

No. 18-8018 ORIGINAL

FILED  
FEB 03 2019

OFFICE OF THE CLERK  
SUPREME COURT, U.S.

IN THE

SUPREME COURT OF THE UNITED STATES

MICHAEL ANTHONY KENDRICK — PETITIONER  
(Your Name)

vs.

JULIE L JONES,  
ATTORNEY GENERAL, STATE OF — RESPONDENT(S)  
FLORIDA

ON PETITION FOR A WRIT OF CERTIORARI TO

SECOND DISTRICT COURT OF APPEAL, STATE OF FLORIDA  
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

MICHAEL ANTHONY KENDRICK T59555

(Your Name)

SANTA ROSA CORRECTIONAL INSTITUTION  
5850 E MILTON ROAD

(Address)

Milton Florida 32583

(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

1. CAN A FEDERAL HABEAS COURT DISREGARD MY "PRESUME TO BE CORRECT" 28 USC 2254(e) CLAIM AND DENY TO EXPLAIN WHY?
2. CAN A FEDERAL COURT DENY A PETITIONER A CERTIFICATE OF APPEALABILITY (COA) WITH ATTACHED FACTS, IN 28 USC 2254(e)(1) CLAIM?

## 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:

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## TABLE OF AUTHORITIES CITED

### CASES

JIMMIE BURDEN JR VS  
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### STATUTES AND RULES

28 USCS 2254

3,4,5,6

### 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 11th Cir Court 18-10984-6; 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[ ] is unpublished.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 FIA MIDDLE DISTRICT, No: 3:17-cv-11010-JHE; or,  
[ ] has been designated for publication but is not yet reported; or,  
[ ] is unpublished. NOTE: 2D17-1342 WAS STILL PENDING  
DEFENDANT HAD TO WAIT UNTIL EXHAUSTED

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

The opinion of the highest state court to review the merits appears at (CONFIDENTIAL) Appendix \_\_\_\_\_ to the petition and is

reported at FIA SUPREME COURT SC17-679; or,  
[ ] has been designated for publication but is not yet reported; or,  
[ ] is unpublished.

The opinion of the SECOND DISTRICT COURT OF APPEAL, FIA court (CONFIDENTIAL) appears at Appendix \_\_\_\_\_ to the petition and is

reported at FIA 2DCA17-1342 (RENDER APPX 7-8-18?); 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 NOVEMBER 8, 2018.

No petition for rehearing was timely filed in my case. *DU<sup>E</sup> TO LEGAL EVIDENTIARY EVIDENCE DOCUMENTS CONFISCATED AUG 9, 2018*

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**: *THESE LEGAL DOCUMENTS CONFISCATED Aug 9, 2018 AND HAS NOT BEEN RETURNED, SEE EXH D IN FULL*

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

- 1 6th AMENDMENT OF UNITED STATES CONSTITUTION RIGHT TO CONFLICT FREE COUNSEL; RIGHT TO COUNSEL; RIGHT TO SELF REPRESENTATION
- 2 28 USC 2254 (e) SHALL BE PRESUMED CORRECT;  
(g) A COPY OF THE OFFICIAL RECORDS OF THE STATE COURT DULY CERTIFIED BY THE CLERK OF SUCH COURT TO BE A TRUE AND CORRECT COPY OF A FINDING JUDICIAL OPINION OR OTHER RELIABLE WRITTEN INDICA SHOWING SUCH A FACTUAL DETERMINATION BY THE STATE COURT SHALL BE ADMISSIBLE IN THE FEDERAL COURT PROCEEDING.

