No. 18-8347

IN THE

SUPREME COURT OF THE UNITED STATES

JASON ALLEN TISZAI,
Petitioner,

vs.

SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, et al,
Respondent(s).

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEAL FOR THE FIFTH CIRCUIT

PETITION FOR WRIT OF CERTIORARI

JASON TISZAI DC #D35514
OKEECHOBEE CORRECTIONAL INSTITUTION
3420 N.E. 168th STREET
OKEECHOBEE, FLORIDA, 34972

QUESTION(S) PRESENTED

WHETHER THE STATE OF FLORIDA VIOLATED PETITIONER'S CONSTITUTIONAL RIGHT TO A SPEEDY TRIAL INVOKED BY PETITIONER PURSUANT TO ARTICLE 3(a) OF THE INTERSTATE AGREEMENT ON DETAINERS ACT (IADA)?

WHETHER THE STATE COURT'S DETERMINATION OF THE FACTS UNREASONABLE, WHERE THE FACTS OF PETITIONER'S CASE WERE IDENTICAL TO OTHER DEFENDANTS WHO WERE GRANTED RELIEF PURSUANT TO THIS COURT'S HOLDING IN FEX v. MICHIGAN.

WHETHER THIS COURT SHOULD ACCEPT JURISDICTION TO RESOLVE THE CONFLICT IN THE FEDERAL COURTS REGARDING THE ISSUE PRESENTED IN QUESTION ONE HEREIN.

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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STATUTES AND RULES

IN THE
SUPREME COURT OF THE UNTIED 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☐ is unpublished.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☐ is unpublished.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 Tiszai v. State, 90 So. 3d 304 (Fla. 5th DCA 2012) ;or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the 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☐ is unpublished.

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 July 5, 2012 A copy of that decision appears at Appendix **A**.

☒ A timely petition for rehearing was thereafter denied on the following date: June 13, 2012 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. § 1257(a).

INVOKING THE COURT'S JURISDICTION

The U.S. Supreme Court has Jurisdiction to decide this case under 28 U. S. C. § 1257(a), which authorities the Court to review by appeal "Final Judgments".....rendered by the highest court of a State in which a decision could be had.... where is drawn in Question the validity of a statute of any State on the ground of its being repugnant to the Constitution .... and the decision is in favor of its validity. See Duquesne Light Co. v. Barasch, 109 S. Ct. 609 at 611 (1989). See also 28 U. S. C. § 1651(a) and Federal Rules of Civil Procedure, Rule 60 (b) (6) and 60 (d) to vacate the orders and judgments of lower courts for fraud upon the Court and where the Court being an interested party to the outcome of the proceedings, should have recued and passed jurisdiction to another unbiased Court.

The trial court entered its order denying Petitioner's Motion to Dismiss the indictment pursuant to Article 3 (a) of the Florida Statute Annotated Statute §941.45, Interstate Agreement on Detainer Act, which has been presented and the outcome of further proceedings is now preordained. The trial court's interpretation and application of the aforementioned statute as adopted and upheld by the 5th DCA's order, does not leave its effecting doubt. All state court proceedings are completed for purposes of Certiorari. See Cox Broadcasting Corp. v. Cohn, 420 U.S. 469, 477, 95 S. Ct. 1029 (1975).

Further, the Florida Supreme Court denied discretionary review – as well with rehearing. The Florida Supreme Court has denied/rejected the opportunity to correct the error.

