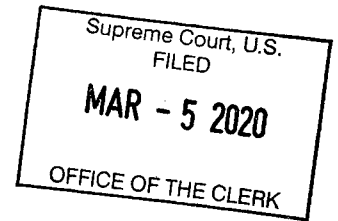


19-7944

No. _____

ORIGINAL



**IN THE
SUPREME COURT OF THE UNITED STATES**

In re STEVEN BEEBE, Petitioner.

On Petition for a Writ of Habeas Corpus to the Sixth Judicial Circuit Court
in and for Pinellas County, Florida.

PETITION FOR A WRIT OF HABEAS CORPUS (TIME SENSITIVE)

Steven Beebe - pro se
Fla. Dept. Corr. I.D. #: R79546
Bay Correctional Facility
5400 Bay Line Drive
Panama City, Florida 32404

QUESTIONS PRESENTED FOR REVIEW

I - Whether this Court should issue a Writ of Habeas Corpus.

II - Whether the Fifth Amendment Double Jeopardy holding of *United States v. Dixon*, 509 U.S. 688, 698-700 (1993) (The crime of violating a condition of a court order cannot be abstracted from the element of the violated condition), applies to a condition of "no contact" imposed within an order of probation.

III - Whether this Court should publish an opinion to coordinate new legal developments that have taken place since *Dixon* was decided.

PARTIES TO THE PROCEEDING BELOW

Habeas Corpus is an ex parte proceeding, Sup. Ct. R. 20.4(b). The Petitioner is in State custody in the Florida Department of Corrections at Bay Correctional and Rehabilitation Facility in Panama City, Florida.

RELATED PROCEEDINGS

- Second District Court of Appeal for the State of Florida:

(a) 2D17-1455 - Beebe v. State - direct appeal to judgment and sentence - affirmed per curiam August 27, 2018.

(b) 2D18-3538 - Beebe v. State - petition for writ of habeas corpus - denied per curiam September 18, 2018.

(c) 2D19-3978 - Beebe v. State - denial of motion for postconviction relief - case pending.

(d) 2D19-4100 - Beebe v. State - denial of motion to correct illegal sentence based on substantive clerical mistake - case pending.

(e) 2D19-4957 - Beebe v. State - dismissal of constitutional challenge to Florida Statute § 921.244 - case pending.

(f) 2D19-4992 - Beebe v. State - dismissal of constitutional challenge to Florida Statute § 784.048(4) - case pending.

(g) 2D20-0205 - Beebe v. State - dismissal of motion to correct illegal sentence based on double jeopardy and lack of jurisdiction - case pending.

(h) 2D20-0211 - Beebe v. State - petition for writ of habeas corpus (transfer from Supreme Court of Florida - Case No. SC19-2097) - case pending.

None of the above pending cases will suffice to protect the rights of the Petitioner. 28 U.S.C. § 2254(b)(1)(B)(ii). As established below, the claim raised herein is on strict time constraints and is exhausted at the State Court level.

TABLE OF CONTENTS

QUESTIONS PRESENTED FOR REVIEW.....	page i
PARTIES TO THE PROCEEDING BELOW.....	page ii
RELATED PROCEEDINGS	page iii
TABLE OF CONTENTS	page iv
TABLE OF AUTHORITIES	page vii
PETITION FOR A WRIT OF HABEAS CORPUS	page 1
OPINIONS AND ORDERS BELOW.....	page 1
STATEMENT OF JURISDICTION	page 1
STATEMENT PURSUANT TO RULE 20.4(A)	page 1
I - District Court Of District In Which Applicant Is Held	page 1
II - Provisions Of 28 U.S.C. § 2254(b)(1)(A)	page 1
III - Provisions Of 28 U.S.C. § 2254(b)(1)(B)	page 2
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	page 2
INTRODUCTION / BACKGROUND OF THE CASE	page 3
I - Violation of Probation From Case No. 12-07076-CF.....	page 3
II - Substantive Offenses From Case No. 14-14289-CF.....	page 4
STATEMENT OF THE FACTS TO THE CASE	page 4
I - Significance Of Dilemma	page 4
II - Double Jeopardy Clause Violation	page 6
III - Lack Of Jurisdiction	page 8
IV - Stare Decisis	page 8
V - Summary of Arguments	page 9

