No. 19-5059

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IN THE

SUPREME COURT OF THE UNITED STATES

PAUL A. VIERA, PETITIONER

VS.

FLORIDA, RESPONDENT

PETITION FOR REHEARING
ON A PETITION FOR WRIT OF CERTIORARI
Denied on October 7, 2019

Prepared and presented in *pro se* by:

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Table of Contents

Appendix of Exhibits

Exhibit

Table of Authorities

Pages

Certification of Intervening Circumstances And Substantial Issues of Public Importance Not Previously Presented

The Petitioner hereby certifies as required by Rule 44 of the Rules of the Supreme Court of the United States that this petition for rehearing is presented in good faith and not for delay, and is limited to intervening circumstances documented by the press (print media), attached hereto as Appendix Exhibits A, B, and C.

PAUL A. VIERA
Petitioner in *pro se*

Denying A Review Approves Of Institutional Slavery

Article III, section 2 of the United States Constitution provides, "In all cases . . . in which a State shall be Party . . . the supreme Court shall have original jurisdiction." The State of Florida, represented by its Attorney General, has waived its opportunity to dispute the Petitioner's request for a review by this Court, and by its failure to deny agrees that a review is needed, which the press (print media) has declared is a question of great public importance (Appendix Exhibits A, B, C, D).

One who can and ought to forbid a thing orders it by keeping silent (*Qui potest et debet vetare, tacens jubet*). By evading a review of the Petitioner's lifetime enslavement ("indefinite imprisonment") claim that rises to constitutional magnitude, this Court's administration of justice is what Edmund Burke condemned:

> "The only thing necessary for the triumph of evil is for good men to do nothing."

The lifetime enslavement of men, women, and children has been judicially approved by this Court's decision "to do nothing" regarding Florida's continuation of slavery by imposing the "indefinite imprisonment" that violates its own State constitution. Why slaves are not provided the same rights

as those guaranteed to free citizens was explained by Florida's Supreme Court in *Murray v. State*, 9 Fla. 246 (Fla. 1860) at 251:

> "Experience has proved what theory would have demonstrated, that masters and slaves cannot be governed by the same laws. So different in position, in rights, in duties, they cannot be the subjects of a common system of laws. *Neal v. Farmer*, 9 Geo. 599;"

There was no mention of slaves or slavery in the United States Constitution until the Thirteenth Amendment made slavery a legitimate government institution. That amendment authorized courts to make free citizens "slaves of the State" for committing acts or omissions defined as criminal offenses by Congress and Federal agencies; State legislatures/assemblies, governors, and agencies; and county and city councils/commissions. The Petitioner is a "slave of the State" according to: *Meachum v. Fano*, 96 S.Ct. 2532, 2541 (1976); *Omasta v. Wainwright*, 696 F.2d 1304 (11th Cir. 1983); and *Ruffin v. Commonwealth*, 62 Va. 790, 796 (1871).

Florida's exploitation of the Thirteenth Amendment's punishment clause to return emancipated slaves to bondage as "slaves of the State" began soon after the Civil War ended, according to Michael Gannon, *FLORIDA, A Short History*

(The University Press of Florida 1993) at 48:

> "Florida's first postwar state government was not nearly so enlightened and generous toward the blacks as were the Freedmen's Bureau and the northern churches. After the inauguration of Gov. David S. Walker in January 1866, the legislature passed harsh and discriminatory laws directed against blacks. Emphasizing such crimes as rape, insurrection, and vagrancy, these so called Black Codes represented an attempt by former slaveowners to reinstitute the slave system in fact if not in law."

and at 50:

> "The new leaders eager to keep the freedmen 'in their place,' created an all-white unity that would place Florida squarely in the Democratic South then forming . . . And now under the Democrats, blacks would begin to lose the effective exercise of such rights as they had left, including that of suffrage. The theory of white supremacy would permeate statutory, even constitutional, law. Hooded riders, such as the Ku Klux Klan members, would spread intimidation and violence in black districts. By 1887 a series of Jim Crow laws enacted by the legislature would ensure that the state's blacks would be subjugated to a status suggestive of social if not complete legal and physical bondage."

and according to Charlton W. Tebeau, *A History of Florida* (University of Miami Press 1981) at 244:

> "David S. Walker, who had been a slaveholder

> and a Whig, had served in both houses of the General Assembly and on the state supreme court. In his inaugural address . . . he acknowledged that some statute relating to freedmen's affairs must be enacted but suffrage for them would not approve. . . . Governor Marvin had appointed to the interim committee on freedmen's affairs three North Florida exslaveholders. . . . They prefaced their report to the General Assembly with a characterization of slavery as a benevolent institution, and the happiest and best ever designed for a laboring population. The only evil they saw was inadequately regulated sex and marital life. . . . The General Assembly chose to follow the lead of the committee. . . . Assuming that there would be a great increase in crime to deal with, much of it consisting of offenses that would have been taken care of by slave masters under the old regime, they created a system of county criminal courts. . . . Particularly objectable were laws regarding vagrancy; these were so broadly defined as to cover idleness of any kind. A convicted vagrant could be . . . placed in the pillory, whipped, imprisoned, or hired out."

Any 'reparations' for this nation's slavery history should include remuneration for Florida's indefinite enslavements after those were declared forbidden in 1885 by Florida's Constitution. If ignorance of the law is no excuse, this Court should be held responsible for avoiding a review of the unconstitutional lifetime enslavement of thousands of men, women, and children.

Courts Cannot Measure Indefinite Time

About 250 years ago Thomas Paine noticed an obvious truth that is often ignored today:

> "A long habit of not thinking a thing wrong gives it a superficial appearance of being right."