The Supreme Court has Subject-matter Jurisdiction over this instant appeal for certiorari under 28 U. S. C. § 1257(a) whereas: The Constitutionality of Florida Statute §941.45, Article 3(a) was "drawn into question" within the meaning of §1257(a) where the trial court misconstrued the statute without exception, opinion adopted by the 5th DCA and review was rejected by the State Supreme Court. Whereas, the Statute was drawn into question in a manner directly bearing upon the merits of the action. The decision upholding it constitutional validity involves this Court's Appellate Jurisdiction. See Duquesne Light Co. v. Barasch, 109 S. Ct. 609 (1989); 28 U.S.C. §1257 (1982ed); 28 U.S.C. §1651(a); and Federal Rules of Civil Procedure, Rule 60(b) & 60(d). This Court has Jurisdiction.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Florida Statute § 941.45

STATEMENT OF THE CASE

On May 13, 2008, Petitioner was charged via indictment with § 782.04 (1) (a) (1), Murder in the First Degree – Count 1; Burglary of a Dwelling w/ass. Battery, § 810.02 (2), Count 2; Grand Theft of a motor vehicle § 812.014 (c) 6, Count 3.

In June of 2008 Petitioner was sentenced to serve a sentence of 2 ½ years – 5 years in the Michigan Department of Corrections (MDOC). Sometime in July 2008, while being processed into MDOC, Petitioner was informed that due to having a detainer from the State of Florida, his security level within prison would be drastically increased – which would ultimately affect his ability to participant in his court ordered rehabilitation programs. At no point was Petitioner informed of his right under the Interstate Agreement on Detainers Act (IADA) Article 3 (a), Request for Final Disposition.

A prison law clerk informed Petitioner that Article 3 (a) of the IADA could be invoked in order to receive speedy deposition of the Detainer against him. Petitioner immediately began writing prison officials to resolve the detainer. On July 21, 2008 Petitioner sent a "Prison Kite" to MDOC prison officials stating;

> According to Policy, O. P. 03.01.120, the records office supervisor shall insure that the appropriate law enforcement agency is contacted to confirm status of a pending felony charge. I am hereby requesting a "Request for Final Disposition" to be sent. In addition, I would like to receive a copy of that "Request for Final Disposition". Also, I would

like a proof of incarceration. Thank you for your time and patience in regards to dealing with this matter." (App. C1)

The MDOC officials replied stating;

"You can request final disposition by contacting the court or law enforcement agency [signed] Records Office" App. C1

After receiving response from MDOC, Petitioner sent a "Request for Final Disposition" to the Orange County Clerk and the Orange County Sheriff's Department – which were received on September 10, 2008. (App. E1-E2) The Sheriff's Dept. responded by directing Petitioner to contact the Orange County Clerk (App. F1). The Orange County Clerk of Court responded stating "no case was pending" against Petitioner (App. F2). Again on October 13, 2008, Petitioner sent a letter to the Orange County Sheriff, asking why a detainer was placed against him if there were no case pending against him, based on the Clerk of Court's response. (App. G) The Sheriffs Dept. then forwarded the letter to Judge Marc Lubet, who forwarded the letter to the Office of the State's Attorney – who received it October 30, 2008.

On March 6, 2009, Petitioner was arraigned and waived NO time periods. On April 9, 2009 Petitioner filed a pro se Notice of Expiration pursuant to Fla. R. Crim. P. 3.191 (p) 2 notifying the court that "as of March 9, 2009, the 180 day time frame expired – speedy trial invoked under Article 3 (a) of the IADA- Which was stricken due to having counsel (App H). On April 29, 2009, after Petitioner moved to dismiss the charges, trial court determined that October 30, 2008's informal

letter of inquiry to the Sheriff – not the September 10, 2008 notice, which was in compliance with statutory standard was – the effective date when the 180 day clock provided under IADA began to run – meaning the expiration of the 180 days was that day, April 29 2009. Trial Counsel filed a Notice of Expiration on that day. Trial Court held a hearing the next day on the N.O.E. and trial began May 5, 2009 – 235 days after Petitioner's initial request for final disposition was received and filed (24 days after Petitioner filed his pro se Notice of Expiration).

Trial Court adjudicated Petitioner guilty on all counts and sentenced him to Life for Count 1; 25 years for Count 2 – consecutive to Count 1; and 5 years concurrent to Count 2 for Count 3.