REASONS FOR GRANTING WRIT.....	page 10
I - Petitioner Cannot Obtain Adequate Relief In	
Any Other Form Or From Any Other Court	page 10
II - Exceptional Circumstances Warrant The	
Exercise Of This Court's Habeas Jurisdiction	page 10
(a) The Consecutive Sentences in Question	
Are Imminent	page 11
(b) The State Court Lacked Original Jurisdiction	
To Hear And Determine The Case	page 11
(c) The State Court Imposed An Egregiously	
Excessive Punishment	page 11
(d) The Enactment In Question Is Abridging	
The United States Constitution And Departing	
From This Court's Precedent	page 11
(e) This Court's Current Precedent Is Outdated	
And Has Become Unworkable	page 12
(f) This Case Presents The Ideal Vehicle To Reaffirm	
And Expand Upon This Court's Current Precedent	page 12
(g) The Issue Is Of Exceptional Importance To	
Innumerable Probationers Nationwide	page 13
(h) An Original Habeas Corpus Is The Only	
Way To Properly Resolve The Injustice	page 13

III - Writ Will Be In Aid of This Court's

Appellate Jurisdiction	page 14
(a) Precedential Value	page 14
(b) National Significance	page 17
RELIEF SOUGHT	page 17
CONCLUSION	page 17
DECLARATION / OATH	page 18

ACCOMPANYING APPENDIX

EXHIBIT A: Judgment of Conviction and Sentence
EXHIBIT B: Felony Information
EXHIBIT C: Order of Probation
EXHIBIT D: Motion to Dismiss
EXHIBIT E: Constitutional Challenge to F.S. § 921.244
EXHIBIT F: State v. Woodland, 602 So. 2d 554 (Fla. 4th DCA 1992)
EXHIBIT G: Section 38.23, Florida Statutes
EXHIBIT H: Section 921.244, Florida Statutes
EXHIBIT I: Section 948.039, Florida Statutes
EXHIBIT J: Section 948.06, Florida Statutes
EXHIBIT K: Cason v. State, 604 So. 2d 928 (Fla. 3d DCA 1992)
EXHIBIT L: Constitutional Challenge to F.S. § 784.048(4)
EXHIBIT M: Section 784.048(4), Florida Statutes

TABLE OF AUTHORITIES

I - CASES

Agostini v. Felton, 521 U.S. 203 (1997)	page 8
Blockburger v. United States, 284 U.S. 299 (1932)	page 6, 14
Bloom v. Illinois, 391 U.S. 194 (1968)	page 15
Green v. United States, 355 U.S. 184 (1957)	page 7
Johnson v. United States, 135 S. Ct. 2551 (2015)	page 9
Planned Parenthood of SE Penn. v. Casey, 505 U.S. 833 (1992)	page 9
Randall v. Sorrell, 548 U.S. 230 (2006)	page 12
Smith v. Ault, 2019 U.S. Dist. LEXIS 31313 (2019)	page 6
United States v. Dixon, 509 U.S. 688 (1993)	page 6

II - CONSTITUTIONAL PROVISIONS AND STATUTES

Amendment V, United States Constitution	page 2, 4, 6, 9, 11, 14, 15
Amendment VIII, United States Constitution	page 2, 11
Amendment XIV, United States Constitution	page 2, 8
Article I, Section 9, United States Constitution	page 3
Article III, United States Constitution	page 1
28 U.S.C. § 1651	page 1, 3, 10
28 U.S.C. § 2254	page 1, 2, 3, 9

PETITION FOR A WRIT OF HABEAS CORPUS

Petitioner Steven Beebe respectfully petitions this Court for a writ of habeas corpus.

