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19-6384

No. _____

FILED
OCT 01 2019
OFFICE OF THE CLERK
SUPREME COURT, U.S.

IN THE
SUPREME COURT OF THE UNITED STATES

DIEUGRAND JAQUES, PETITIONER

vs.

FLORIDA DEPARTMENT OF CORRECTIONS
ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES DISTRICT COURT-SOUTHERN DISTRICT

PETITION FOR WRIT OF CERTIORARI

DIEUGRAND JAQUES
SUMTER CORRECTIONAL INSTITUTION
9544 C.R. 476B
BUSHNELL, FL 33513

QUESTION(S) PRESENTED

1. Why thousands of men and women like myself in this great country should continue to be kept illegally in prison only because a lawyer presented a fake document as evidence which was never part of the record on appeal? Would it be so hard to find the truth that upon review of the document on appeal, the evidence presented on December 5th, 2016 at my evidentiary hearing was fake and fabricated to violate my constitutional rights? See evidence # Exhibit 2 and 3 of the evidentiary hearing of December 5th, 2016.
2. How many more men and citizens of this country should be found guilty without any physical evidence only by hearsay (he says, she says) but there is no proof? Should a man register for life as a sex offender when innocently convicted of lewd and lascivious with no evidence, no sex, no sin?

LIST OF PARTIES

Florida Department of Corrections
501 S. Calhoun Street
Tallahassee, FL 32399-2500

Florida Attorney General's Office
1515 N. Flagler Avenue Ste. 900
West Palm Beach, FL 33401

**CERTIFICATE OF INTERESTED PERSONS AND
CORPORATE DISCLOSURE STATEMENT**

In accordance with Rule 26.1 , Rules of the United States Court of Appeals for the Eleventh Circuit, Appellant files the following **CIP**, certifying that the following are interested persons:

Aronberg, Dave (Assistant Attorney General)

Bondi, Pamela Jo (Attorney General)

Burton, The Honorable Charles E. (Appeal Hearing Judge)

Dale Surber, Melanie (Assistant State Attorney)

Hursey, Michael (Appellate Attorney)

Jones, Julie (Secretary FDOC)

Kugles, Michael (Assistant State Attorney)

Lee Caldwell, Gary (Appellate Attorney)

Martinez-Estes, Ruth (Defense Attorney)

Masters, Valerie (Appellate Attorney)

Miller, Leigh Lassiter (Assistant State Attorney)

Oftedal, The Honorable Richard (Trial Judge)

Rosenberg, The Honorable Robin L. (U.S. District Judge)

White, The Honorable Patrick A. (U.S. Magistrate Judge)

IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FROM WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

The opinion of the United States Court of Appeals appears at Appendix A-B to the petition.

The opinion of the United States District Court appears at Appendix C to the petition.

The opinion of the highest state court to review the merits appears at Appendix E to the petition.

The opinion of the Circuit Court 15th Judicial Circuit, State of Florida appears at Appendix D of the petition.

TABLE OF CONTENTS

OPINIONS BELOW

JURISDICTION

CONSTITUTIONAL AND STAUTORIAL PROVISIONS INVOLVED

STATEMENT OF THE CASE

REASONS FOR GRANTING THE WRIT

CONCLUSION

INDEX TO APPENDICES

APPENDIX A	THE 11 TH CIRCUIT COURT OF APPEALS DENIAL OF C.O.A.
APPENDIX B	MOTION FOR RECONSIDERATION DENIED Y 11 TH CIRCUIT
APPENDIX C	ORDER DENYING HABEAS CORPUS RELIEF AND MOTION FOR RECOMMENDATION BY THE UNITED STATES DISTRICT COURT
APPENDIX D	ORDER DENYING 3.850 RELIEF BY THE 15 TH JUDICIAL CIRCUIT COURT OF PALM BEACH COUNTY, STATE OF FLORIDA
APPENDIX E	ORDER BY THE FOURTH DISTRICT COURT OF APPEAL, FLORIDA REVERSING AND REMANDING
APPENDIX F	THE CORRECT AND TRUE DOCUMENT FILED VERSUS THE FALSIFIED EVIDENCE OF DECEMBER 5 TH , 2016 TO DENY JUSTICE

TABLE OF AUTHORITIES CITED

CASES:

Strickland v. Washington, 466 U.S. 668, 687, 104 S. Ct. 2052, 2064, 80 L. Ed. 2d 674 (1984)
Cross v. United States, 893 F. 2d 1287, 1290 (11th Cir 1990)
Hill v. Lockhart, 447 U.S. 52, 59, 106 S. Ct. 366, 370, 88 L. Ed. 203 (1985)
Dias v. United States, 930 F. 2d 832, 835 (11th Cir. 1991)
Coulter v. Herring, 60 F. 3d 1499, 1504 (11th Cir. 1995)
Slack *supra*, 484, 120 S. Ct. 1595, 146 L. Ed 2d 542
Schweicker V. Hansen, 450 U.S. 785, 791, 101 S. Ct. 1468, 67 L. Ed 2d 685 (1981)
Bretch *supra*, at 637 113 S. Ct. 1710, 123 L. Ed. 2d 353

STATUTES AND RULES:

2017 U.S. App. Lexis 18735, 2017 WL 4250413, *3

JURISDICTION

The date on which the United States Court of Appeals decided my case was July 9th, 2019. A timely petition for rehearing was denied by the United States Court of Appeals on the following date: July 9th, 2019, and a copy of the order denying rehearing appears at Appendix A & B.

