

No. 18-8072

ORIGINAL

Supreme Court, U.S.
FILED

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OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

John J. Wilson, Jr. — PETITIONER
(Your Name)

Mark S. Twill; vs.
STATE OF FLORIDA — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Supreme Court of Florida
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

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PROVIDED TO MARTIN
CORRECTIONAL INSTITUTION
ON 2/13/19
FOR MAILING

QUESTIONS PRESENTED

(1) Can appellate counsel be denied, forcing a criminal defendant to represent himself in a direct appeal to the state district courts of appeal?

(2) Wouldn't denial of appellate counsel in a direct appeal constitute a violation of the 6th Amendment?

(3) Wouldn't failure by the state courts of Florida to hold an evidentiary hearing for *pro se* Defendant forced to represent himself constitute a basic and fundamental violation of criminal defendant's 1st Amendment rights to "access the courts" of the United States?

(4) Wouldn't the failure to produce transcripts for the same direct appeal in which criminal defendant was forced to represent himself, and denied counsel, constitute a violation of same criminal defendant's 5th and 14th due process rights? And alternatively, a violation of his fundamental 1st Amendment right to "access the courts"?

(5) Isn't denial of appellate counsel a violation of the 6th Amendment of the United States Constitution?

(6) Can the Supreme Court of Florida refuse to undertake discretionary review of these fundamental constitutional violations just because the District Court of Appeal has failed to issue a written opinion, *per curiam*, denying criminal defendant's cases without being represented by counsel?

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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- APPENDIX A: Denial of “Appeal of Denial of Appellate Counsel for this Direct Appeal in violation of the 6th Amendment of the U.S. Constitution, in light of Appellant’s prior documented inability to ‘access the courts’ of Florida” by the Supreme Court of Florida, dated 12/21/2018.
- APPENDIX B: Third District Court of Appeal’s denial of appellate counsel for direct appeal in L.T. case no. F15006748 on 6/26/2018.
- APPENDIX C: Denial of Motion for Re-Hearing by the Supreme Court of Florida dated 1/22/2019.
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- APPENDIX E: Original motion for appeal of denial of appointment of appellate counsel, to the Supreme Court of Florida.
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- APPENDIX H: Interlocutory Evidence of “Torture” as defined under provisions of C.A.T. to induce “pleas”.

TABLE OF AUTHORITIES CITED

- (7) *Jones v. Fla. Parole Comm'n*, 48 So.3d 704 (Fla. 2010);
- (8) *Sneed v. Mayo*, 69 So.2d 653, 654 (Fla. 1954);
- (9) *Huffman v. State*, 813 So.2d 10, 11 (Fla. 2000);
- (10) *Schriber v. State*, 959 So.2d 1254 (Fla. 4th DCA 2007);
- (11) *Searcy v. State*, 971 So.2d 1008 (Fla. 3rd DCA 2008);
- (12) *Brady v. Maryland*, 83 S.Ct. 1193 (1963);
- (13) *Giglio v. United States*, 92 S.Ct. 763 (1972);
- (14) *Lopez v. State*, 536 So.2d 226, 229 (Fla. 1988);
- (15) *Procunier v. Martinez*, 416 U.S. 396 (1974);
- (16) *Lewis v. Casey*, 578 U.S. 343 (1996)

STATUTES AND RULES

- (17) Rule 9.200(a)(3) of the Fla.R.App.P. (Judicial Acts to be Reviewed)
- (18) Rule 9.330 of the Fla.R.App.P. (Right to Re-Hearing)
- (19) Rule 3.111 of the Fla.R.Crim.P. (Right to Counsel)
- (20) Rule 3.170 of the Fla.R.App.P. (Right to Withdraw Plea)
- (21) § 777.04 (s. 775.082, s. 775.083, s. 775.084) Fla. Crim. Stat.
- (22) 18 U.S.C. § 1512(a)(2) (Threatening litigants in federal litigation)

(23) § 834 Fla. Crim. Stat. (Concealment of Evidence)

* Rule 9.030(2)(A) and 9.120 of the Fla.R.App.P. (Discretionary
Review)

OTHER

(24) *Ex parte Hull*, 312 U.S. 546 (1941);

(25) *Pembaur v. Cincinnati*, 475 U.S. 469 (1986);

(26) *Monell v. Dept. of Social Services of the City of New York*, 436 U.S.
659 (1975).

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 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 Third District Court of Appeal court appears at Appendix B 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**:

The date on which the highest state court decided my case was 12/21/18.
A copy of that decision appears at Appendix A.

