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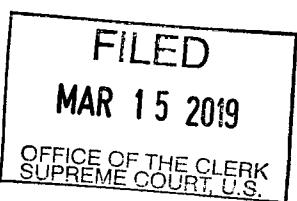
18-8580

ORIGINAL

INMATE INITIALS S.M.

IN THE

SUPREME COURT OF THE UNITED STATES



SIDNEY MARTS — PETITIONER  
(Your Name)

vs.

STATE OF FLORIDA — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

FLORIDA SUPREME COURT

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

PETITION FOR WRIT OF CERTIORARI

SIDNEY MARTS

(Your Name)

FRANKLIN C.I. 1760 Highway 67 North

(Address)

Carrabelle, Florida 32322

(City, State, Zip Code)

NONE

(Phone Number)

RECEIVED

MAR 26 2019

OFFICE OF THE CLERK  
SUPREME COURT, U.S.

## QUESTION(S) PRESENTED

(1)

Whether Florida SUPREME COURT Judgements  
CONFLICTS with the Eleventh Circuit Court  
OF APPEALS Post-trial EXCULPATORY FINDINGS  
to establish A PROCEDURAL AND SUBSTENTIVE  
DUE PROCESS VIOLATION by Premises OF Brady  
V. MA., 373 U.S. 83, 87 (1963); Kyles v. Whitley,  
514 U.S. 419 (1995); Giglio v. U.S., 405 U.S. 150  
(1972)?

(2)

Whether Florida SUPREME COURT Judgements  
CONFLICTS with the Eleventh Circuit Court  
OF APPEALS Post-trial EXCULPATORY FINDINGS,  
that governs respondent duty to disclose  
EXCULPATORY brady MATERIAL AS SET FORTH  
IN Strickland v. Greene, 527 U.S. 263, 283  
(1992); Imbler v. Packman, 424 U.S. 409 (1976)?

(3)

Whether Florida Supreme Court Judgement  
CONFLICTS with established Federal law  
that governs effective trial AND Appellate  
Counsel Sixth Amendment CONSTITUTIONAL  
duty as set forth in Strickland v. WA.  
466 U.S. 668 (1984); Evitts v. Lucey, 469 U.S. 387  
(1985); Maples v. Thomas, 132 S.Ct. 912 (2012);  
Martinez v. Ryan, 132 S.Ct. 1309 (2012)?

## QUESTION(S) PRESENTED

CONT:

4.

Whether Florida Supreme Court Failure to address record Fact A Jury was sworn and mistrial granted without a competency hearing, conflicts with established Fifth Amendment Double Jeopardy proscribes, that prohibited a retrial by this court case law authority, U.S. v. JORN, 400 U.S. 474 (1971); EVANS v. Michigan, 133 S. Ct. 1969 (2013)?

5

Whether Florida Supreme Court Failure to address record Fact Petitioner was terminated from self-representation without a competency hearing to validate discharge conflicts with Sixth Amendment Constitutional right as established in PARETTA v. CALIFORNIA, 422 U.S. 806, 821 (1975); McNAULIE v. WIGGINS, 465 U.S. 168, 174 (1984)?

(6.)

Whether Florida Supreme Court imposition of SANCTION has been enforced under fraudulent pretense to cover up an illegal conviction, and to prohibit his legal access to courts to have claims heard on merits. That conflicts with U.S.C.A. 1st, 14th, IN re McDonald, 489 U.S. 180, 184 (1989); Bounds v. Smith, 430 U.S. 817, 828 (1977)?

## QUESTION(S) PRESENTED

CONT:

(7)

Whether Florida Supreme Court Judgement  
ON SANCTIONS unlawfully suspends the  
Habeas Corpus and subjects the Petitioner  
to a fundamental miscarriage of justice  
that contrast with HARRIS V. NELSON, 89  
S.Ct. 1082 (1969); U.S.C. Article 1 § 9?

(8)

Whether Florida Supreme Court Judgement  
ON SANCTIONS conflicts with the Eleventh  
Circuit Court of Appeals Post-trial  
Exculpatory findings, that NO competency  
hearing was held violates Petitioner  
right as a citizen to enjoy due process  
of law under the U.S.C.A. 9TH, 14TH,  
GRISWOLD V. CONNECTICUT, 381 U.S. 479  
(1965)?

(9)

Whether Florida Supreme Court  
Judgement ON SANCTIONS violates  
Petitioner Sixth Amendment right  
to confront inadmissible hearsay  
based upon accusation of a testimonial  
competency report under CRAWFORD,  
V. WASHINGTON, 541 U.S. 36 (2004)?

