

No. \_\_\_\_\_

19-7365

IN THE  
SUPREME COURT OF THE UNITED STATES

**ORIGINAL**

TYRONE ROBERTS – PETITIONER

VS.

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

UNITED STATES OF AMERICA – RESPONDENT

ON PETITION FOR WRIT OF CERTIORARI TO  
THE UNITED STATES COURT OF APPEALS  
FOR THE ELEVENTH CIRCUIT

Tyrone Terrance Roberts # 519890  
Santa Rosa Correctional Institution  
5850 East Milton Road  
Milton, Florida 32583

RECEIVED  
DEC 11 2019  
OFFICE OF THE CLERK  
SUPREME COURT, U.S.

**QUESTION PRESENTED**

HAS THE LOWER TRIBUNAL COURT IN INDIAN RIVER COUNTY, THE FOURTH DISTRICT COURT OF APPEAL IN THE STATE OF FLORIDA AND THE ELEVENTH CIRCUIT COURT OF APPEALS DENIED ROBERTS DUE PROCESS AND DEPARTED FROM THE ESSENTIAL REQUIREMENTS OF THE LAW IN DENYING HIM RELIEF FOLLOWING HIS DIRECT APPEAL, RULE 3.850 MOTION FOR POST CONVICTION RELIEF AND DENIED FEDERAL RELIEF WHERE HE HAS SHOWN THAT COUNSEL WAS INEFFECTIVE THROUGHOUT HIS PROCEEDINGS AND THE RESULT OF HIS PROCEEDINGS ARE UNRELIABLE?

## **LIST OF PARTIES**

All parties are listed in the caption of the case on the cover page.

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**APPENDIX C: United States District Court Southern District Answer from Magistrate Judge;**

**APPENDIX D: United States District Court Southern District Attorney General response to show cause order;**

**APPENDIX E: Petitioner 2254 Federal Habeas Corpus Petition**

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

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

**OPINIONS BELOW**

The opinion of the highest Federal Court United States District Court Southern District to review the merits appears at Appendix C to the Petition and is, unpublished;

The opinion of the highest state court Indian River County, State of Florida to review the merits appears at Appendix F to the Petition and is, unpublished;

The opinion of the lower tribunal court in Indian River County, Florida to review the merits appears at Appendix F to the Petition and was a summary denial; unpublished.

## **JURISDICTION**

### **For cases from the Federal Courts:**

The United States of Appeals for the Eleventh Circuit: Motion for Reconsideration denied on September 3, 2019 and found at Appendix D.

The United States of Appeals for the Eleventh Circuit: Request for Certificate of Appealability (COA) was denied on June 27, 2019 and found at Appendix E.

The United States District Court Southern District Petition Under 28 U.S.C. §2254

### **For cases from state courts:**

The trial court in Indian River County, Florida denied the 3.850 Motion for Post Conviction Relief on July 1, 2016. A copy of that summary denial appears at Appendix F.

A timely notice of appeal was filed with the Fourth District Court of Appeal, Florida.

The Fourth District Court of Appeal Affirmed without an opinion.

The Jurisdiction of the U.S. Supreme Court is invoked under 28 U.S.C. § 1257(a).

## **CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED**

The following statutory and constitutional provisions are involved in this case;

### **U.S. Constitution Amendment VI**

In all criminal prosecutions the accused shall enjoy the right to a speedy trial and public trial by an impartial jury of the State and district court wherein the crime shall have been committed which district shall have been previously ascertained by law and to be informed of the nature and cause of the accusation to be confronted with the witnesses against him to have compulsory process for obtaining witnesses in his favor and to have the Assistance of counsel for his defense.

### **U.S. Constitution Amendment XIV**

SECTION 1: All persons born or naturalized in the United States and subject to the jurisdiction thereof are citizens of the United States and of the State wherein they reside. No State shall intake or enforces any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty or property, without due process of law nor deny any person within its jurisdiction the equal protection of the laws.

## **STATEMENT OF FACTS**

Petitioner, Tyrone Roberts (Roberts) was charged with robbery with a deadly weapon (count 1) and grand theft (count 2). The grand theft charged was subsequently nolle prossed by the State.

The robbery was alleged to have occurred on Friday, November 5, 2010 in Vero Beach.