Florida's Supreme Court recognized that truth 42 years ago in *Dorfman v. State*, 351 So. 2d 954 (Fla. 1977), when ruling that general sentences are illegal because they fail to specify a definite term of imprisonment for each offense. That court held at 956:

> "We will not accept the notion that trial judges should be allowed to impose general sentences simply because they have always done so."

and explained at 957:

> "The evil of a general sentence, however, inheres in the uncertainty that its inscrutability creates, . . ."

Because that which is indefinite is equivalent to the whole (*indefinitum aequipollet universali*), the ancient Romans did not try to measure a portion of the indefinite, and so too Florida's modern courts do not retain jurisdiction over one-third of a life imprisonment sentence. Not even this Supreme Court can measure the Petitioner's term of imprisonment to determine when it will end, other than to state the

obvious which applies to all incarcerations– that it will end when he becomes a corpse, because only live human beings are confined in prison/jail cells. In *United States v. Buide-Gomez*, 744 F. 2d 781 (11th Cir. 1984), that court announced at 784:

> "At the outset, this court recognizes that indefinite and uncertain criminal sentences are illegal."

In *Smallwood v. United States*, 386 F. 2d 175 (5th Cir. 1967) that same court earlier enunciated a standard for testing the validity of a criminal sentence, at 176:

> "... a sentence in a criminal case should be clear and definite ... and be so complete as to need no construction of a court to ascertain its import."

A typical example of the tortuous attempts by Florida's trial judges to describe a life imprisonment sentence is attached hereto as Appendix Exhibit E, in which then-Chief Judge Thomas J. Kennon Jr. of the Third Judicial Circuit explained in *State v. McKinney*, Case No. 79-14CF:

> "The Defendant was sentenced to a definite period of time, his natural lifetime. While that period of time is indeterminate, it is not indefinite. A life sentence shall end at a definite time, then end of the natural life of the Defendant."

(see Exhibit F)

"A definiteness which requires so much subtlety to expound is hardly definite," *State v. Wershow*, 343 So. 2d 605, 608 (Fla. 1977). "Words and meanings beyond the literal language may not be entertained nor may vagueness become a reason for broadening a penal statute," *Cabal v. State*, 678 So. 2d 315, 318 (Fla. 1976). Changing the meaning of "indefinite" because it is a constitutionally "forbidden" term of "imprisonment" shows that Florida's courts have changed the meaning of words, like the fairy tale character Humpty Dumpty, whose big-headed arrogance unbalanced him and caused his fatal fall from a wall.

> "'When I use a word,' Humpty Dumpty said, in rather a scornful tone, 'it means just what I choose it to mean——neither more nor less.'
> 'The question is,' said Alice, 'whether you can make words mean so many different things.'
> 'The question is,' said Humpty Dumpty, 'which is to be master——that's all.'
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> 'That's a great deal to make one word mean,' Alice said in a thoughtful tone.
> 'When I make a word do a lot of work like that,' said Humpty Dumpty, 'I always pay it extra.'
> 'Oh!' said Alice. She was much too puzzled to make any other remark.
> 'Ah, you should see 'em come round me of a Saturday night,' Humpty Dumpty went on, wagging his head gravely from side to side: 'for to get their wages, you know.'"

Lewis Carroll, *Alice's Adventures in Wonderland & Through the Looking Glass* 169 (Bantam Classic Ed. 1981)

A mistreatment of the word "opinion" was addressed in *Cianci v. New Times Pub. Co.*, 639 F.2d 54 (2nd Cir. 1980) at 64:

> "To call such charges merely an expression of 'opinion' would be to indulge in Humpty-Dumpty's use of language. We see not the slightest indication that the Supreme Court or this court ever intended anything of the sort and much to demonstrate the contrary."

Florida's courts apparently use a special dictionary to redefine the words "indefinite" and "indeterminate." Florida's criminal defendants and prisoners do not have access to that secret dictionary, just as the public does not have access to the U.S. Senate's 380-page Handbook of Rules, according to Donovan Slack, *Senate has a secret book of rules*, USA TODAY 1A (9-15-2014). In *Ogden v. Sanders*, 12 Wheaton 332, Chief Justice Marshall explained that when construing the constitution,

> "The intention of the instrument must prevail; that this intention must be collected from its words; that its words are to be understood in that sense in which they are *generally used* by those for whom the instrument was intended."

Lysander Spooner, *The Unconstitutionality of Slavery* 73 (Bela Marsh Pub. 1845) http://www.gutenberg.org. EBook #31844 (March 31, 2010)

This Court's denial of a review of Florida's reliance on an

extraterrestrial calendar to determine the date of a prisoner's release from imprisonment has not only left undisturbed a State's reliance on an unknown calendar (Saturn's? Jupiter's? a planet's of Alpha Proxima?), but also abolished all statutes and reversed all court decisions regarding the measurement of time in this country. By not correcting Florida's reliance on a calendar that has "99" months in an Earth year, this highest U.S. Court will allow Florida's elderly, veteran, disabled, and unemployed citizens to receive "99" monthly payments every year from the federal and state governments.

This Court's reliance on the Gregorian calendar's finite time time period of 365.25-day years to limit reviews of challenges to criminal convictions ignores the incongruity of indefinite terms of imprisonment that cannot be measured by the Gregorian, Julian, Jewish, Islamic, Chinese, Mayan, or any other known calendar.

Florida's alteration of not only its constitution but also its calendar without the consent of its citizens shows "democracy" in Florida is as much a farce as the "will of the people" is in China, and infers that nation's influence over Florida and this Court. Therefore a rehearing is requested.

Respectfully submitted,

Dated October 31, 2019

PAUL A. VIERA, Petitioner

Additional material from this filing is available in the Clerk's Office.