☒ A timely petition for rehearing was thereafter denied on the following date: 1/22/19 and a copy of the order denying rehearing appears at Appendix C.

☐ 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

(27) 6th Amendment violations through failure to appoint appellate counsel for direct appeal, and failure to appoint conflict-free counsel in the L.T. court through assignment of one in the same attorney to both case no. F15006748 and case no. F15001083 (and then to direct appeal 3D15-2653).

(28) Violations of the 8th Amendment cruel and unusual punishment clause for cause of false arrests, and then “torture” as defined under provisions of C.A.T. (Convention Against Torture) to induce “pleas” to prevent all evidence from reaching the light of a courtroom of competent jurisdiction.

(29) 1st Amendment violations by preventing and/or obstructing Appellant’s “access to the courts” of the United States.

(30) 5th and 14th due process violations through the prevention of this case from going to trial, the serial deprivation of conflict-free counsel, and the abject prevention of all key evidence from coming to light. See *Brady, Id.*, and *Giglio, Id.*

(31) See violations of 18 U.S.C. § 1512(a)(2), as a result of retaliation for appellant’s efforts to bring this evidence to light, through federal civil litigation, pursuant to 42 U.S.C. § 1983.

STATEMENT OF THE CASE

I.

PROCEDURAL HISTORY AND STATEMENT OF FACTS

(32) This case arises out of State of Florida criminal case no. F15001083, whereby criminal defendant and Petitioner was bonded out of jail by U.S. members of 'T,' at the behest of U.S. intelligence, and members of the United States security apparatus, pursuant to federally authorized covert U.S. special access intelligence program, codenamed "Duke Magog," of which Petitioner is employed and is a participant.

(33) After being out of jail for only four days, Petitioner was "set up" in an intelligence "sting" at T.D. Bank as a direct result of Petitioner's participation in this program, and arrested on April 1st, 2015 in North Miami, resulting in State of Florida criminal case no. F15006748.

(34) All conflict-free counsel was deprived in both case no(s) F15001083+84 and F15006748 through falsely claimed, and erroneously granted "conflict of interest" by both the Office of the Miami-Dade County Public Defender, Carlos J. Martinez, and Office of Regional Counsel, through principal, Mr. Eugene Zenobi, so State co-opted criminal counsel from Palm Beach County could be assigned to both cases, Mr. Charles G. White, bar no. 334170.

(35) Petitioner was made to languish in Miami-Dade County Jail for over two years in case F15006748 without being taken to court, or able to reach an

attorney, after being forced to represent himself at trial as a direct consequence of being assigned this same attorney in case no. F15001083 and sentenced to more than 20 years State prison on charges which did not constitute the elements of the alleged crimes.

(36) Actual court transcripts were then falsified, and proceedings omitted from the record of direct appeal no. 3D15-2653, in which one in the same trial and appellate counsel was assigned, Charles G. White of Palm Beach County, resulting in collateral civil complaint no. 1:16-cv-23511-MGC (USCA no. 18-12895-‘A’.)

(37) To prevent evidence of the “sting” operation in question in case no. F1500674/8 from being exposed and to protect the identities of the operatives in question responsible for posting bond of Petitioner, Petitioner was systematically denied “access to the court” and deprived of the ability to reach or speak with an attorney, in stark violation of both the 1st and 6th Amendments of the U.S. Constitution.

(38) “Torture” as defined under provisions of C.A.T. (Convention Against Torture) was then utilized to induce “pleas,” to prevent all evidence from reaching the light or record of a courtroom of competent jurisdiction, or trial scenario, as evidenced by subsequent filings to the Supreme Court of Florida under collateral mandamus action: SC18-1870, and collateral civil complaint no. 18-210-CA, filed in the Nineteenth Judicial Circuit of Martin County, Florida. See *Brady v.*

Maryland, 83 S.Ct. 1194 (1963) and *Giglio v. United States*, 92 S.Ct. 763 (1972);

See appendix 'G' and 'H'.

(39) Plaintiff pleads for relief from this court based on the summary denial of appeal for appointment of appellate counsel in direct appeal no. 3D18-0483, and the denial of the Supreme Court of Florida to undertake discretionary review of the fact the third district court of appeal denied appellant assistance of counsel, in stark contradiction to the 6th Amendment; then later denied petition under case no. SC18-1807. See Appendix 'A', and 'B'.

II.