Jacqueline Sartain was working a TD Bank as a teller. A Man came to her window and gave her a note which said to give him the money and "I have a gun". Ms. Sartain was scared and, because the man said he had a gun, she opened her cash drawer and gave the man the money in the denominations he specified. She thought she gave him 2300.00. She also put her "baits"<sup>1</sup> with the money and the man took the money and the note and left. Ms. Sartain identified State's Exhibit 1 (the Note) the man gave her. After he left, Ms. Sartain told the heads teller she had been robbed. The police arrived and she spoke to a detective. She told the detective that the robber had gold front teeth and that she saw the man touch the counter. The detective told her he had received a call that they may have the man and he took her to identify that suspect. He was handcuffed and surrounded by police and from 10 to 15 feet away she recognized Roberts as the robber, but noticed that he was not in the same clothes and he had taken off his wig and bandana.

Deputy John Finningan was on his way home when he heard that the Sheriff's helicopter had located the suspect's vehicle, so he turned onto 41<sup>st</sup> Street and saw the jeep. The camera on his car taped what he saw. He saw Roberts run from the jeep and he chased him through the bay doors of the packing plant, where Roberts fell down. Roberts threw whatever he had in his hands and a gun slid from his waistband. The deputy had his gun drawn and when Roberts saw it, he said he

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<sup>1</sup> "Baits" apparently refers to a GPS tracking device

wanted to die anyways. After another Deputy helped with the chase, Roberts surrendered. When the Deputy searched Roberts and asked if he had any weapons, Roberts replied "you already saw one gun, what do you think I do carry two".

Tommy Scott worked at the Harbor Island Citrus packing plant and early that morning, he heard noises. When he walked out, he saw a heavy set black male on the loading docks, climbing onto the packing house floor. He saw another man with a badge and a gun in his hand, yelling at the first man and the first man dropped a gun.

Detective James Kelly interviewed Roberts after his arrest. A recording of that interview was played at the trial. In the interview, Appellant said the woman with him did not know what he was going to do that day and nothing to do with the robbery. He admitted writing the note given to the teller. He said he needed some money because he was homeless, had been unemployed since May and was living out of his jeep. Roberts regretted what he had done and said to tell the teller he was sorry. Roberts said that he did not have a gun when he went inside the bank and that the gun was never loaded. He said that after he left the bank he ran down the road got in the car told his friend what happened and told her to drive. When he saw the police the woman stopped the car, Roberts ran and the gun fell to the ground.

Officer Nathan Lazinsky of the Vero Beach Police Department was on patrol; and received a call about the robbery, but was then diverted because dispatch indicated they had a GPS signal. He followed the directions which dispatch had received from the GPS and saw a black Jeep with two deputies. He saw a woman in the driver's seat who was detained and a deputy was trying to find the other person who came out of the Jeep. The officer saw a blue shirt and a stack of money around the Jeep, and the wind was blowing the money away. Officer Lazinsky grabbed as much of the cash as he could and collected \$1164.

Detective Milton Marin collected evidence at the scene of the Jeep which included a wig and bandana found on the floorboard of the Jeep, a blue shirt, and a stack of money with a concealed GPS tracker. Inside the Jeep he also found a birth certificate, social security card, tax return, a note, and cash. Inside a nearby loading dock he found a dumpster with a firearm inside. The firearm was not submitted for DNA testing and no usable prints were found on it.

The bank counter was dusted for fingerprints, but Appellant's prints were not found. An Indian River Crime Lab Firearms Examiner examined the firearm and found it was working.

Appellant testified to the following. The day of the robbery, he got a call from Dionne Thomas between 7:00 and 8:00am. Ms. Thomas said she had car trouble, so Appellant drove to her house in Palm Bay, where Appellant had been staying since he lost his home. The black Jeep belonged to Appellant, but Ms. Thomas drove to Vero Beach that day. Ms. Thomas wanted to go to Gifford to pick up her friend, Trev Johnson, and Appellant rode with her. They were waiting outside a building for Johnson to come out. Appellant went inside the building to find Johnson and then headed back to his car. Appellant and Johnson got in an argument and tussled, so Ms. Thomas let Johnson out of the car and she and Appellant drove away. In the back seat, Appellant saw money on the seat and floorboard and he was scared because he didn't know what was going on. He grabbed some of the money and put it in the shirt. When he opened up the shirt, he saw a wig and bandana. When police pulled up, he panicked and ran into the packing plant. Appellant testified that in his interview to police he said what he did in order to "free Donne" because he felt sorry for her. He was hoping that once the police found fingerprints and looked at the bank camera, they would see that it

was not him who robbed the bank. He testified that he was not the robber and that he never had a gun in his car.

