

CASE NUMBER 18-818

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ORIGINAL

IN THE SUPREME COURT OF THE UNITED STATES

Supreme Court, U.S.
FILED

DEC 28 2018

OFFICE OF THE CLERK

JERMAINE CLAYTON WILLIAMS

Petitioner,

v.

GOVERNOR, ET AL
SECRETARY

Respondent.

On Certiorari to the UNITED STATES COURT OF APPEALS

PETITION FOR WRIT OF CERTIORARI

Petitioner: Jermaine C. Williams
#L16215
Taylor CI - Inmate Legal Mail
8501 HAMPTON SPRINGS RD
PERRY, FL 32348-8747

Respondent: Attorney General, State of Florida
Phone # (850) 487-1963
PL-01, The Capitol,
Tallahassee, Florida 32399-1050

QUESTION PRESENTED:

WHETHER THE PLEA AGREEMENT AFFIRMED BY THE LOWER TRIBUNAL
JUDGMENT VIOLATED THE CONTRACT AND DUE PROCESS CLAUSES OF
THE UNITED STATES CONSTITUTION

LIST OF PARTIES

All parties appear in the caption of the case on the cover page. **If Applicable.**

ADDITIONAL PARTIES

Bailey, The Honorable Dennis D.	Horn, Mark
Bailey, The Honorable Tim	Levine, The Honorable Spencer D.
Bondi, Pamela Jo	May, The Honorable Melanie G.
Ciklin, The Honorable Corey J.	McCollum, Bill
Conner, The Honorable Burton C.	Midler, Lewis
Crist, Charlie	Morgan, Kayo
Damoorgian, The Honorable Dorian K.	Multack, Spencer
Dimitrouleas, The Honorable William P.	Rosen, Samantha
Finkelstein, Howard	Satz, Michael J.
Forst, The Honorable Alan O.	Schweiker, Larry
Germanowicz, Jeanine	Stevenson, The Honorable W. Matthew
Gerber, The Honorable Jonathan D.	Taylor, The Honorable Carole Y.
Gold, The Honorable Marc H.	Vogel, Julie M.
Greene, The Honorable Charles M.	Warner, The Honorable Martha C.
Gross, The Honorable Robert M.	
Haimes, The Honorable David A.	

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TABLE OF AUTHORITIES

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 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☐ is unpublished.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 United States district court appears at Appendix D 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☐ is unpublished.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 _____ 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 _____ 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.

JURISDICTION

☒ For cases from federal courts:

The date on which the United States Court of Appeals decided my case was
10/02/2018.

☐ 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: 10/23/2018, and a copy of the order denying rehearing appears at Appendix A.

☐ 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 _____.
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

PART 1) : NO STATE SHALL PASS ANY LAWS IMPAIRING THE OBLIGATION
OF CONTRACTS (ARTICLE 1 SECTION 10)

PART 2) : NO PERSON SHALL BE DEPRIVED OF LIFE, LIBERTY, OR
PROPERTY WITHOUT DUE PROCESS OF LAW. (ARTICLE VII, AMENDMENT VI,
AMENDMENT XIV)

**AFFIDAVIT AND
STATEMENT OF THE CASE**

On or about December 10, 2003, while I was serving a Federal sentence imposed for an incident which occurred on October 20, 2000, I was arrested by the Broward County Sheriff on a charge of Murder in the First Degree. After the Public Defender was appointed to my case, I told him on several occasions that I wanted a Jury trial because I did not kill or attempt to kill anyone, however the Public Defender kept on telling me not to worry because the case would be dismissed due to a speedy trial violation. After the Motion to Dismiss was denied, the Public Defender told me that because I had pled guilty to Federal offenses, I did not have the luxury or option of picking a Jury. The Public Defender told me that unless I wanted to spend the rest of my life in prison, his best advice was to plea no contest at the mercy of the Court and the Judge would be lenient in considering imposition of a twenty (20) year mandatory minimum sentence, because a Jury would find me guilty after hearing that I Plead guilty in Federal Court.

I accepted the Public Defender's advice and signed a Plea Agreement which specifically stated that, "I know that a plea of No Contest or Nolo Contendere is a plea of convenience. If I plea No Contest I know that I am not admitting that I did anything. I am saying that I consider it to be in my best interest to resolve the matter at this time by giving up the rights listed on the front and back of this form"; "and I am satisfied with the advice and representation I have received from my Attorney and am entering this plea with his or her advice." Because the Plea Agreement was consistent with what the Public Defender told me, I honestly believed that by pleading No Contest, the Judge would be lenient and sentence me to twenty years and I would only serve five (5) more years after being released from Federal Prison. However, on August 19, 2005, I was sentenced to Natural Life imprisonment.