Direct Appeal was to the 5th DCA and judgment was affirmed, per curiam on July 5, 2012. Citation is at Tiszai v. State, 90 So. 3d 304. A timely § 2254 Petitioner for Writ of Habeas Corpus was filed and denied on merits – along with denial of C.O.A. by the Middle District Court in Orlando, Fla. A subsequent denial of a timely filed application for C.O.A. was issued by the 11th Circuit Court of Appeals on June 6, 2018 as well as a Motion for Reconsideration on October 19, 2018.

The instant, Petitioner asserts that Florida Statute § 941.45 was unconstitutional as applied and served to suspend the constitutional writ of habeas corpus in regards to issues of lack of jurisdictional subject matter, fundamental error and due process.

REASON FOR GRANTING THE WRIT

The State Court decided an important question of law in a way that expressly and directly conflicts with decisions of the United States Supreme Court and the United State Constitution.

Florida legislature enacted statute § 941.45, Interstate Agreement on Detainer Act (IADA) in accordance with 18 U.S.C. App. § 2, which binds the state to strict adherence of the statutory provisions. At time of Petitioner's invocation and subsequent trial proceedings, Florida was an active participant of the IADA.

The United States is party to the IADA see 18 U.S.C. App. §2 at 682, and is subject to the 180 day provisions in Article 3 (a). Article 3 (a) of the IADA requires that a prisoner against whom a detainer has been lodged be brought to trial within 180 days after officials in the charging state have received the prisoner's request for final disposition of the outstanding charges.

Article 3 (b) states:

> "The written notice and request for final disposition referred to in paragraph (a) hereof shall be given or sent by the prison Warden, Commissioner of Corrections, or other official having custody of him, who shall promptly forward it together with the certificate to the appropriate prosecuting official and court by registered or certified mail, return receipt requested.

Further, Article 3 (c) entails;

> "The Warden, Commissioner of Corrections, or other officials having custody of the prisoner shall promptly inform him of the source and contents of any detainer

> lodged against him and shall also inform him of his right to make a request for final disposition of the indictment information or complaint on which the detainer is based."

As this Court precedent with its ruling in Carchman v. Nash, 473 U.S. 716, 719 (1985), "As 'a congressionally sanctioned interstate compact,' the IADA is a federal law subject to federal construction: (emphasis added) and with this Court's decisions construing the IAD, it has properly relied upon and emphasized the purpose of the IAD in Cuyler v. Adams, 449 U.S. 433, 448-450, 101 S. Ct. 703, 711-12, 66 L. Ed. 2d 641 (1981); United States v. Mauro, 436 U.S. 340, 361-62, 98 S. Ct. 1834, 1848, 56 L. Ed. 2d 329 (1978); the questions asserted in this Petition present issues that falls within the parameters of this Court's review due to the District and Circuit Court's contrary "cookie cutter decisions" to that of this Court. See Fex v. Michigan, 507 U.S. 43 (1993).

The questions presented stem from two (2) points; **1)** Whether the Michigan Department of Corrects (MDOC) perpetrate an act of "government negligence" when it blatantly and adamantly refused to assume the responsibilities pursuant to Article 3 (b) & (c) of the IADA – excusing any technical defaults in Petitioner's pro se attempts to invoke speedy trial under Article 3 (a) and if so **2)** Trial Court and State's Attorney prosecuted and sentenced Petitioner unlawfully through use of a null and void indictment based off of a miscalculation of the 180 day clock.

Throughout the procedural history of this issue before State courts of Appeal and both the Federal District and Circuit Court of Appeal one simple fact of this

case has remained unrefuted; the fact that MDOC prison officials failed to properly inform Petitioner of the detainer against him and the appropriate method to seek speedy disposition, pursuant to Article 3 (b) & (c) of the IADA.