Appellant was found guilty as charged. The jury found that Appellant actually possessed a firearm “in the course of committing the robbery”. Appellant was sentenced to 30 years prison with a 10 year mandatory minimum. Appellant filed his Notice of Appeal in a timely manner.

Pending appeal, Appellant filed two motions to correct sentencing error pursuant to *Rule 3.800(b)(2)*. They were denied by the trial judge. The Fourth DCA affirmed in a written opinion in Roberts v. State, 152 So 3d 669 (Fla. 4<sup>th</sup> DCA 2014). The Fourth DCA concluded

Roberts then raised a timely Rule 3.850 Motion for Post Conviction Relief where he presented ineffective assistance counsel claims that were denied by the trial court without an evidentiary hearing and affirmed on appeal by the state district court in the Fourth DCA.

The highest court that Roberts petitioned was the United States District Court Southern District Miami Division. In that Federal Habeas Corpus 2254 Petition Roberts raised the following grounds which are now presented for this court to review. He presents the summary of the grounds as follows:

## **GROUND ONE:**

Roberts asks this court to test whether or not he has been denied due process, post conviction relief based upon this court's president in *Strickland v. Washington*, 466 U.S. 668, 104 S. Ct. 2052, 80 L. Ed. 2d. 674 (1984) (Strickland), where he has demonstrated that counsel's errors and performance fell below an objective standard of reasonableness which contributed to the result of his proceedings being unreliable.

Presented in his direct appeal, Roberts contended that the trial court erred in denying trial counsel's motion to suppress because it was not supported by competent substantial evidence. Roberts presented that because he was never found in actual possession of a firearm, no one saw him in the bank with a firearm and that he armed himself after the commission of the offense then the 10 year minimum mandatory should have not applied because for it to apply jury would have had to determine that he was armed during the course of the robbery which he was not.

The verdict form asked the jury whether Roberts actually possessed a firearm in the course of committing the robbery and the jury found that he did.

Because this issue was affirmed on direct appeal, Roberts was denied due process of Florida Statute 775.087(2)(a) where the statute allows for a 10 year minimum mandatory for certain crimes if "during the commission of the offense" he actually possessed a firearm. Moreover, because there was not a determination ever made regarding whether the jury found that Roberts possessed the firearm during the commission of the offense or after when he ran from police, Roberts did not meet the qualification to be sentenced to a minimum mandatory sentence and it should have stricken. As Roberts was not in possession of a firearm during the commission of the offense.

Because Roberts has been denied relief on this issue, he has been denied due process, not afforded his right to an evidentiary hearing or the correction of the mandatory sentence he is serving.

## **GROUND TWO:**

Roberts asks this court to test whether or not he has been denied due process, post conviction relief based upon this court's president in *Strickland v. Washington*, 466 U.S. 466 U.S. 668, 104 S. Ct. 2052, 80 L. Ed. 2d. 674 (1984).

(Strickland), where he has demonstrated that counsel's errors and performance fell below an objective standard of reasonableness which contributed to the result of his proceedings being unreliable.

In his Rule 3.850 Motion for Post Conviction Relief and the 2254 Petition Roberts contended that trial counsel was ineffective for creating an intimidating conflict between him and counsel. Roberts presented facts and omissions that created an uncomfortable relationship and Roberts felt he could not be afforded a fair trial because counsel abandoned him and his innocence by not developing viable defense strategies.

For example, trial counsel's opening statement shifted the burden of proof upon him to prove his innocence not the State proving guilt beyond a reasonable doubt.

Considering counsel did no pretrial depositions, investigations proves the lack of interest and trumps any trial strategy which may be assumed. From the onset of the opening statement through the trial with no objections or challenges to the State's evidence shows that a trial strategy was never developed.

Roberts demonstrated that counsel performed deficiently in the form of neglect which amounted to Roberts being denied effective assistance considering the nature of the offenses and his overall sentence exposure. Roberts was denied

his right to effective assistance counsel which rendered the result of his trial unreliable. Absent an evidentiary hearing the trial court and the state district court erred in denying Roberts relief without conducting an evidentiary hearing to determine the facts alleged in his Rule 3.850 Motion which were not refuted by the record.

### **GROUND THREE:**

Roberts asks this court to test whether or not he has been denied due process, post conviction relief based upon this court's president in *Strickland v. Washington*, 466 U.S. (466 U.S. 668, 104 S. Ct. 2052, 80 L. Ed. 2d. 674 (1984) Strickland), where he has demonstrated that counsel's errors and performance fell below an objective standard of reasonableness which contributed to the result of his proceedings being unreliable.