## STATEMENT OF THE CASE

- 1 ON JULY 11, 2005 I WAS BEING CHASED BY UNKNOWN NAMED PERSONS TO ME AT THAT TIME, LATONY BOYD WITH A BUSTED QUART BEER BOTTLE IN HER HAND ALONG WITH HER TWO ACCOMPLICES SHERECA BARNES AND ERIC WATSON. I WAS ARRESTED
- 2 JULY 12, 2005 BEFORE FIRST APPEARANCE A P.D ATTORNEY, WHO REFUSED HIS NAME, STATED HE WANTED TO REPRESENT ME THRU THE P.D OFFICE AND HE WANTED ME
- 3 TO PLEAD GUILTY AND ASK FOR LIENELY FROM THE COUNT.
- 4 I DECLINED STATING I AND MY FAMILY WAS HIRING A PRIVATE LAWYER WITH MY PENDING VA BENEFITS AND FAMILY LOANS AND I WANTED TO REPRESENT MY SELF AT FIRST APPEARANCE HEARING JULY 12, 2005. (APPX C) HE LEFT WITH MY TIMELY SIGNED SWORN CRIMINAL APPLICATION FOR INDIGENT STATUS FOR APPOINTMENT OF PUBLIC DEFENDER (P.D) STATING "I DO NOT WANT P.D SERVICES" AND LEFT EVERYTHING ELSE BLANK FOR THE JUDGE TO REVIEW. (CONFISCATED APPX D)
- 5 HE LATER RETURNED STATING THE JUDGE WAS NOT GOING TO ALLOW ME TO REPRESENT MYSELF AND HAD FORLILY APPOINTED HIM AS MY ATTORNEY. (APPX C) I REQUESTED TO CALL MY FAMILY AND A PRIVATE ATTORNEY. HE REFUSED RECOMMENDING I PLEAD GUILTY. I REFUSED
- 6 I REQUESTED TIMELY HE GATHER BUSTED QUART BEER BOTTLE EVIDENCE WITH LATONYA BOYD FINGER PRINTS ON IT FOR ME. HE REFUSED
- 7 I REQUESTED HE GATHER FAVERED WITNESS NAMES, ADDRESSES AND STATEMENTS HE REFUSED.
- 8 ON OCTOBER 27, 2005 CLERK'S OFFICE FILES 9-21-05 TRANSCRIPTS IN DEFENDANT'S CASE LISTING P.D REPRESENTS STATE WITNESSES. TIMELY COPY REQUESTED BY DEFENDANT BUT NOW MISSING. (APPX D) CONFISCATED
- 9 MARCH 13, 2018 DEFENDANT KENDRICK TIMELY FILES TO 11TH CIRCUIT COURT OF APPEALS CASE NO. 18-10984 REQUESTING A HEARING TO TRY AND PUT TO GATHER MISSING FAVERED EVIDENCE FOR APPELLATE COURT REVIEW AND PURSUANT 28 USC 2254(e), (g) AND ITS 1996 AMENDMENTS (e) PRESUME CORRECTNESS, I ALREADY HAD SOME OF, BUT NOW CONFISCATED. (APPX D) CIP FILED APRIL 3D, 2018 LISTED ON GENERAL DOCKET.
- 10 ON AUGUST 9, 2018 FLORIDA STATE PRISON OFFICIALS CONFISCATED MY ENTIRE PROPERTY INCLUDING PENS PAPER ENVELOPES AND LEGAL MATERIALS. REFUSING ME CONTACT WITH THE 11TH CIRCUIT COURT OF APPEALS WITH THIS IMPEDIMENT. 28 USC 2244(d) (APPX D)
- 11 ON OCTOBER 2, 2018 THE 11TH CIRCUIT COURT OF APPEALS DENIED ME INFORMA

STATEMENT OF THE CASE  
"CONTINUED"

PAUPERIS STATUS (WHILE MY ENTIRE PROPERTY BEING WITHHELD)  
AND EVEN THOUGH I WAS told this APPEAL WAS BEING TREATED  
AS UNDER 28 USC 2254 STATUTE. (APPX B,D) ORDER CONFISCATED  
11 ON November 8, 2018 THE UNITED STATES DISTRICT COURT FOR  
THE MIDDLE DISTRICT OF FLORIDA, DAVID J SMITH, CLERK DISMISSED  
MY APPEAL CASE No. 18-10984-G. (APPX A)  
12 A TIMELY APPEAL WAS FILED FEB 3, 2019 PURSUANT SUPREME  
COURT RULE 12.2

## REASONS FOR GRANTING THE PETITION

THE COURT OF APPEALS (11TH CIR) DID NOT MENTION THE TRIAL COURT'S FINDING OF CONFLICT WITH PD FILE ON JANUARY 19, 2006 HEARING TRANSCRIPT TRANSCRIBED AND FILED JANUARY 6, 2015 PAGE 20 LINES 18-25

“JIMMIE BURDEN JR VS WALTER ZANT  
498 US 433 AT 437  
PERTINENT PART:

“PRESUMED TO BE CORRECT” FOR PURPOSES OF A FEDERAL HABEAS CORPUS PROCEEDING, SEE 28 USC 2254(d) [28USCS 2254(d)].<sup>3</sup> A HABEAS COURT MAY NOT DISREGARD THIS PRESUMPTION UNLESS IT EXPRESSLY FINDS THAT ONE OF THE ENUMERATED EXCEPTIONS TO 2254(d) IS MET AND IT EXPLAINS THE REASONS IN SUPPORT OF THAT CONCLUSION.

AT A HEARING (WHERE AS DEFENDANT TRIED BUT WAS UNSUCCESSFUL BEFORE TRIAL, COULD KNOW THE NAME OF THE PD ATTORNEY APPOINTED BY TRIAL COURT ON JULY 12, 2005 TO REPRESENT DEFENDANT. DEFENDANT COULD HAVE HIM CROSS-EXAMINED AS TO WHAT HAPPENED TO BUSTED BEER BOTTLE WITH LATONYA BOYD FINGER PRINTS ON IT? DEFENDANT COULD HAVE HAD HIM CROSS-EXAMINED AS TO WHO THE STATE WITNESSES NAMES HE / PD OFFICE WAS REPRESENTING IN DEFENDANT'S CASE ON JULY 12, 2005 AND REAPPOINTMENT ON SEPTEMBER 21, 2005 AS STATE (9-2)-05 ATTORNEY SAID IN OCTOBER 27, 2005 FILED TRANSCRIPTS. (APPX. D MISSING) TRIAL COURT COPY MISSING ALSO

## **CONCLUSION**

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Michael A. Kunkle T59555

Date: FEBRUARY 3, 2019