As documented in the attached Appendix with this brief and alluded to in the aforementioned Statement of Facts, Petitioner learned of the IADA through a prison law clerk and, NOT ONCE, but repeatedly, wrote his prison records office, imploring them to invoke his right to a speedy disposition pursuant to Article 3 (a). Though thwarted and misinformed, due diligence was exercised and Petitioner, following statutory standards, ensured that a Notice for Request for Final Disposition was served on the jurisdiction of where the detainer stemmed from – in fact, did so in a manner as to specified parties by his prison records office. The "Court & law Enforcement Agency" (App. C1).

Whether governments or the prisoner have met the standards of the IADA is a mixed question of law and fact such questions are reviewed de novo. See United States v. McConney, 782 F. 2d 1195, 1202 (9th Circuit 1984); Johnson v. Stagner, 781 F. 2d 758, 761 (9th Cir. 1986) (applying de novo review to habeas appeal regarding IADA rights).

Article IX of the Act states, "[t]his Agreement shall be liberally construed so as to effectuate its purposes." Because of the severity of the remedy, a prisoner must strictly comply with the formal notice requirements of the Act, Johnson v. Stagner, 781 F. 2d 758, 761 (9th Cir. 1986), and the prisoner has the burden to

show that a request for speedy trial was made. United States v. Moline, 833 F. 2d 190, 192 (9th Circuit 1987). Nevertheless, in cases where the government had failed to meet its obligation and the prisoner attempted, but through no fault of his own failed to comply with the technical requirements of the Act, the IADA'S remedial provisions still apply. United States v. Smith, 696 F. Supp. 1381, 1383 (D. Or. 1988); Nash v. Jeffes, 739 F. 2d 878 884 (3re Cir. 1984); rev. denied on other grounds, Carchman v. Nash, 473 U.S. 716, 105 S. Ct. 3401, 87 L. Ed. 2d 516 (1985).

The clear purpose of the IADA was to promote the "expeditious and orderly dispositions" of untried complaints against prisoners. § 18 U.S.C. App. Article 1. The prisoner is responsible for making a request in writing for a speedy trial to the prison official in charge of him. Id. Article 3 (b). Together with a certificate stating the conditions of the prisoner's current imprisonment, the prison official is then to forward that request "to the appropriate prosecuting official and court by registered or certified mail, return receipt requested." This is the statutory procedure by which the prisoner satisfies his obligation to "cause [] to be delivered to the prosecuting officer "his request for a speedy trial." Id. Article 3 (a).

> "[A] Prisoner's rights under the IADA should not be subjected to intentional or negligent sabotage by government officials. To adopt the government's position would allow prison officials to undermine prisoner's speedy trial rights by neglecting to perform their statutory duties." Taken from U.S. v. Smith, 696 F. Sup. At 1384-85.

In United States v. Reed, 910 F. 2d 621 (9th Cir. 1990) and United States v. ZFaty, 44 F. Supp. 2d 588 (S. D. N. Y. 1999), the defendants were not provided with federally sanctioned speedy trial request forms and therefore, successfully argued that it was the result of government negligence that they were unable to comply with the IADA's procedural requirements for making a demand for speedy trial.

Although the government notified Reed of the charge against him, it misled him about how to file a proper speedy trial request. Petitioner's Appendix provides this Court with more than enough evidence to prove that the expression "similarities of cases" is an gross understatement in respect to the question presented to this Court. As for ZFaty, the District Court for New York deemed a over simplified correspondence o the Court stating, "I wish to be brought to trial on these untried charges as soon as possible", more than sufficed to invoke the right to speedy trial pursuant to Article 3 (a) of the IADA. Whereas, with Petitioner, he utilized verbiage standard for the statute AND procured certified mail, return receipt requested.

Taken from ZFaty; "administrative inertia does NOT license the government to obscure the rights of prisoners without consequences" and further stated, "it is entirely conceivable that in the future a court might have grounds to conclude that the government's continued use of paperwork that on its face fails to properly

advise prisoners of how to give effect to their speedy trial requests is evidence of lack of good faith that might give rise to estoppel."

