposed of. Then law enforcement entered a false statement of the warrant existing into an affidavit, to be used as the finding of probable cause needed for an arrest. The

arrest was needed to obtain a conviction in an unrelated felony robbery case, in which probable cause to arrest Krott over, DID NOT EXIST.

NATURE OF RELIEF SOUGHT

The nature of relief sought by this petition, is a writ of certiorari determining the probable cause for the 2/15/2006 arrest. Then, once the probable cause has been determined to be the fabricated misdemeanor warrant, quash the 6/30/2006 conviction and sentence on the charges under the directive of the fabricated warrant. Additionally, it's respectfully requested that this Honorable Court take the steps necessary to vacate the current conviction and sentence as the "fruit" of an illegal arrest.

Alternatively, the petitioner respectfully requests any and all relief this Honorable United States Supreme Court deems proper and just.

ARGUMENT

First things first, the robbery, the reason the warrant was fabricated to create the probable cause for the arrest. The robbery allegedly occurred the day before the arrest, and there was no probable cause to arrest Krott over the robbery. Nobody, whether it be before or during trial identified Krott as the perpetrator, and there was no evidence whatsoever implicating Krott committed a the robbery, or was anywhere in the area when the crime occurred. Krott's not trying to dupe anyone out of getting away with a crime. Krott has never robbed anyone. In fact, the two 6-man photo line-ups, [provided in Exhibit-C], show that the victim and all three material witnesses identified persons other than Krott as the perpetrator to the robbery. During trial, the two men that chased the perpetrator out of the store, and the victim, who all stated during trial, that the perpetrator used no disguises or masks during the robbery, was not difficult to identify, and it was not Krott, the identity of the perpetrator is a completely different description than that of what Krott looks like.

Now reverting back to the meat of this claim, with the probable cause for the 2/15/2006 arrest, it's imperative out of respect for the Honorable Justice's time, and the value of his decision , to determine the probable cause for the 2/15/2006 arrest. If the robbery was the probable cause for the arrest, then there is no reason to continue with this petition.

Krott was convicted of the robbery on 8/2/2007. The probable cause for the arrest affidavit was notarized on the 16th day of February, 2006. The ONLY two statements in the affidavit that can legally apply to Krott's arrest, is; 1)" The Def. Has the above active warrant and was apprehended based on this warrant", and "Def. Made post-miranda admissions to the robbery and wrote a letter of apology to the victim teller". When you read the letter and are shown in Exhibit-D, how the detective forced Krott to write the letter, Krott apologizes for the "someone's"misery over their addiction to cocaine. Nothing was insinuatedthat Krott had anything to do with the robbery. If the detective did not force Krott to write the letter, it would not have ever been written.

Lets start at the beginning with the probable cause for the arrest affidavit. It should be noted first though, the Offense Report Number, 06-19733 has been used as a reference in the search for the warrant under case number 97024022TC10A,