## QUESTION(S) PRESENTED

CONT:

(10)

Whether Florida Supreme Court Judgement  
ON SANCTIONS conflicts with the  
Eleventh Circuit Court of Appeals  
POST-trial, EXCULPATORY FINDINGS NO  
Competency hearing was held to  
declare Petitioner incompetent;  
OR COMPETENT for September 3, 2008  
Retrial under PATE V. ROBINSON, 383 U.S.  
373 (1966); DRAPER V. MO., 420 U.S. 162,  
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## INDEX TO APPENDICES

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## 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:

1) OFFice OF ATTORNEY General  
The capital - P1-01  
TALLAHASSEE, Florida 32399

2) Florida Supreme Court  
500 South DuVAL Street  
TALLAHASSEE, Florida 32399

3) First District Court  
of Appeal  
2000 BRAYTON Drive  
TALLAHASSEE, Florida 32399

4) First Judicial Circuit Court  
ESCAMBIA County  
P.O. Box 333  
PENSACOLA, Florida 32591

X

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 Florida Supreme 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 JANUARY 25, 2019. A copy of that decision appears at Appendix A. FOR APPENDIX - B  
December 20, 2018

[ ] A timely petition for rehearing was thereafter denied on the following date: None, 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 None (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

The State court judgement in this case sought to be reviewed is December 20, 2018 and January 25, 2019. Being the SANCTIONS in a criminal matter is unauthorized by Florida Statutory Provisions 944.279(2); AND the suspension of the writ of Habeas Corpus is Prohibited by U.S.C. Article I Section 9, Florida Constitution Article I section 9. The Petition is timely to confer jurisdiction to review on a writ of certiorari under Title 28 U.S.C. § 1257(a)

## STATEMENT OF THE CASE

- 1) Petitioner is charged by Felony information. See, Attached APPENDIX-C.
- 2) The Petitioner ON OR about January 31, 2008 was Granted right to represent himself after A Faretta inquiry. APPENDIX-D - Pg. 81 lines 21-25; Pg. 82 lines 1-10.
- 3) Based on Petitioners demand for Speedy trial. First Judicial circuit court Set Matter for Jury Selection ON February 25, 2008. The Court SWORN A Jury Panel to Preside over trial. APPENDIX-D - Pg. 71 lines 19.
- 4) The Court ON February 25, 2008 terminated Petitioners right for Speedy trial. Because Court determined the demand interrupted trial arraignments for April. APPENDIX-D - Pg. 78 lines 14-20.
- 5) First Judicial circuit court Judge FRANK BELL ON February 25, 2008 terminated Petitioners' right to Self representation.
- 6) The Court ON February 25, 2008 appointed Assistant Public Defender KARL LABERTEW for representation.
- 7) First Judicial circuit court ON February 27, 2008 adjudicated Petitioner incompetent to Proceed without:  
(A) Competency hearing (B) Psychological examination (C) Psychological examination report. APPENDIX D - Pg 75; 81; 82; 84 lines 20-22  
APPENDIX (S) E-F- Judgements From the

Federal Eleventh Circuit Court of Appeals  
Findings that NO competency hearing was  
held February 27, 2008.

8) The Court on February 27, 2008 Granted  
a Mistrial. Based upon the Public Defenders  
Motion for mistrial. APPENDIX-D-Pg. 841 lines 1-9

9) Petitioner Never consented to a mistrial on  
February 27, 2008. (APPENDIX-D-Pgs. 93-98)

10) First Judicial Circuit Court on or about  
March 8, 2008 committed Petitioner to a Mental  
Health Facility. The commitment order was  
enforced without Petitioner's presence in  
Court on a hearing.

11) Petitioner filed an application for a Writ of  
Prohibition with the Intermediate First District  
Court of Appeals. The Writ application sought to  
Prohibit retrial September 3, 2008 by Premises of  
Fifth Amendment Double Jeopardy clause. First  
District Court of Appeals denied Writ on grounds  
issue could be heard on appeal if convicted.

MARTS V. STATE — SO.3d — (10CA2008  
(cite unavailable)

12) The Petitioner sought Habeas Corpus relief  
in Florida Supreme Court. Based upon fact no  
competency hearing was held to justify grant of  
Mistrial February 27, 2008. That retrial is barred  
by Fifth Amendment Double Jeopardy Clause. The  
Court transferred Writ Application to Second  
Judicial Circuit Court Gadsden County. MARTS V.  
McNeil — SO.3d — (FIA, 2008 CASE NO:  
SC08-1795)

13) SECOND JUDICIAL CIRCUIT COURT, GADSDEN COUNTY issued an order to show cause why Petitioner is not entitled to immediate relief.