In his Rule 3.850 Motion for Post Conviction Relief and the 2254 Petition Roberts contended that trial court and trial counsel deprived him due process and the opportunity to have a Nelson hearing based on his continuous complaints regarding his trial attorney's performance prior to trial.

It was no secret that Roberts was not happy nor did he feel comfortable with his trial attorney. He voice is complaints and feelings with counsel during pretrial visits and prior to the start of trial. Trial counsel was ineffective for not requesting the court for a Nelson hearing to allow Roberts his right to be heard and right to proceed to trial with an attorney he felt comfortable with.

No where in the constitutional provisions of the United States Constitution or the Florida Constitution that force anyone to proceed to trial with an attorney where an actual conflict existed. No matter the complaint, feeling or neglect, trial counsel was responsible to assure that Roberts was comfortable in each stage of the proceeding and afforded every constitutional right to proceed to trial.

Trial counsel's performance was deficient and fell below an objective standard by not filing for a Nelson hearing knowing Roberts had voiced in opinions, feelings and concerns to counsel. Reasonably, counsel should have respected his concerns and afforded Roberts access to the court for a determination to be made whether or not to proceed or appoint another attorney. The question that should be answered is why, why would a competent attorney knowing that his client was unhappy with his representation did not proceed with filing a Nelson hearing to share his client's thoughts and feelings. The point of having an attorney, especially an appointed one, is to assure he is satisfied with his representation and if not, it's the attorney's job and responsibility to assure this very thing.

It would not have been unreasonable for the attorney to file such a motion for a Nelson hearing bases on the circumstances, what is unreasonable id the fact that it was not done, which Roberts proceeding to trial without being satisfied with his attorney or his investigations and strategy which is not what our country is founded upon, nor what an effective attorney is responsible for protecting.

The question on whether Roberts was afforded due process or effective assistance is apparent, denying him relief on this claim and the district court affirming, shows that the outcome of his proceedings are unreliable. Roberts should be afforded an evidentiary hearing on this claim, as the outcome of his proceedings would have been different with another attorney.

## **GROUND FOUR:**

Roberts asks this court to test whether or not he has been denied due process, post conviction relief based upon this court's president in *Strickland v. Washington*, 466 U.S. 466 U.S. 668, 104 S. Ct. 2052, 80 L. Ed. 2d. 674 (1984) (Strickland), where he has demonstrated that counsel's errors and performance fell below an objective standard of reasonableness which contributed to the result of his proceedings being unreliable.

In his Rule 3.850 Motion for Post Conviction Relief and the 2254 Petition Roberts contended that trial court and trial counsel deprived him due process by failing to suppress the statements made to police. Roberts was handcuffed, placed in a small room and then interrogated. Part of this interrogation was coercion and deceitful tactics by detectives making promises and allegations to charge Ms. Thomas if Roberts did not confess.

At this point the detectives inflicted emotional distress upon Robert's which affected his decision making including contributing to Roberts making impulsive decisions to save Ms. Thomas rather than defend his innocence. Inducing a confession by using untrue statements, deceitful coercion, and threats that could and would have not been carried out is unlawful and warrants a review by way of suppression.

For the police detectives, they were driven to find Roberts as the suspect who committed the robbery because based on the bank tellers recollection and initial statements, there was no way possible Roberts committed the robbery. The way detectives used strategies to accomplish that are specifically reveled by the statements and interrogation tactics that induced Roberts into making statements he did not have to make.

An investigation would have uncovered without a doubt that Roberts was denied his right to be silent under the factual circumstances that the officers were

tricking and forcing him into making statements to protect Ms. Thomas. This was unconstitutional and Roberts's right to effective assistance of counsel has been deprived.

If counsel would have investigated the pretrial interrogations of Roberts he would have discovered that constitutional violations by police detectives and would have resulted in counsel filing a motion to suppress. Because trial counsel failed to file the motion to suppress, Roberts has been denied a fair proceeding and denied his constitutional right to effective assistance of counsel insofar as the result of the proceedings are unreliable.

It's now up to this court to determine that Roberts was in fact denied a fair and adversarial appellate and post conviction process. He has demonstrated that the appellate and post conviction process has failed and denied him due process. In reviewing this claim Roberts has provided enough reasonable doubt. Based upon this court's president in *Strickland*, Roberts is entitled to an evidentiary hearing.