In this case, contrary to the IADA's requirements, Petitioner was never informed of his rights under the statute. MDOC was required to, but DID NOT, provide Petitioner with standardized forms promulgated by the MDOC that would normally accompany DOC "Notice of Detainer" form. The printed forms would have provided Petitioner with a simple procedure for initiating an IADA request by signing the forms and/or checking box(es). As a result, considering his lack of information, Petitioner can hardly be expected to have exactingly with the IADA's procedural requirements.

While Petitioner concedes that his Sept. 10 2008 notice did not punctiliously comply with the IADA's procedural requirements (by unknowingly failing to send a copy to the State Attorney's Office as well as the Circuit Court Clerk) he argues that he substantially complied with the IADA's central requirements, and as a result, the IADA's remedial should apply. See U.S. v. Reed, 910 F. 2d 621, 624 (9th Cir. 1990).

Lastly, the Third Federal Circuit Court of Appeals' ruling in U.S. v. Dent, 149 F. 3d 180, concerning the IADA should further differentiate Petitioner's meritorious claim from those of which fail to meet the standards of the IADA, Article 3. In Casper v. Ryan, 822 F. 2d 1283 (3rd Cir. 1983) the court recognized that "[s]trict compliance with Article 3 MAY NOT be required when the prisoner

has done everything possible, and it's the custodial state that is responsible for the default. "The 3rd Circuit went on to explain, however, "that an inmate seeking the exception must 'show that she/he substantially complied to the extent possible.'"

Dent failed to include the critical information – which was included in Petitioner's "proof of incarceration", - concerning the mandatory information pertaining to his incarceration's status, though Petitioner did so. It is **without** doubt that Petitioner filed a Notice for Request of Final Disposition to that extent which the Agreement demands with the exception of a copy being sent directly to the State Prosecutor although it went to – and was filed with the Orange County Circuit Court Clerk – Per the instructions of prison record's office officials – (App. C1, C4, C5) which is undeniably within the prosecutor's jurisdiction.

The trial court relied on a Notice of Inquiry that in no way met the statutory standards of Article 3 of the IADA – no return receipt requested, certified mail; no specific language expressing wishes to invoke Article 3 (a); was not sent to the Circuit Court as all, was only inquiring as to how a detainer was placed against him when the Clerk of Court showed "no case" pending. (App. F2)

However, Petitioner's initial request involved EVERY detail down to his purchasing certified mail, return receipt requested services. The trial court agreed with the state's position that it never directly received Petitioner's initial request – (App. E1) which was received and filed by the Clerk 50 days prior to the

insufficient "letter of inquiry" to the sheriff. The Agreement invoking "letter" to the sheriff was NEVER sent to the prosecutor by Petitioner.

It's obvious that trial court and prosecutor held forfeit Petitioner's right to a speedy trial pursuant to Article 3 of the IADA in exchange for an extra 50 days to prosecute Petitioner on a indictment that under the remedial provision of the IADA was null & void.

Aside from the District Court's moot argument of Petitioner's IADA violation being incognizable it relied on a severely unstable argument – "copy catted" – from the 5th DCA's obvious ruling in Agreement with Assistant Attorney General's incorrectly calculated his 180 day clock. This is a grievous error that has caused an unlawful conviction and sentence to remain unremedied for over a decade. Trial court denied Motion for Dismissal based off of an incorrect calculation of Petitioner's 180 day clock for speedy trial invoked under Article 3 (a) of the IADA. As this Court decided in Fex v. Michigan, 507 U.S. 43 (1993), a defendant's 180 day clock don't commence until he "Shall have caused delivery" of his Notice for Request of final Disposition to the "appropriate prosecutor's jurisdiction."