Appendix - G - Order to show cause

14) Petitioner was returned from the mental health Facility to County jail. The court on August 18, 2008 conducted no competency hearing to validate competency. Subsequent to being determine incompetent on February 27, 2008. Appendix - H

15) The Petitioner was tried on September 3, 2008 convicted and sentence to three (3) consecutive five (5) year terms. Appendix - I

16) Trial and Appellate counsel abandoned the record on mistrial and no competency hearing being held.

17) First District Court of Appeals without addressing mistrial or competency issue affirmed felony conviction by per curiam disposition and no opinion. MARTS V. STATE 2550,381227 (1DCA 2009)

18) Petitioner filed an application on Appellate Counsel for not raising competency and mistrial constitutional violations. The court per curiam denied without opinion Petitioners Application for ineffective Appellate counsel. MARTS V. STATE, 3954,38338 (1DCA 2010).

19) The Petitioner filed a state postconviction application with trial court. Petitioner raised retrial was barred by Fifth Amendment Double Jeopardy clause. The Application further raised

No competency hearing was held to validate incompetency and mistrial. Trial Court declined to address claims. The Court without response from State summary denied application.

20) First District Court of Appeals without opinion per curiam denied and affirmed trial court denial of Postconviction Application. MARTS V. STATE, 6450.3d1265 (1DCA2011).

21) Florida State law prohibits review to highest State court from intermediate appellate court decisions without opinions.

22) The intermediate First District Court of Appeals barred Petitioner from court for raising competency and mistrial violations. Further the court ordered Florida Department of Corrections to impose disciplinary sanctions. MARTS V. STATE, 5950.3d136 (1DCA2011); MARTS V. PRESNELL, 13450.3d979 (1DCA2012)

23) Petitioner filed a Habeas Corpus in trial court. That challenged no competency hearing exist to justify mistrial, retrial and termination of self-representation. The Clerk was ordered by court to file documents but no action shall be taken. Petitioner hired an attorney whom adopted writ. The pleading has remained on file with no disposition for years. Appendix - J, J-1; J-2; J-3.

24) First Judicial Circuit Court ordered disciplinary sanctions for raising by mandamus no competency hearing exist to validate mistrial and retrial.

APPENDIX - K - Order dated 7/19/17

25) The Florida Department of Corrections imposed disciplinary sanctions that included pointtime loss. Appendix - L - Disciplinary report findings.

26) First District Court of Appeals; and Florida Supreme Court ordered the Florida Department of Corrections to impose disciplinary sanctions for raising claims no competency hearing exist to validate mistrial, retrial, conviction and sentence.

Appendix - B - December 20, 2018 order; Appendix - A ; January 25, 2019 order; Appendix - M -

August 2, 2017 order

27) Florida Department of Corrections imposed disciplinary penalties and forfeited pointtime.

Appendix - N - disciplinary reports, findings.

28) Federal District Court at Pensacola, and United States Eleventh Circuit Court of Appeals has refused to address fact no competency hearing exist to validate mistrial, retrial, conviction, and sentence. MARTS V. TUCKER 2012 U.S. DIST. LEXIS 69402 (11th Cir. 2012); MARTS V. JONES, 2016 U.S. Dist. LEXIS 62503 (11th Cir. 2016); Appendix - A-B.

29) Petitioner is currently being held in custody within Florida Department of Corrections under commitment order of First Judicial Circuit Court, Escambia County. Appendix - O - commitment order.

## REASONS FOR GRANTING THE PETITION

The Application for Writ of Certiorari Should be Granted. Being the Petitioners right to a competency hearing was denied. The denial extends to before mistrial and subsequent retrial. Which Petitioner believes violates the Fourteenth Amendment due Process Clause and State law. PATE V. ROBINSON, 383 U.S. 375 (1966); DROPE V. MD., 420 U.S. 162, 178-83 (1975); Dougherty V. STATE, 149 So.3d 672 (FIA, 2014); Berry V. STATE, 237 So.3d 1165 (10CA2018); FIA.R. Crim. Proc. 3.210(a)(1)(b)(1).