OPINIONS AND ORDERS BELOW

The Judgment of Conviction and Sentence from the Circuit Court of the Sixth Judicial Circuit in and for Pinellas County, Florida, is attached at Appendix Exhibit A. The per curiam denial of the Petitioner's direct appeal entered by the Second District Court of Appeal for the State of Florida is reported as Beebe v. State, 263 So. 3d 9 (Fla. 2d DCA 2018).

STATEMENT OF JURISDICTION

The Circuit Court of the Sixth Judicial Circuit in and for Pinellas County, Florida, entered a Judgment of Conviction and Sentence on February 27, 2017. This Court's jurisdiction is invoked pursuant to 28 U.S.C. § 1651(a), 28 U.S.C. § 2254(a), 28 U.S.C. § 2254(b)(1)(A), 28 U.S.C. § 2254(b)(1)(B)(i), 28 U.S.C. § 2254(b)(1)(B)(ii), and Article III of the United States Constitution.

STATEMENT PURSUANT TO RULE 20.4(A)

I - DISTRICT COURT OF DISTRICT IN WHICH APPLICANT IS HELD

A petition for leave to file this same claim and petition was filed in the United States District Court for the Middle District of Florida. The District Court declined to accept jurisdiction. See Case Number 8:19-cv-3116-T-36CPT.

II - PROVISIONS OF 28 U.S.C. § 2254(B)(1)(A)

The claim presented has been presented to the highest State Court having jurisdiction. After Judgment of Conviction and Sentence, the Petitioner filed a direct appeal to the Second District Court of Appeal for the State of Florida. Said appeal was denied per curiam. There are no grounds for review by the Supreme Court of Florida.

III - PROVISIONS OF 28 U.S.C. § 2254(B)(1)(B)

There is an absence of available State corrective process because the only State Court that has not heard the claim is the Supreme Court of Florida and there is no basis for invoking their jurisdiction. Any State postconviction proceeding is rendered ineffective to protect the rights of the Petitioner under the present circumstances. The violation in question is of critical importance and possesses the fixed certainty of irreparable injury if this Court declines jurisdiction.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

- United States Constitution, Amendment V, in relevant part, no person shall ... be subject for the same offence to be twice put in jeopardy of life or limb.
- United States Constitution, Amendment VIII, excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.
- United States Constitution, Amendment XIV, in relevant part, no State shall make or enforce 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 to any person within its jurisdiction the equal protection of the laws.
- 28 U.S.C. § 2254(a), Writ of Habeas Corpus, in relevant part, person ... is in [State] custody in violation of the Constitution or laws ... of the United States.
- 28 U.S.C. § 2254(b)(1)(A), Writ of Habeas Corpus, in relevant part, the applicant has exhausted the remedies available in the courts of the State.
- 28 U.S.C. § 2254(b)(1)(B)(i), Writ of Habeas Corpus, in relevant part, there is an absence of available State corrective process.
- 28 U.S.C. § 2254(b)(1)(B)(ii), Writ of Habeas Corpus, in relevant part, circumstances exist that render such [State] process ineffective to protect the rights of the applicant.

- 28 U.S.C. § 2254(d)(1), in relevant part, adjudication resulted in a decision that was contrary to, or involved an unreasonable application of, clearly established Federal Law, as determined by the Supreme Court of the United States.
- 28 U.S.C. § 2254(d)(2), in relevant part, adjudication resulted in a decision that was based on an unreasonable determination of the facts in light of the evidence presented in the State Court proceeding.
- 28 U.S.C. § 1651(a), All Writs [Necessary] Act, Writ of Supervisory Control, in relevant part, remedy by [normal procedure] appeal cannot afford adequate relief ... and gross injustice is threatened as the result of such rulings.
- 28 U.S.C. § 1651(a), All Writs [Necessary] Act, Writ of Supersedeas, in relevant part, auxiliary process designed to supersede or suspend enforcement of trial court's judgment brought up for review.
- Article I, Section 9, United States Constitution, in relevant part, habeas corpus ad subjiciendum is guaranteed.