#### **GROUND FIVE:**

Roberts asks this court to test whether or not he has been denied due process, post conviction relief based upon this court's president in *Strickland v. Washington*, 466 U.S. 466 U.S. 668, 104 S. Ct. 2052, 80 L. Ed. 2d. 674 (1984).

*Washington*, 466 U.S. 466 U.S. 668, 104 S. Ct. 2052, 80 L. Ed. 2d. 674 (1984) (*Strickland*), where he has demonstrated that counsel's errors and performance fell below an objective standard of reasonableness which contributed to the result of his proceedings being unreliable.

In his Rule 3.850 Motion for Post Conviction Relief, Roberts contended that trial court and trial counsel deprived him due process by failing to suppress the show up identification of him minutes after the robbery. In both the 3.850 and the 2254 federal Habeas Corpus Petition Roberts presented that from 10 to 15 feet

away Ms. Sartain said she recognized him as the robber, but noticed that he was not dressed the same and he had removed the wig and bandana.

Ms. Sartain was not told the suspect was caught and that the man she identified was not handcuffed and he was standing away from the other officers that were present.

Not only was the show up suggestive, and armed with the untruthfulness of Ms. Sartain and the scene being a prop, as it had the money and clothing was just laying in the street, Roberts being the only black man at the scene and he was handcuffed standing beside officers in plain clothes. With all of this, the procedure is highly suggestive, giving counsel plenty of ammunition to file a motion to suppress.

Objectively thinking of defense counsel's trial strategies or tactical decisions during his investigation into the case, it would have been reasonable to file a motion to suppress armed with this information and would not have been frivolous but would have prevailed. In testing counsel performance and whether it fell below prevailing norms, one must determine that the show up being as suggestive as it was became gravely dangerous to Roberts, as he was the only suspect caught and the description of the suspect after the robbery did not match him at all.

If investigated properly and tested against the procedures for the showup, counsel would have uncovered that at the show up, the police intentional set up props to make the identification as suggestive as possible to assure there was no way she would not say, "yes that's him."

The prejudice suffered because of counsel's performance not to file a motion to suppress is immeasurable insofar as, Roberts proceeded to trial with the suggestive identification and the bank teller that was robbed identifies Roberts in front of the jury. This standing alone the State knew they would get the conviction

as any juror seeing that the teller that was robbed pointed out her robber in open court.

Had it been suppressed the jury would have not been able to consider the testimony that Roberts was identified by Ms. Sartain. Absent that, any sane rational thinking person could have reasonably found him not guilty.

Because Roberts was denied an evidentiary hearing, the decision of counsel not filing a motion to suppress deprived Roberts a fair post conviction proceeding and denied him a fair adversarial testing process challenging counsel deficient performance. Because Roberts has been denied post conviction relief pursuant upon this court's president in *Strickland*, Roberts is entitled to relief.

#### **GROUND SIX:**

Roberts asks this court to test whether or not he has been denied due process, post conviction relief based upon this court's president in *Strickland v. Washington*, 466 U.S. 466 U.S. 668, 104 S. Ct. 2052, 80 L. Ed. 2d. 674 (1984).

*Washington*, 466 U.S. 466 U.S. 668, 104 S. Ct. 2052, 80 L. Ed. 2d. 674 (1984) (*Strickland*), where he has demonstrated that counsel's errors and performance fell below an objective standard of reasonableness which contributed to the result of his proceedings being unreliable.

In Ground Six as presented in his 2254 petition and his Rule 3.850 Post Conviction Motion Roberts contended that counsel's lack of communication and failing to investigate deprived him of having the jury correctly instructed on principle.

As stated in the petition, Roberts got a call from Thomas and she needed assistance. Roberts was with Thomas drove his jeep the day of the robbery to Vero Beach to pick up a friend. After waiting Roberts went to locate Johnson (her friend) and afterwards ended up in an argument and tassel with Johnson.

Roberts then noticed that there was money in the backseat and did not know

where the money came from. Roberts became uneasy, panicked when police pulled up, so he ran into the building (packing plant). When Roberts was later caught, he stated that his statements were centered on freeing Thomas because he felt sorry for her. Roberts thinking was that once the police investigated the robbery, it would have been determined that he was not the robber.

Requesting the principle instruction it would have supported what Roberts has stated from the beginning, that he was not the robber but found the money in the vehicle after assisting Thomas that morning. It would have provided that Roberts became involved after the fact and may have found that Roberts was not the robber and this instruction reasonably would have changed the outcome.