Petitioner asserts the writ application should be Granted. Being this court case law authority holds the Fifth Amendment Double Jeopardy Proscribes. Conclusively, Prohibited his retrial and subsequent conviction, sentence. When the record demonstrates NO valid reason existed for mistrial. U.S.V. JOHN, 400 U.S. 474 (1971); EVANS V. Michigan, 133 S. Ct. 1069 (2013); THOMASON V. STATE, 620 So.2d 1234 (FIA, 1983); Joseph V. STATE, 988 So.2d 133 (10CA2008); FIA. CONST. Article 1 Section.

The Writ Application should be Granted. Being NO competency hearing was held to justify termination within Sixth Amendment. Absolutely NO evidence of abnormal, disruptive behavior. That derived from being incompetent exist to validate termination. McKaskle V. Wiggins, 465 U.S. 168, 174 (1984); Faretta V. California, 422 U.S.

806, 821 (1975).

Petitioner asserts the writ application should be granted. Being NO COMPETENCY REPORT existed to validate COMPLIANCE with SIXTH AMENDMENT CONFRONTATION CLAUSE. Despite fact COMPETENCY reports under Florida law is testimonial for purpose of SIXTH AMENDMENT CONFRONTATION CLAUSE. Further the accusation of a competency report substantiate inadmissible hearsay, which the Petitioner believes violated his SIXTH AMENDMENT right to CONFRONTATION. Because neither the report on declarant was made credible, when court granted MISTRIAL. CRAWFORD V. WASHINGTON 541 U.S. 36, 68 (2004); FED. R. EVID. 804(a)(5); FLA. STAT. 90.804(1)(e); BLOW V. STATE, 902 So. 2d 340 (50CA2005).

The writ application should be granted. Being the Eleventh circuit Post-trial EXCULPATORY FINDING, Petitioner contends explicitly indicates Prosecutor has violated his CONSTITUTIONAL right to due process under Fourteenth Amendment. Through suppression of EXCULPATORY MATERIAL from state and federal courts, which substantiate NO COMPETENCY HEARING existed to validate MISTRIAL and discharge of sworn jurors. BRADY V. MA, 373 U.S. 83, 87 (1963); KYLES V. WHITLEY, 514 U.S. 419 (1995); BRIGLIO V. U.S., 405 U.S. 150 (1972); STRICKLER V. GREENE, 527 U.S. 263, 283 (1999); Imbler V. PACHMAN, 424 U.S. 409 (1976).

Petitioner asserts the writ application should be granted. Being the Eleventh circuit court

OF Appeals Post-trial exculpatory finding. None-theless Substentiate trial and the Appellate Counsel, Did concur with State to conceal, abandon the exculpatory material. That NO competency hearing exist in record to validate mistrial, incompetent disposition, retrial, conviction and sentence. The constructive input Petitioner believes violated his sixth Amendment right to effective representation. STRICKLAND V. WA, 466 U.S. 668 (1984); EVITTS V. LUCY, 469 U.S. 387 (1985); MAPES V. THOMAS, 132 S. Ct. 912 (2012); MARTINEZ V. RYAN, 132 S. Ct. 1309. (2012).

The writ application should be Granted. Based upon the Eleventh Circuit Court of Appeals Post-trial exculpatory findings. That Petitioner was unable to develop cause by unlawful restrictions. Florida Courts has place on him that has prohibited his ability to secure, enjoy meaningful adequate access with courts. Which Petitioner believes conflicts with U.S.C.A. 1st 14TH. IN re McDONALD, 489 U.S. 180, 184 (1989); BOUNDS V. SMITH, 430 U.S. 817, 828 (1977); FLA. STAT. 944.279(2).

Petitioner asserts writ application should be Granted. Based upon the Eleventh Circuit Court of Appeals Post-trial exculpatory findings. That conclusively illustrates Florida State Courts in an arbitrary, lawless manner has suspended the Habeas corpus writ. Specifically with malice to cover-up conviction, sentence was obtained in violation of Fifth Amendment.

Double Jeopardy clause. Petitioner believes the suspension violates Federal and State Constitution through enforcement of an unauthorized sanction in contrast with F.I.A. Stat. 944.279(c2), which has resulted on a fundamental miscarriage of justice. Harris v. Nelson, 825.6.1082 (1969), U.S.C. Article 189; F.I.A. Constitution Article 1813

The writ application should be granted - because the state of Florida by demonstrative record evidence, conclusively has deprived petitioner a United States natural born citizen of rights secured by Federal Constitution, which has deprived petitioner of due process protected by U.S.C.A. 9th, 14th. Griswold v. Connecticut 381 U.S. 429 (1965)

## **CONCLUSION**

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Sidney Mants

Date: March 15, 2019