INTRODUCTION / BACKGROUND OF THE CASE

This matter involves a violation of probation from one case and substantive offenses from a second case. Brief details are as follows:

I - VIOLATION OF PROBATION FROM CASE NUMBER 12-07076-CF

This prosecution, as it pertains here, was a violation of an order of probation based on the violation of a special condition of "no victim contact" imposed within the order of probation pursuant to Section 948.039, Florida Statutes. The Petitioner was found guilty of victim contact, had his probation revoked, and was sentenced to five years prison pursuant to Section 948.06, Florida Statutes.

II - SUBSTANTIVE OFFENSES FROM CASE NUMBER 14-14289-CF

This is the case at hand. This prosecution was a five count indictment. Count One is Aggravated Stalking, contrary to Section 784.048(4), Florida Statutes. Counts Two, Three, Four, and Five are Violation of a Court Order Relating to Victim Contact, contrary to Section 921.244, Florida Statutes.

The prosecutions on Counts Two, Three, Four, and Five were based solely on the violation of the order of probation from the related case described above. Specifically, in violation of special condition number seventeen of the order of probation. The prosecutions contained the single violative element of victim contact in violation of the order of probation.

The Petitioner proceeded to trial by jury and was convicted on all five counts. He was sentenced to five years prison on each count, several counts concurrent, several counts consecutive, for a total of fifteen years prison. Said sentences were also consecutive to the related violation of probation sentence referenced above.

STATEMENT OF THE FACTS TO THE CASE

The claim presented was properly argued both pre-trial and post-trial, and therefore, has been properly preserved for appellate review.

I - SIGNIFICANCE OF DILEMMA

The Petitioner is on the verge of serving multiple consecutive sentences that are barred by the Double Jeopardy Clause of the Fifth Amendment to the United States Constitution. In a five count indictment, four counts are violative of double jeopardy principles. To intensify matters, multiple counts were ran consecutive to the single legal count. A sentence of fifteen years prison was imposed when only five years is permitted.

As of the date of this filing, the Petitioner has less than six months before the illegal sentences are definite to commence and approximately ninety days before the illegal sentences are probable to commence. The sentences are projected to take effect on or around August 25, 2020, with the possibility of 95 days being subtracted for missing jail credits currently being sought on the probation revocation case.

This is not a matter where the Petitioner has allowed the sentences to grow near with no action and now seeks last minute assistance. The Petitioner has diligently attempted to resolve the issue through every possible recourse over the past three years. The sentences have now become imminent due to the State of Florida refusing to acknowledge error.

A routine petition for a writ of habeas corpus is typically filed to the District Court of the district in which the applicant is held. However, such a filing would be insufficient to protect the Petitioner's rights in this situation.

First, the Petitioner has other State postconviction actions pending that will likely take one year from this date to conclude. Thereafter, it will likely take an additional one and a half to two years to complete the Federal habeas corpus process at the District Court level. If this Court declines jurisdiction, the result will be approximately two and a half years of wrongful imprisonment, possibly longer.

Second, even if the Petitioner was to forgo all pending actions in State Court and immediately move on to a Federal habeas corpus filing under normal procedures, such action would still be inadequate to protect the Petitioner's rights. These steps would equally result in a lengthy term of illegal incarceration due to the time consuming process and the fact that the sentences are imminent.

Only one year of time would be saved by taking option two. One and a half to two years of liberty would still be lost in the interim. The bottom line is that wrongful imprisonment cannot be avoided without this Court intervening. Again, the United States District Court for the Middle District of Florida declined to hear this claim outside of normal procedures.

