

19-6317

ORIGINAL

Petition for an Extraordinary
Writ

FILED

SEP 30 2019

OFFICE OF THE CLERK
SUPREME COURT, U.S.

No. _____

19-6317

IN THE

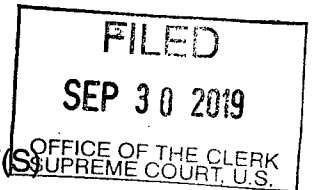
SUPREME COURT OF THE UNITED STATES

Washington D.C. 20543

In re D'angelo H. Shipman — PETITIONER Pro'se
(Your Name)

vs.

State of Florida — RESPONDENT(S)



ON PETITION FOR A WRIT OF CERTIORARI TO

First DCA Tallahassee, Fl. 32399 First District
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

In re D'angelo H. Shipman Pro'se
(Your Name)

5850 East Milton Rd Santa Rosa C.I.
(Address)

Milton, Florida 32583
(City, State, Zip Code)

N/A
(Phone Number)

Question(s) Presented

1. I would like to know why I'm still in Prison? I filed a Federal Habeas Corpus in the United States District Court, Middle District of Florida, Jacksonville Division, My Petition was timely well within the one year deadline.
2. Why do I have to wait on a mandate from someone else case? I am still serving an illegal sentence, My Fifth Amendment Constitutional Rights are Violated.

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:

Department of Corrections-
Secretary
State of Florida
US. Government

TABLE OF CONTENTS

OPINIONS BELOW.....	1
JURISDICTION.....	
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	
STATEMENT OF THE CASE	
REASONS FOR GRANTING THE WRIT	
CONCLUSION.....	

INDEX TO APPENDICES

APPENDIX A - *Mandate from DCA First District*

APPENDIX B

APPENDIX C

APPENDIX D

APPENDIX E

APPENDIX F

Table of Authorities Cited

Cases	Page Number
Anders v. California 386 U.S. 738 (1967)	18
Binns v. State 979 So.2d 439 (Fla 4 th DCA 2008)	19
Tannihill v. State 848 So.2d 442 (Fla 4 th DCA 2003)	19
Hunt v. State 769 So.2d 1109 (Fla 2 nd DCA 2000)	19
Hill v. State 114 So.3d 1071 (Fla 1 st DCA 2013)	19

Statutes And Rules

Rule 1 Scope (a) (1)	14
Civil Judicial Procedure and Rules 2008 Revised Edition	

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 N/A; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the N/A court appears at Appendix _____ to the petition and is

- ☐ reported at N/A; 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 8-4-15.
A copy of that decision appears at Appendix A.

☐ A timely petition for rehearing was thereafter denied on the following date: N/A, 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 N/A (date) on N/A (date) in Application No. ____ A ____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

Constitutional And Statutory Provisions Involved

Civil Judicial Procedure and Rules 2008
Revised Edition Rule 1 Scope

- (a) Cases involving a Petition under 28 U.S.C. 2254, These rules govern a Petition for writ of Habeas Corpus filed in a United States District Court under 28 U.S.C. 2254 by:
 - (1) a Person in Custody under a State Court judgement who seeks determination that the custody violates the Constitution, laws or treaties of The United States of America

Fifth Amendment U.S. Constitution

The Double Jeopardy Clause of Fifth Amendment guarantees that no Person shall... be subject for the same offence to be twice Put in jeopardy of Life or Limb.

Statement of The Case

Petitioner was charged with Count 1 Sexual Battery and Count 2 Lewd or Lascivious Battery and Sentenced to 10 yrs 5 out on Count 1 and 10 yrs 5 out on Count 2 in 2014. Petitioner filed a Direct Appeal in the First DCA First District of Florida. The First DCA remanded the case back to court with instructions that Count 2 be vacated and resentenced Petitioner to a lesser offence on Count 1. Petitioner was not resentenced Count 2 was not vacated it was only set aside. Petitioner ~~was~~ exhausted all his remedies and then filed a timely Federal Habeas Corpus. On 9-27-18 U.S. District Court dismissed Petition without Prejudice. On 10-1-18 Clerk of Court reopened the case. Petitioner is waiting on a Mandate from another case, Chamblee v. State of Florida. Petitioner is still under a violation of his Constitutional Rights, Petitioner Fifth Amendment Double Jeopardy Clause has been violated. Petitioner is serving an illegal sentence.

Reason For Granting The Petition

The reason this Petition should be granted is because Petitioner's Fifth Amendment Constitution Double Jeopardy Clause has been violated. Petitioner is currently serving an illegal sentence. Petitioner is aware that the 90 day time limit to file a Writ of Certiorari is well overdue, But since Petitioner Fifth Amendment Constitution Rights has been violated The United States of America Supreme Court should grant this Petition. If this Petition is denied, I would like for my Federal Habeas Corpus Petition to be dismissed in the United States District Court of Florida, Middle District, Jacksonville Division, so I can bring this issue up on a Timely Writ of Certiorari.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Dayle H. Simpson

Date: September 27th, 2019