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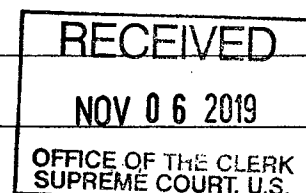
Date C.I.

PS

NO. 18-9190

IN THE
SUPREME COURT of the UNITED STATES
OCTOBER 2018, TERM

ARNELL SMITH,
Petitioner,



v.

STATE OF FLORIDA,
Respondent.

ON PETITION FOR WRIT OF CERTIORARI TO THE
THIRD DISTRICT COURT OF APPEALS
STATE OF FLORIDA

PETITION FOR REHEARING

ARNELL SMITH
DC # 085981
19000 S.W. 377TH STREET
FLORIDA CITY, FLORIDA 33034

PETITION FOR REHEARING

Pursuant to Supreme Court Rule 44.1., the Petitioner, PARNELL SMITH, respectfully moves the Supreme Court to grant a rehearing of the Petition for Writ of Certiorari based on substantial grounds not previously presented to the Court in this case.

In further support of the relief sought in this rehearing petition, the Petitioner shows:

BASIS FOR SUPREME COURT'S JURISDICTION

The Supreme Court's jurisdiction in this case is governed by Title 28 U.S.C. Section 1257.

The date on which this Court denied the pro se Petition for Writ of Certiorari was October 7, 2019. The time for petitioning this Court for a rehearing of its decision begins on October 7, 2019 and ends on November 1, 2019.

Pursuant to Supreme Court Rule 44.1, the instant Petition for Rehearing is being timely filed by Petitioner. See also S.Ct. Rule 29.2.

GROUND FOR REHEARING

The following substantial grounds or matters are presented as support for granting a rehearing:

1. The Court (panel of four) overlooked an important principle of law announced by this Court which is applicable to the present case. A central point in this Court's decision in *Martinez v. Ryan* is that a substantial ineffective assistance of appellate counsel claim deserves one chance to be heard on initial review in a state post-conviction proceeding. Id. 566 U.S. 1 (2012).

2. In the State of Florida, the initial-review collateral proceeding and procedural vehicle in place for prisoners to raise ineffective assistance of appellate counsel claims for attorney's errors committed on direct appeals from convictions and sentences is habeas corpus filed in the District Court of Appeal where the direct appeal was had. See Rule 9.141(c), Fla. R. App. P.

3. In the present case and, as reflected in the Appendix to the Petition for Writ of Certiorari, the Petitioner provided the State of Florida Third District Court of Appeal

AN opportunity to adjudicate the merits and to correct the ineffectiveness of his court-appointed appellate counsel on direct appeal which led to the direct appeal being dismissed essentially for the failure of appellate counsel to file the records on appeal and brief of appellant.

4. The Court overlooked another principle of law stated by it in the Martinez decision that "if the attorney appointed by the State to pursue the direct appeal is ineffective, the prisoner has been denied fair process and the opportunity to comply with the State's procedures and obtain an adjudication on the merits of his claims."

5. Additionally, the Court overlooked the principle of law stated in Martinez that without the help of an adequate attorney, a prisoner will have difficulties vindicating a substantial ineffective assistance of counsel claim. Id. 566 U.S. at 11.

6. The Appendix to the petition in the present case clearly shows that Petitioner did not have an attorney to represent him during the initial-review collateral proceeding pursuant to Fla. R. App. 9.141(c) to pre-

sent his ineffective assistance claims of appellate-counsel abandonments.

7. This Court should grant rehearing, rescind its order denying the petition for Writ of Certiorari, and grant review of the Florida Third District Court of Appeal's decision not to issue an alternative writ of habeas corpus to examine into the cause of Petitioner's imprisonment, alleged to be unlawful, because the attorney who was court-appointed by the State to represent Petitioner during his only direct appeal (afforded as of right) from conviction and sentence performed ineffective when he abandoned Petitioner's cause and neglected his duty to diligently prosecute the direct appeal.

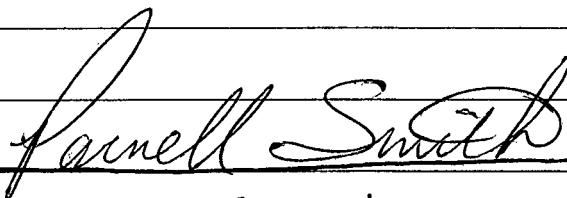
8. Pursuant to Flynn v. United States, this Court should allow Petitioner the opportunity to make the appropriate showing that his claim, contained in the petition for Writ of Certiorari, is of a substantial nature.

WHEREFORE, the Petitioner prays the
Court to grant this Petition for Rehearing.

Dated: October 31st, 2019.

Respectfully submitted,

PARNELL SMITH
Petitioner, Pro se



PARNELL SMITH

DC# 085981

Dade Correctional Institution
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