II - DOUBLE JEOPARDY CLAUSE VIOLATION

The prosecutions on Counts Two, Three, Four, and Five of Case Number 14-14289-CF are in violation of the Fifth Amendment to the United States Constitution, prohibition against double jeopardy. This fact is supported by *United States v. Dixon*, 509 U.S. 688, 698 (1993) (The crime of violating a condition of a court order cannot be abstracted from the element of the violated condition). See also *Smith v. Ault*, 2019 U.S. Dist. 31313 (2019) (Analysis: If a court order incorporates a substantive criminal offense, the underlying criminal offense becomes subsumed under the court order).

This argument is backed by Florida Law as well. See Appendix at Exhibit F: *State v. Woodland*, 602 So. 2d 554 (Fla. 4th DCA 1992) (The prosecution of a substantive offense is barred by double jeopardy when based solely on the violation of a condition of probation). *Woodland* is the identical situation as here and was cited in a pre-trial motion to dismiss and again in postconviction actions with *U.S. v. Dixon* accompanying the case for evidentiary support.

As *U.S. v. Dixon* explains at 699-700, a court's power to establish a condition of a court order and punish the violation thereof is conferred by statute. Therefore, only one statute can be used for punishment. Here, the Petitioner could only be prosecuted under Section 948.06, Florida Statutes. The subsequent prosecutions under Section 921.244, Florida Statutes, are barred by double jeopardy. See *Blockburger v. United States*, 284 U.S. 299 (1932) (The *Blockburger* Test is a rule of statutory construction).

Attached at Appendix Exhibit D: Motion to Dismiss, and Exhibit E: Constitutional Challenge to F.S. § 921.244, are two filings that provide precise detail to this argument. Also attached at Appendix Exhibit B: Felony Information, and Exhibit C: Order of Probation, are two State Court documents that provide proof of fact as to identical statutory elements and the violations in question being condition number seventeen of an order of probation previously revoked. All applicable Florida Statutes are attached at Appendix Exhibit G through J.

The double jeopardy clause codifies an idea "deeply ingrained in ... the Anglo-American system of jurisprudence," that "the State with all it's resources and power should not be allowed to make repeated attempts to convict an individual for an alleged offense, thereby subjecting him to embarrassment, expense and ordeal, and compelling him to live in a continuing state of anxiety and insecurity." *Green v. United States*, 355 U.S. 184, 187 (1957).

This is exactly what is transpiring here and the anxiety and insecurity will only heighten if the ensuing sentences are to take affect. The Petitioner feels today as if he is a prisoner of war within the boundaries of his own Nation. Words simply cannot explain the internal hurt, emotional distress, and despair that is involved.

The true substantive offense was Count One, which required a showing of the violation of a court-imposed prohibition of conduct (no contact probation condition). However, the State Court undermined their own legislature and circumvented double jeopardy principles a second time by arbitrarily omitting the element in favor of using only an injunction that was equally violated simultaneously. See Appendix Exhibit L and Exhibit M.

III - LACK OF JURISDICTION

There is also the lack of subject-matter jurisdiction in violation of the Fourteenth Amendment to the United States Constitution. Since the "no contact" condition was "imposed" pursuant to Section 948.039 of Chapter 948, Florida Statutes, a violation is only prosecutable under the terms of Section 948.06 of Chapter 948, Florida Statutes. The prosecutions in question were erroneously prosecuted under Section 921.244 of Chapter 921, Florida Statutes.

In no possible way can a defendant be legally convicted of a crime under a completely different chapter of law than what is alleged to have been violated. Again, all facts, being all evidence adduced at trial, establish that the Petitioner violated special condition number seventeen of an order of probation issued under Chapter 948, Florida Statutes. Section 948.039, Florida Statutes, specifically states "imposed" by court order. See Appendix at Exhibit I.

IV - STARE DECISIS

Under the stare decisis doctrine, when a point of law has been settled by decision, it forms precedent which is not afterwards to be departed from. In this case, the State Court is departing from precedent. However, the reasons for departure are not solely based on the misapplication of law. *U.S. v. Dixon* is unworkable and insignificant when applied to the facts of this case. This is based on Florida Statute § 921.244 being enacted eleven years after *U.S. v. Dixon* was decided.