Petitioner, through an act of extreme due diligence – which required his assuming the responsibilities of his warder/institution and preparing a request, while ensuring that it was delivered certified mail/return receipt request (App. E1)

– furnished an adequate notice to the 9th Circuit Clerk of Court for Orange County, Florida – which is without doubt, within the jurisdiction of the prosecuting officer.

Petitioner's notice was received and filed on September 10, 2008 (App. D1). Should Petitioner not prove an exception to the rule and exempt from the provisions set for in Article 3 (a) & Article V (c)[1] of the IADA, then the ruling of this Court in Fex would dictate that the 180 day clock began on September 10, 2008. Trial Court instead, ruled that an "informal" letter sent to the sheriff (App. G) initiated the 180 day clock on October 30, 2008 – 50 days later.

This 180 day commencement was established and justified by the trial court solely on the premise that Petitioner's initial request failed to include a copy sent directly to the State's Attorney. While the technical requirements – along with precedented rulings of this Court, Circuit Courts of Appeal, Fed. District Courts as well as lower tribunal state trial courts – would mandate, a copy should have been served on the State Prosecutor as well as the Clerk of Court. However, Petitioner was never properly informed of his rights under the Agreement nor properly instructed on the mechanism of Article 3 (a) – only was he instructed to "Contact the Court or L.E.A."…. that placed the detainer. (App. C1)

[1] Article V (c) of the IAOA provides in relevant part: "[I]n the event that an action on the indictment, information, or complaint on the basis of which a detainer has been lodged is not brought to trial within the period provided in Article III…. Hereof, the appropriate court of the jurisdiction where the indictment has been pending shall enter an order dismissing the same w/prejudice.

There's no room for question concerning whether the "appropriate prosecuting officers jurisdiction" – 9th Circuit Court – received and filed Petitioner's initial request for final disposition. It's without question that Petitioner's Notice of Inquiry – informal letter to Sheriff's Dept. – failed to meet the minimal standard of a request under Article 3 and was NEVER SENT directly to the Prosecutor's Office, but made it there by way of Circuit Court Clerk. Lastly, there's no question that the "error" on Petitioner's part was the result of MDOC committing a deliberate act of "government negligence" when it vehemently refused to fulfill it's responsibilities and then further went to misinform the Petitioner.

The ruling of this Court in Fex v. Michigan should, without a doubt, prove applicable to this instant case and serve as the protector/insurer of the speedy trial rights invoke by Petitioner under Article 3 (a) of the IADA.

Utilizing the application of Williams v. Taylor, 529 U.S. 362 (2000), a constitutional violation of Petitioner's right to a speedy trial under Article 3 (a) of the IADA was an error based off of an unreasonable application of clearly established Federal Law precedented by the U.S. Supreme Court ruling in Fex v. Michigan, 507 U.S. 43, 44 (1993) and further proves contrary to determinations in multiple District and Circuit Courts to that of identical facts in U.S. v. Reed, 910 F. 2d 621 (9th Cir. 1990); Casper v. Ryan, 822 F. 2d 1283 (3rd Circuit 1983); U.S. v.

ZFaty, 44 F. Supp. 2d 588 (S.D.N.Y. 1999) while proving distinguishable from the facts in the unfavorable ruling in U.S. v. Dent, 149 F. 3d 180 (1998).

The District Court for the Middle district of Florida misapplied decisions of Sesmore v. Ala., 846 F. 2d 1355, 1359 (11th Cir. 1988) and that of Davis v. United States, 417 U.S. 333, 346 (1974) where both cases precedented issues concerning Article IV's, anti-shuttling provisions, of the Agreement and a Defendant's failure to show prejudice. The scope of Petitioner's claim is extremely narrow and falls outside of the District Court's reply by a enormous margin: petitioner is presenting the violation of his right to speedy disposition under Article 3, Request for Final Disposition, which while is an extension of the IADA, has absolutely no relevance to Article IV nor the scope of the Attorney General's argument.

