

ORIGINAL

18-7831

FILED
JUL 01 2018

OFFICE OF THE CLERK
SUPREME COURT, U.S.

IN THE

SUPREME COURT OF THE UNITED STATES

CURT M. LOCKETT — PETITIONER
(Your Name)

vs.

STATE OF FLORIDA — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

FLORIDA FOURTH DISTRICT COURT OF APPEAL

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Curt M. Lockett

(Your Name)

Reception & Medical Center, P.O. Box 628

Graceville Correctional, 51168 Ezell Road

(Address)

Lake Butler, Florida 32054

Graceville, Florida 32440

(City, State, Zip Code)

N/A

(Phone Number)

QUESTION(S) PRESENTED

1. Should a Circuit Court be legally bound to hear a petitioner's motion to correct illegal sentence after the petitioner has been pro se barred from that court ~~for~~ for filing "meritless" motions when the current motion is timely and has legal merit?

(Neither of the previous "meritless" filings were challenging the legality of the sentence)

2. Does the circuit court's refusal to hear petitioner's meritorious motion to correct illegal sentence violate the due process rights of petitioner, regardless of the pro se bar?
3. Does petitioner's petition for writ of mandamus warrant relief from the appeal court?

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:

Aronberg, Dave - State Attorney, Palm Beach County
Bondi, Pamela Jo - Attorney General, Florida
Clemons, Aaron - Assistant Public Defender
Jones, Nicole - Assistant Public Defender
Kastrenakes, John S. - Circuit Judge, Fifteenth Judicial
Lockett, Curt M. - Petitioner
~~Taylor, Gross and Forst, J.J. - Florida Fourth District Court of Appeal~~
Ciklin, Levine and Conner J.J. - Florida Fourth District Court of Appeal

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TABLE OF AUTHORITIES CITED

CASES

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STATUTES AND RULES

- Florida Statutes, Rule 3.800 (a) (1)
- Florida Constitution, Article V, § 3 (6) (g)
- Florida Rules of Appellate Procedure, 9.030 (a) (3)
- Florida Rules of Appellate Procedure, 9.100 (2) (e)
- Amendment VII, U.S. Constitution

OTHER

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 _____ 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 United States district 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.

For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix A, B 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 Fifteen Judicial circuit (Palm Beach, Fla.) court appears at Appendix C 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 _____.

[] 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: _____, 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. § 1254(1).

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

April 12, 2018

The date on which the highest state court decided my case was April 12, 2018. A copy of that decision appears at Appendix A.

[] A timely petition for rehearing was thereafter denied on the following date: N/A, 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 N/A (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

- Amendment VI, U.S. Constitution
- Florida Statutes, Rule 3.800 (a) (1)
- Florida Rules of Appellate procedure, 9.100 (a) (e)

STATEMENT OF THE CASE

On May 28, 2009, Petitioner involuntarily entered a plea agreement of guilty to cases 2008CF001348, 2008CF00~~13~~7987, 2008CF007988, and 2008CF007989, and was sentenced to 15 years in prison. After conviction, Petitioner later discovered ~~that~~ evidence of his innocence of the charges, and that the sentence for case number 2008CF007988 is illegal.

Petitioner's first and only motion challenging the legality of his sentence was struck by the circuit court due to a pro se bar. Petitioner proceeded to appeal to the Florida Fourth DCA then filed a Petition for Writ of Mandamus to the same asking that, despite the pro se bar, his otherwise legally meritorious Motion To Correct Illegal sentence be heard.

Within the Charge Information for case number 2008CF007988 it states that petitioner committed a violation of Fla. Stat. 800.04 (5)(a) and (c)2 while being of the age of 18 or older between the dates January 1, 2000 and December 30, 2001. Petitioner contends that that information is defective in that he did not become of the age of 18 until April of 2002, and that, if corrected, the sentence of 15 years prison exceeds the statutory limit.

Petitioner now argues that, regardless of pro se bar for "meritless" motions of a different nature, his Motion To Correct Illegal Sentence should be heard on its merits.

Statement of case continued

Petitioner hereby asserts his right to due process of law by challenging an illegal sentence under Amendment VII, U.S. Constitution. Petitioner's Motion To Correct Illegal Sentence was timely and legally sufficient under Rule 3.800 (a)(1), Fla. Stat., which ~~states~~ states that "a court may at any time correct an illegal sentence imposed by it when it is affirmatively alleged that the court records demonstrate on their face an entitlement to that relief."

Petitioner also contends that his sentence scoresheet was incorrectly calculated, to which he entitled relief also under Rule 3.800 (a)(1), Fla. Stat., which states that "A court may at any time correct an incorrect calculation made by it in a sentencing scoresheet when it is affirmatively alleged that the court records demonstrate on their face an entitlement to that relief."

The circuit and appeal courts' failure to hear and grant proper relief to petitioner violates his rights under U.S. Law.

REASONS FOR GRANTING THE PETITION

To prevent a miscarriage of justice and correctly apply the law, Petitioner's Motion To Correct Illegal Sentence must be heard by a court of law.

If the sentence is illegal and the scoresheet is mis calculated then it must be corrected.

Wherefore, petitioner respectfully requests this Honorable Court grant him a hearing correct illegal sentence and scoresheet,

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Date: 7/1/18

Curt M. Lockett, petitioner