The Petitioner is requesting for review under the stare decisis doctrine. This is not to discredit *U.S. v. Dixon*, but instead to reinforce the holding with an updated decision that comports with the newly enacted law. *Agostini v. Felton*, 521 U.S. 203, 235 (1997), holds that "stare decisis is at it's weakest when interpreting the Constitution" because this Court's "interpretation can be altered only by the Constitutional Amendment." Therefore, the doctrine must be at it's strongest when, as requested here, applied to reinforce the Constitution.

Reexamining prior holdings is appropriate where, inter alia, the facts related to the prior decision have so changed "as to have robbed the old rule of significant application or justification." *Planned Parenthood of SE Penn. v. Casey*, 505 U.S. 833, 854-855 (1992). "The doctrine of stare decisis allows [the Court] to revisit an earlier decision where experience with its application reveals that it is unworkable." *Johnson v. United States*, 135 S. Ct. 2551, 2562 (2015).

There are two factors to consider when invoking stare decisis review. The first is legal developments since the decision in question, and the second is whether reliance on the decision has become unworkable. The legal development here is the enactment of Florida Statute § 921.244 which has caused the reliance on *U.S. v. Dixon* to become unworkable with "no contact" provisions imposed within orders of probation.

V - SUMMARY OF ARGUMENTS

28 U.S.C. § 2254(d)(1) states that when "adjudication resulted in a decision that was contrary to, or involved an unreasonable application of, clearly established Federal Law, as determined by the Supreme Court of the United States", the defendant is entitled to relief. Here, the holding of *U.S. v. Dixon* establishes that the adjudication in this case was contrary to the Fifth Amendment of the United States Constitution.

28 U.S.C. § 2254(d)(2) states that when "adjudication resulted in a decision that was based on an unreasonable determination of the facts in light of the evidence presented in the State Court proceeding", the defendant is entitled to relief. Here, it was unreasonable for the State Court to determine that Florida Statute § 921.244 was violated when all evidence presented at trial established that Florida Statute § 948.039 was violated.

The Petitioner has met the burden of 28 U.S.C. § 2254(d)(1) and 28 U.S.C. § 2254(d)(2) in regard to error. The Petitioner has met the burden of 28 U.S.C. § 2254(b)(1)(B)(ii) with regard

to the exercise of this Court's discretionary powers. These facts establish this Court's authority to invoke 28 U.S.C. § 1651(a).

REASONS FOR GRANTING WRIT

This case presents exceptionally rare circumstances that warrant the exercise of this Court's original habeas jurisdiction. This Court's Rule 20.4(a) delineates the standards under which the Court will grant an original writ of habeas corpus. First, "the petitioner must show ... that adequate relief cannot be obtained in any other form or from any other court." Sup. Ct. R. 20.4(a). Second, "the petitioner must show that exceptional circumstances warrant the exercise of the Court's discretionary powers." *Id.* This case satisfies both requirements.

I - PETITIONER CANNOT OBTAIN ADEQUATE RELIEF IN ANY OTHER FORM OR FROM ANY OTHER COURT

Adequate relief cannot be obtained in any other form because no other procedure or court can provide effective relief to protect the Petitioner's rights (imminent illegal consecutive sentences).

Adequate relief cannot be obtained from any other court because the claim is exhausted at the State Court level and the United States District Court for the Middle District of Florida declined jurisdiction.

II - EXCEPTIONAL CIRCUMSTANCES WARRANT THE EXERCISE OF THIS COURT'S HABEAS JURISDICTION

This case represents a rare confluence of circumstances warranting the exercise of this Court's habeas jurisdiction. The questions can only be resolved through the exercise of this Court's discretionary powers. It is this Court's precedent that is in question and the issue carries a hard deadline for meaningful resolution.

(A) THE CONSECUTIVE SENTENCES IN QUESTION ARE IMMINENT

As explained, a writ here will provide literal "last hour" discharge from forthcoming wrongful imprisonment. The sentences in question are projected to commence in less than six months, may commence in less than ninety days, and are certain to erroneously commence if relief is not granted herein.