The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1).

The date on which the highest state court decided my case was October 22nd, 2018. A timely petition for rehearing was thereafter denied on the following date: October 22nd, 2018, and a copy of the order denying the rehearing appears at Appendix C.

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

STATEMENT OF THE CASE

Appellant, Dieugrant Jacques, currently under unlawful custody of the State of Florida at Sumter C.I., appeals to this Honorable Court the denial of his Writ of Habeas Corpus by The District Court for the Southern District of Florida and states as follow:

1. On September 14th of 2011 , Appellant was illegally charged by amended information of lewd and lascivious molestation after 2 years of painful investigation in Case Number 09-1 5704FCA in Palm Beach County, Florida.
2. After a 2-day jury trial on September 20, 2011 he was found guilty and adjudicated guilty, sentenced on December 12, 2011 to 10 years with 86 days of jail credit.
3. A direct appeal was immediately filed by the Public Defender's Office on the ground that the star witness in the case did not establish credibility for the victim in a "broard community" and the William's Rule witness was used as icing on the cake for prosecutor to use inflammable remarks to sway the jury. The admittance of such evidence was erroneous but the appeal court on July 3, 2013 affirmed with no opinion (*Per Curiam*). The mandate was issued on August 23, 2013.
4. A post conviction relief was filed on May 1, 2014 and denied on July 15, 2014 for not saying Appellant understands English . It was resubmitted on

August 18, 2014 and denied on August 14, 2015 by the trial court. However, the 4th DCA reversed and remanded it on July 15, 2016 for an evidentiary hearing agreeing that Appellant was qualified for the 2 years probation not communicated.

5. The evidentiary hearing was held on December 6, 2016 where the defense lawyer in agreement with the State presented a self-serving document that the court used on December 14, 2016 to deny a good claim.

6. An appeal was filed but on June 15, 2017, the 4th DCA entered a *per curiam* and issued a mandate on July 14, 2017.

7. Another post conviction motion was filed with 5 other claims that the appeal lawyer has failed to add, on December 5, 2016 the court denied it too.

8. The Writ of Habeas Corpus was filed on August 7, 2017 and after 20 months; the District Court accepted the recommendation of the Magistrate's Report and denied the motion on October 22, 2018.

9. This is an appeal to the denial of the district court failure to use proper federal laws in determining the many constitutional violation of the Appellant's rights to a fair trial and due process.

REASONS FOR GRANTING THE PETITION

A quick review of the file on record will show that the document in Exhibit F is the true evidence in the case. And, the one presented by the State at the evidentiary hearing of December 5th, 2018 was falsified by the defense lawyer with her signature, a date and a note which was never filed before trial, at trial or after trial. The document is a slap in the face of the Court, a violation of the Law and the Constitutional Rights of the Petitioner, a bad habit of lawyers and State Prosecutors to illegally hold people in prison and denying them justice. A practice that must stop.

Juris of reason would find it debatable whether the District Court was correct in its procedural ruling of 2017 U.S. App. Lexis 18735, 2017 WL4250413, *3 (quoting Slack, *supra* at 484, 720 S. Ct. 1595, 146 L. Ed 2d 542)

The Court's reading of the decision to deny relief is untenable. Even if its reading were tenable, the Court does not explain why the strong medicine of a summary disposition is warranted. The decision here to allow the State to get away with this violation is clearly an error that must be corrected for every court in this country. (*Schweiker v. Hansen*, 450 U.S. 785, 791, 101 S. Ct. 1468, 67 L. Ed. 2d 685 (1981). The State's behavior had substantial and injurious affect or influence in determining the course of action. (quoting *Bretch, supra*, at 637, 113 S. Ct. 1710, 123 L. Ed. 2d 353).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Counsel in this case provided deficient representation and the Petitioner was prejudiced by the deficient performance. Strickland v. Washington, 466 U.S. 668, 687, 104 S. Ct. 2052, 2064, 80 L. Ed. 2d 674 (1984); Cross v. United States, 893 F. 2d 1287, 1290 (11th Cir 1990). Counsel was constitutionally ineffective affecting the outcome of the plea process, Hill v. Lockhart, 447 U.S. 52, 59, 106 S. Ct. 366, 370, 88 L. Ed. 203 (1985). Absent counsel's alleged ineffective assistance, Petitioner would have accepted the plea agreement; Dias v. United States, 930 F. 2d 832, 835 (11th Cir. 1991) accord, Coulter v. Herring, 60 F. 3d 1499, 1504 (11th Cir. 1995).

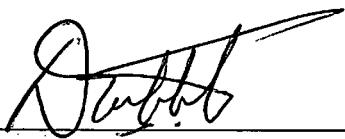
CONCLUSION

The Petitioner is of a definite and firm conviction that the District Court committed a clear error of judgment in the conclusion it reached.

The Petition for Writ of Certiorari should be granted.

Respectfully Submitted,

/s/



DIEUGRAND JAQUES