

IN THE UNITED STATES SUPREME COURT

ORIGINAL

ROBERT MCKINNON, III,
Petitioner,

Vs.

STATE OF FLORIDA,
Respondent.

No. 19-7606

Supreme Court, U.S.
FILED

MAR 31 2020

OFFICE OF THE CLERK

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NWFR

MAR 31 2020

INMATE INITIALS

R.M. 3rd

PETITION FOR REHEARING

COMES NOW the Petitioner, Robert McKinnon, III (*hereafter referred to as McKinnon*), proceeding pro se, with the foregoing Petition for Rehearing under *Supreme Court Rule 44*. McKinnon now directs this Court to inadvertence, which suppressed foundation that set forth basis for his relief. To wit:

(1) On January 23, 2020, McKinnon mailed this Court a notice of appeal. See *Supreme Court Rule 18.1* and *28 U.S.C. § 2101(b)*. McKinnon believed that *FED. R. APP. P. 4(a)(2)* would activate during subsequent district Court order dismissing the habeas corpus petition for lack of subject matter jurisdiction.

(2) As required by *Supreme Court Rule 18.3*, on January 29, 2020, McKinnon mailed this Court a jurisdictional statement. On January 29, 2020, district court Magistrate Judge Gary R. Jones issued an order to dismiss the habeas corpus petition.

(3) On February 7, 2020, an analyst employed by this Court named Redmond Barnes prepared a document, which stated that on January 29, 2020 he [received] a petition for writ of certiorari and assigned it docket number 19-7606.

The acceptance of the jurisdictional statement as a petition for writ of certiorari was error, because McKinnon's January 29, 2020 mailing of the jurisdictional statement had to take at least 3 days to arrive at the location of this Court. Therefore, it is apparent that analyst Redmond Barnes relied on this Court's decision in *Houston v. Lack*, 487 U.S. 266 (1988), to deem the jurisdictional statement filed in this Court on January 29, 2020.

(4) On March 2, 2020, McKinnon mailed this Court an Emergency Motion (*In accordance to Houston*

v. Lack, 487 U.S. 266 (1988) such emergency motion is deemed filed in this Court on March 2, 2020) under *Supreme Court Rule 21.1*. **(Appendix 1: March 2, 2020 Emergency Motion)** The emergency motion was accompanied by its appendix.

(Appendix 2: March 2, 2020 Appendix Corresponding to March 2, 2020 Emergency Motion)

The emergency motion requested this Court to verify its receipt of the January 23, 2020 notice of Appeal. Moreover, the motion explained this Court's inadvertence and directed this Court to the February 13, 2020 Petition for Writ of Certiorari.

(Appendix 2: See appendix K and K (1): February 13, 2020 Motion to Proceed in Forma Pauperis, with attached Petition for Writ of Certiorari and its accompanying appendix)

(5) As mandated under *Supreme Court Rule 21.4*, this Court was required to rule on the emergency motion within 10 days of receipt, unless the Court or a Justice, or the Clerk under *Supreme Court Rule 30.4*, ordered otherwise.

The emergency motion had nothing to do with any computation or extension of time under *Supreme Court Rule 30.4*. Moreover, no order forwarded to extinguish the 10 day requirement to rule on the emergency motion.

(6) This Court never ruled on McKinnon's March 2, 2020 emergency motion. However, on March 23, 2020, this Court promptly denied the January 29, 2020 jurisdictional statement under the guise of a petition for writ of certiorari. **(Appendix 3: March 23, 2020 notification from the United States Supreme Court regarding the denial of a petition for writ of certiorari)**

WHEREFORE, the Petitioner, Robert McKinnon, III, respectfully requests this Honorable Court to review the March 2, 2020 Emergency Motion, so the inadvertence can be revealed. Thereafter, this Honorable Court should review the February 13, 2020 Petition for Writ of Certiorari.

Respectfully Submitted,

/s/ Robert McKinnon, III
Robert McKinnon, III

** See attached Certification of Petitioner Unrepresented by Counsel
(Supreme Court Rule 44.1 and 44.2)*

CERTIFICATION OF PETITIONER UNREPRESENTED BY COUNSEL

The Petitioner, Robert McKinnon, III, certifies that the foregoing Petition for Rehearing complies with the requirements of *Supreme Court Rules 33* and *34*. The petition states grounds briefly and distinctly. The petition is being presented in good faith and is not for the purpose of delay. See *Supreme Court Rules 44.1* and *44.2*.

I declare under penalty of perjury that the foregoing is true and correct. See *28 U.S.C. § 1746*; and *28 U.S.C. § 1621*.

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/s/ Robert McKinnon, III
Robert McKinnon, III
Dc# U21741
NWFR (Main Unit)
4455 Sam Mitchell Drive
Chipley, Florida 32428

Signed on MARCH 31, 2020

No. 19-7606

IN THE SUPREME COURT OF THE UNITED STATES

Robert McKinnon, III –Petitioner

Vs.

STATE OF FLORIDA – Respondent

PROOF OF SERVICE

I, Robert McKinnon, III do swear or declare that on this date, MARCH 31, 2020, as required by Supreme Court Rule 29 I have served the enclosed **PETITION FOR REHEARING, WITH ITS ACCOMPANYING APPENDIX, AND CERTIFICATE OF PETITIONER UNREPRESENTED BY COUNSEL** (*is attached to petition for rehearing*) on each party to the above proceeding, or that party's counsel and on every other person required to be served, by depositing an envelope containing the above documents in the United States mail properly addressed to each of them and with first-class postage prepaid, or by delivery to a third-party commercial carrier for delivery within 3 calendar days.

The names and addresses of those served are as follows:

The Office of The Attorney General of Florida, The Capitol PL-01, Tallahassee, Florida 32399-1050

I declare under penalty of perjury that the foregoing is true and correct.

Executed on MARCH 31, 2020

/s/ Robert McKinnon, III
Robert McKinnon, III
Dc# U21741

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MAR 31 2020

R.M. J.R.
INMATE INITIALS _____