(B) THE STATE COURT LACKED ORIGINAL JURISDICTION TO HEAR AND DETERMINE THE CASE

Black's Law Dictionary exemplifies the exceptional circumstance definition as "lack of original jurisdiction to hear and determine a case." Here, and as established above, the State Court lacked original jurisdiction to hear and determine possible violations of Florida Statute § 921.244 when the Petitioner could only have possibly violated Florida Statute § 948.039.

(C) THE STATE COURT IMPOSED AN EGREGIOUSLY EXCESSIVE PUNISHMENT

A grossly excessive punishment falls under the prohibitions of the Eighth Amendment to the United States Constitution. Two of the sentences in question were ran consecutive twice. This results in fifteen years prison when only five years is legal. The impact is a 300% increase beyond what the Constitution permits.

(D) THE ENACTMENT IN QUESTION IS ABRIDGING THE UNITED STATES CONSTITUTION AND DEPARTING FROM THIS COURT'S PRECEDENT

Florida Statute § 921.244 is abridging the Double Jeopardy Clause of the Fifth Amendment to the United States Constitution by allowing the State of Florida to prosecute "violation[s] of a court order relating to victim contact" twice under two separate statutes. Once prosecuted under Florida Statute § 948.06 through revocation of probation for violating conditions of an order of probation imposed pursuant to Florida Statute § 948.039, a defendant faces a subsequent

prosecution based on identical facts and for violation of the identical order of probation under Florida Statute § 921.244.

Randall v. Sorrell, 548 U.S. 230, 244 (2006), holds that a court's "departure from [it's own] precedent is exceptional." Therefore, departure by the State Court is exceptional, especially when done as here, through legislative action.

(E) THIS COURT'S CURRENT PRECEDENT IS OUTDATED AND HAS BECOME UNWORKABLE

Dixon was decided in the year 1993 with no regard to the statute creating this conflict. The statute in question was not enacted until the year 2004. Although *Dixon* is acceptable in general terms of court orders and substantive offenses incorporated therein, it does not specifically address the imposition of no contact provisions within orders of probation. This deficiency, although at no fault of *Dixon*, should be remedied here with a new and up to date holding.

The Petitioner wants to be clear that *Dixon* is not obsolete, but instead antiqued and unworkable with the facts presented in this case. *Dixon* sufficiently addressed similar matters auld lang syne, but cannot be effectively applied under these modern circumstances.

(F) THIS CASE PRESENTS THE IDEAL VEHICLE TO REAFFIRM AND EXPAND UPON THIS COURT'S CURRENT PRECEDENT

As stated, *Dixon* does not define the question of whether a substantive criminal offense can or cannot be prosecuted for a mere technical violation when the violation in question is a "no contact" condition imposed within an order of probation. *Dixon* strictly encompasses older basic contempt statutes. The statute creating the conflict here is explicitly a "victim contact" contempt statute derived from a general contempt statute eleven years after *Dixon* was published.

An updated guideline that comports with the current times is in dire need. This case holds all of the necessary factors, and therefore, is the perfect vehicle for a new and current precedent. When a statute containing the text "violation of a court order relating to victim contact" becomes the subject of a prosecution for the mere violation of an order of probation, a second precedent addressing this exact scenario is needed. The result in this case thus far is proof of necessity.

Beyond differing species of contempts and differing types of court orders, these cases contain different wording as for the inclusion of the conditions violated. *Dixon* states "incorporated", while Florida Statute § 948.039 states "imposed." Clarity as to the differences or indifferences would be beneficial as well. The Petitioner's condition was clearly imposed directly within the order of probation. *Dixon's* may have been imposed separately and incorporated thereafter. This would possibly affirm that if "incorporation" bars subsequent prosecutions, then "imposition" is certain to bar such.