On or about September 15, 2010, while I was still in Federal Prison, Florida's Fourth (4th) District Court of Appeals reversed and remanded my claims of ineffective assistance of trial Counsel to the

Circuit Court for further proceedings. I was discharged from Federal Prison on May 1, 2014, and the State Court's summarily denied all subsequent Post Conviction Motions as untimely because I had failed to timely comply with an Order to Amend dated December 21, 2010, although I had asserted under Oath that I never received an Order to Amend from the Circuit Court or Federal Prison officials until on or about February 21, 2013.

On or about October 26, 2017, I petitioned the U.S. District Court for relief, alleging that I was denied due process of law during trial, on direct appeal, and subsequent post conviction proceedings. The Petition was referred to a Magistrate, and a response was filed alleging that I had failed to comply with an Order to Amend dated December 21, 2010. However, because Respondents failed to produce a copy of the alleged Order dated December 21, 2010, I filed a Traverse objecting to the use of substitute records, requested Discovery of the omitted materials as relevant to a proper determination of the Petition, and requested a Due Process

hearing or evidentiary hearing. Prior to the Magistrate issuing a Report and Recommendation, the U.S. District Judge withdrew reference to the Magistrate, denied the Petition as untimely, and denied a Certificate of Appealability. I timely filed for relief from Judgment and subsequently petitioned the United States Court of Appeals to review the District Court proceedings.

REASONS FOR GRANTING THE WRIT

Freedom of Contract is a fundamental principle of American Jurisprudence, and the United States Supreme Court is of the opinion that Plea Agreements are contractual in nature being subject to the principles of contract. Fraud vitiates any contract, and any Plea Agreement containing the elements of fraud violates the Federal Constitution's guaranteed of fundamental Due Process. BC 139-AG, authorized for use by Florida's Attorney General, is a standard ...

Plea Agreement employed by the Circuit Court of Broward County during criminal proceedings, and it is undisputed that several thousand persons have entered into this Agreement with the Attorney General of Florida. BC 139-AG is essentially a confessed Judgment binding on all parties to the Agreement.

BC 139-AG, which has been employed in hundreds of proceedings contains misleading statements that misrepresents issues of material facts, that were known or should have been known by the State's Attorney to be false at the time it was made, were made for the sole purpose of inducing a Class of Persons to act in reliance thereon, which resulted in significant injury or loss of liberty interest to a Class of Persons acting in reliance on the correctness of the representation. BC 139-AG also lacks full disclosure in accordance with the fundamental Due Process requirement of "Fair Notice".

However, due to the nature of the proceeding involved

and the circumstances surrounding each individual Agreement, the unconstitutionality of BC 139-AG affects a very limited Class of Persons despite the fact that several thousand persons may have executed this Agreement. Therefore, because specific elements are required to establish fraud, the Class of Persons affected by the unconstitutionality of BC 139-AG is limited to a Class of Persons who entered unbargained for Nolo Contendere Pleas or Open No Contest Pleas, and actually received the maximum penalty authorized by Law.

CONCLUSION

For the foregoing reasons, this Court should grant the writ of certiorari in this case, appoint counsel for Petitioner to represent him in this cause, and order full briefing.

Respectfully submitted,

Jermaine C. Williams
Taylor CI - Inmate Legal Mail
8501 HAMPTON SPRINGS RD
PERRY, FL 32348-8747

by: 

NOTARIZED OATH

STATE OF FLORIDA)

CASE NO: SC

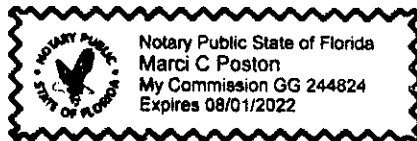
County of TAYLOR)

Before me, the undersigned authority, this day personally appeared JERMAINE WILLIAMS, who first being duly sworn, says that he or she is the petitioner in the above-styled cause, that he or she has read the PETITION FOR WRIT OF CERTIORARI, has personal knowledge of the facts and matters therein set forth and alleged and that each and all of these facts and matters are true and correct.



AFFIANT

SWORN TO AND SUBSCRIBED before me this 28th day of December, 2018, by Jermaine Williams, DC# L16215, who has produced his Florida Department of Corrections Inmate I.D. as identification, and who did take an oath.




NOTARY PUBLIC, STATE of FLORIDA

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I placed a true and correct copy of this document in the hands of Florida Department of Corrections Officials for mailing to:

Attorney General, State of Florida

PL-01, The Capitol,

Tallahassee, Florida 32399-1050

on this 28th day of December 2018.

cc: State Attorney's Office