Roberts contends that the testing process in determining whether or not counsel performance fell below an objective standard of reasonableness, this court must consider the facts surrounding Roberts' involvement and defense at trial and that it would have supported that there were others involved which would have provided a reasonable doubt Roberts was not the robber and found him not guilty.

Because Roberts has been denied post conviction relief pursuant upon this court's president in Strickland, Roberts is entitled to relief.

### **REASONS FOR GRANTING THE PETITION**

In the interest of justice, Roberts seeks a review from this Court in the form of this Writ and requests that this court test the reliability of his post conviction proceedings and whether or not he has been denied due process and post conviction relief. Roberts's points out that along the way he has had help in preparing his motions and appeals and has realized that the grounds raised may have been presented differently or attacked differently, however he placed his trust in the courts, not the help, to reasonably see his grounds for relief.

Roberts asserts that he understands that not every ground is a great ground and not every claim warrants relief. The most disturbing ground, claim or issue presented at every level is where he felt uncomfortable in proceeding to trial; facing 30 years in prison, with an attorney he was clearly unhappy with, not comfortable with or that he felt did have his best interests at heart.

In deciding to go to trial there is enough pressure and being afforded the Constitutional Right to precede to trial, although a choice, he should have been comfortable and confident with his attorney. Feeling defeated or uncomfortable before going to trial is not what this Country was founded on nor was the right to be represented or a fair trial designed for.

For the last 10 plus years, Roberts has relied upon the State courts and relied upon the process for review. Over the years Roberts has maintained throughout his proceedings that the State courts in Florida have denied him a proper review. He has reasoned that his right to effective assistance of counsel is not a right to perfect counsel. However, reasonable assistance involves making objective decisions based upon prevailing norms that support viable defenses especially pretrial motions and investigations. What is not reasonable is developing a defense minutes before trial and hoping that the judge's heart strings are pulled in his favor.

Roberts felt from the very first visit with his attorney, uncomfortable, intimidated and that he could not say anything in his defense to his own attorney. What is terribly disturbing is, Roberts faced thirty (30) years in prison and throughout his entire proceedings he felt uncomfortable with his attorney and felt he was not afforded an input in preparing his innocence and was forced to go to trial with an attorney he felt neglected from. What is equally disturbing is what Robert's expected the trial court to do (appoint another attorney) did nothing at all.

Trial counsel failed to make judicial notice for a Nelson Hearing and taking responsibility for explaining his client's thoughts regarding his representation, clearly renders his representation unreasonable.

Roberts was never found in actual possession of a firearm, no one saw him in the bank nor with a firearm. The 10 year minimum mandatory should have not applied because for it to apply, the jury would have had to determine that he was armed during the course of the robbery which he was not.

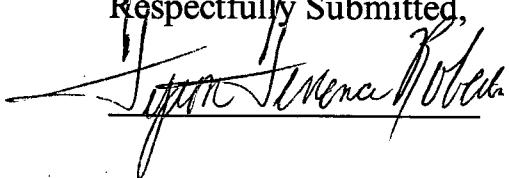
By Roberts being handcuffed, placed in a small room and then interrogated, part of this interrogation was coercion and deceitful tactics used by detectives in making promises and allegations to charge Ms. Thomas, if Roberts did not confess. He was then faced with protecting Ms. Thomas and making statements that he felt he had to protect her not prove his innocence. This in its self is fundamentally unfair and unconstitutional. Therefore Roberts is entitled to relief.

Roberts has shown that his grounds as presented herein entitle him to relief. Even if trial counsel defended his representation with the famous strategic or tactical decisions, this could have been tested at the trial court and appellate level. Roberts hopes that this review from this Court will determine that he was denied due process and deprived post conviction relief he prays that his honesty will shed light on his claims presented and this Honorable Court will grant him the much needed relief he deserves.

## CONCLUSION

Roberts has been in prison long enough and been denied the proper relief especially considering ground Three, Four and Five in his 3.850, and here in this Petition as well. He has tried relentlessly to have this corrected. He has been denied procedurally in most instances and not denied on the merits of his claims. The Florida Appellate courts have denied him relief and have not even explained their reasoning in an opinion. Roberts will now rely on this court to cure this injustice and results of his proceedings are unreliable, he respectfully requests this court to order a new trial.

Respectfully Submitted,



Date: December 1, 2019

PROVIDED TO  
SANTA ROSA C.I. ON

DEC 01 2019

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