LEGAL ARGUMENT: CONTRADICTORY CASE LAW CITED BY THE
SUPREME COURT OF FLORIDA TO AVOID ACKNOWLEDGING
APPELLANT'S 6TH AMENDMENT RIGHTS WERE VIOLATED, THROUGH
DENIAL OF APPELLATE COUNSEL, AND THE SERIAL DEPRIVATION OF
CONFLICT-FREE COUNSEL THROUGHOUT THE TERM OF THE L.T. CASE

(40) Contradictory case law was cited by the Supreme Court of Florida in its denial to undertake discretionary review of Appellant's denial of application for appellate counsel in 3D18-0483 (See Appendix 'B'), and later in SC18-1807 (see Appendix 'A').

To wit:

(a) *Jones v. Fla. Parole Comm'n*, 48 So.3d 704, 710 (Fla. 2010), and *Sneed v. Mayo*, 69 So.2d 653, 654 (Fla. 1954) is distinguishable from this case at bar, and does not supersede the fact Appellant's 6th Amendment

rights to be represented by conflict-free counsel – both on appeal and the L.T. court – should have been upheld. See Appendix ‘A’.

(b) In *Huffman v. State*, 813 So.2d 10, 11 (Fla. 2001), the Supreme Court applies Appellant’s petition to be construed as a “Writ of Mandamus,” and states:

“To the extent Petitioner seeks the type of relief available by petition for writ of mandamus, because Petitioner has failed to show a clear legal right to the relief requested, the Petition for writ of mandamus is hereby denied,” [citing] *Huffman, Id.*

which is a categorically false statement, to wit: Petitioner has demonstrated unequivocally and irrefutably his “legal right” to conflict-free appellate counsel, which encompasses the substantive gist of Petitioner’s entire petition. This injustice must be rectified in accordance with the upholding of the 6th Amendment by this court as a “venue of last resort.”

(c) The Supreme Court of Florida also has declined to undertake discretionary review of 3D18-0483 as it was denied “*per curiam*”, without an opinion, in lieu of the fact appellant in this case was denied counsel, and forced to represent himself. This policy by the court is in contradiction to the upholding of laws applicable to the United States Constitution, which this court must change.

III.

AS A MATTER OF CONSTITUTIONAL PRECEDENT, ALL MATERIAL
TRANSCRIPTS WITHHELD FROM THE RECORD OF DIRECT APPEAL, AND
ONE PETITIONER UNABLE TO OBTAIN ANY AND ALL RECORDS PRO SE
CONSTITUTING A VIOLATION OF THE 1ST AMENDMENT'S FUNDAMENTAL
GUARANTEE TO "ACCESS OF THE COURT"

(41) This case also presents an issue of 1st Amendment right to fundamentally "access the court." As a result of Petitioner being denied counsel, he has collaterally been obstructed from obtaining all pertinent material transcripts of proceedings, leading to violations of discovery on appeal which was failed to be addressed by either the district court of appeal in its per curiam denial (See Appendix B) or the Supreme Court of Florida, in its denial to undertake discretionary review, and then its denial in SC18-1807 (See appendix A).

(42) Petitioner requests this court to rectify this flagrant injustice to "access of records" and by extension, "access to courts" of Florida, by undertaking its own review through the shining of its bright light by granting of this petition for writ of certiorari, to ensure this fraud is not perpetrated on anyone else.

REASONS FOR GRANTING THE PETITION

(43) Contradictory and/or frivolous case law is routinely being cited as a basis for cause to deny appellate review by the District Courts, and Supreme Court of Florida, that glaringly conflict with the laws and tenets of the civil rights embodied in the United States Constitution, which left unchecked, could contribute to the devolution of the State itself into what has come to be euphemistically termed a “police state,” devoid of individual constitutional rights and liberties, the foundation of our nation as a republic.

(44) The policy in force in the Supreme Court of Florida to decline to undertake discretionary review without an “opinion” from the district court of appeal is fundamentally flawed, as this case a paragon example: egregious constitutional violations were committed by the L.T. court, and to “cover up” all evidence of wrongdoing, or actual criminal malfeasance, the district court of appeal intentionally failed to do its job, and simply denied the appeal, through deprivation of counsel, *per curiam*, thereby precluding the Supreme Court of Florida to undertake notice, because it lacked an ‘*opinion*’.

(45) This case presents an opportunity for this court to change this policy and rectify chattel injustice inherent to the State of Florida court system.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Date: 2/13/19

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