Though there are courts holding that prejudice is presumed, Cody v. Morris, 623 F. 2d 101, 102-03 (9th Cir. 1980) taken from Brown v. Wolff, 706 F. 2d 902, 906 (9th Cir 1983), "dismissal for violation of timely trial provision granted without examining whether defendant was prejudice by delay," through an abundance of caution Petitioner can more than adequately isolate, identify and present to this Court sufficient prejudice derived from a violation of his right to speedy trial pursuant to Article 3 (a) of the IADA.

A criminal defendant's invocation of 18 U.S.C. App. §2, Article 3 (C) of the IADA – F.S.A. §941.45 – call forth a protection of due process and equal right to a fundamentally fair trial and any such accords included, but not limited to, pre trial,

Guilt and sentencing fazes. A denial of such – whether considered merely trivial in the eyes of overzealous prosecuting attorneys – subject defendants to potentially detrimental encroachment and denial of constitutional rights under the 5th, 6th and 14th Amendments of the United States Constitution.

Nowhere within the Agreement is there suggestions that a violation of a defendant's 180 day right to a speedy trial may be excused should the Act be invoked. In fact, there's a term that has been ruled on by this court in Alabama v. Bozeman, cited as 121 S. Ct. 2079 taken from Anderson v. Jungkace, 329 U.S. 482, 67 S. Ct. 428, 91 L. Ed. 436 stating, "The Agreement's language militates against an implicit exception, for it is absolute, as the word "shall" is ordinarily the language of command." To paraphrase Article V (c). "....which a detainer has been lodged is not brought to trial....the jurisdiction where the indictment has been pending "SHALL" enter an order dismissing the same with prejudice."

An indictment that's untried after the allotted 180 days becomes null and void according to the remedial provisions of the Agreement, thereby revoking subject matter jurisdiction. A trial, conviction and sentence based off of an indictment lacking subject matter jurisdiction is unlawful by the United States Constitution and a gross miscarriage of justice.

The present case before this Court is, without doubt, such a miscarriage of justice where Petitioner was denied his right to due process, a fundamentally fair

trial and unlawfully convicted and sentenced on an indictment that lacked subject matter jurisdiction.

If for no other reason other than to resolve conflict with the proper application of Fex v. Michigan, when facts indistinguishable from that of Petitioner's, it's clear that both District and Circuit Federal Courts, as well as State Courts throughout the land, are indisputably practicing it's misapplication, this petition for Writ of Certiorari meets the standards for review.

This Supreme Court does have jurisdictional authority to resolve issues of fact in controversy and resolve conflicts of opinion between lower courts in order to establish unity of laws among the States and Court.

The Petitioner has no other means, adequately enough, for relief. All available remedies have been exhausted to no avail. No responsive pleadings were required to develop an appealable record, no show cause order was entered and no hearing was or has ever been held in order to produce reliable findings of facts and conclusions of law.

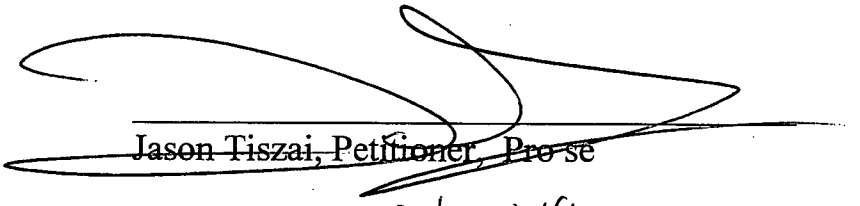
The right(s) to the requested relief arises from an undisputable U.S. constitutional right, a state constitutional right, the right to due process and equal protection of the law and the right to access the Court to vindicate those rights.

When the State Supreme Court fails to resolve severe conflicting opinions in the Court of Appeal, this Court should resolve to correct the differences and set the uniform standards for the State.

CONCLUSION

The Petition for Writ of Certiorari should be granted.

Respectfully Submitted,



Jason Tiszai, Petitioner, Pro se

Date: 2/25/19