(G) THE ISSUE IS OF EXCEPTIONAL IMPORTANCE TO INNUMERABLE PROBATIONERS NATIONWIDE

It cannot be refuted that this issue is of exceptional importance to a significant percentage of probationers in the State of Florida, both current and future. Even though other States likely do not have statutes similar to Florida Statute § 921.244, the other States very well may follow suit in the future if the issue is not remedied now. Therefore, this issue is of exceptional importance to probationers nationwide, not just in the State of Florida.

(H) AN ORIGINAL HABEAS CORPUS IS THE ONLY WAY TO PROPERLY RESOLVE THE INJUSTICE

The exercise of this Court's habeas jurisdiction is eminently justified in this rare circumstance. There is virtually no possibility that this Court will have the opportunity to resolve

this deficiency and error in any other posture. An original habeas petition is the only procedural posture by which this Court may prevent the Petitioner and future litigants from being subjected to wrongful imprisonment.

Given the strict deadline and the serious consequences of waiting any longer, it is incumbent upon this Court to intervene now. Forcing the Petitioner to proceed through normal appellate channels with the belief of eventually reaching this Court again through certiorari is not a realistic option. The erroneous sentences would be near completion at that time.

III - WRIT WILL BE IN AID OF THIS COURT'S APPELLATE JURISDICTION

With this matter being comprised of distinct factors beyond the abilities of *Dixon*, a writ would have a significant impact at every level of practice nationwide.

(A) PRECEDENTIAL VALUE

The Petitioner has brought an exceptional legal conflict to the forefront of the Fifth Amendment. Although the issue here resembles *Dixon*, it possesses a significant twist requiring it's own precedent. There are critical differences in the fact that a probation order is being infringed upon by a statute outdating *Dixon*.

Dixon can only be relied upon when a defendant is charged with violation of probation and general contempt. *Dixon* is certain to always suffice for such a situation. However, *Dixon* can never sufficiently address whether a statute containing the text "violation of a court order relating to victim contact" is enforceable when the order in question is probation.

It is understood that the *Blockburger* Test is a rule of statutory construction, and thus, no confusion should exist. *Blockburger v. United States*, 284 U.S. 299 (1932). This is understood by the Petitioner and this Court. It is not understood however, by any court within the combines of the State of Florida when Florida Statute § 921.244 becomes involved.

The State Court's failure to equate Florida Statute § 921.244 with Florida Statute § 38.23 is the underlying issue. A published opinion furnishing the equation is of absolute necessity. Regardless if the State of Florida is the only State in discord to *Dixon*, clarity needs to be made since the conflict is in direct violation of the Fifth Amendment to the United States Constitution.

A published decision would determine the outcome of this case, other current cases yet to reach this level of review, and innumerable future cases. If the State Court has deviated from the Constitution in this case, there must be other instances as well. This leads to a finding that specific guidelines outside that of *Dixon* are required. The result in this case thus far is proof of the fact.

The matter has not been addressed for nearly thirty years and has never been addressed in the detail requested here. When *Dixon* was published, there was at that time, only general contempt statutes in Florida, all of which fell under the holding of *Dixon*. With the enactment of Florida Statute § 921.244, *Dixon* has become unworkable.

Although the underlying issue is the inability to grasp the understanding that all contempt violations are deemed identical for double jeopardy purposes regardless of what section of law they are proscribed under, the deciding factor is the fact that *Dixon* does not satisfy modern review, and thus, this Court lacks precedent to the issue.

When no precedent exists, and the Constitution is being unequivocally violated, a publication must be made. This is the only way that this Court can be certain that the matter is properly addressed, and thereby, never arises again. Preventing repetition of the same error should always be a top priority.

The publication would be a convergence of the holding of *Dixon* at 698-700 and the holding in *Bloom v. Illinois*, 391 U.S. 194, 201 (1968) (Convictions for criminal contempt are indistinguishable from ordinary convictions, for their impact on the individual is the same).

Example of Opinion: Mr. Beebe raised the issue before trial citing Florida Law which referenced conditions of probation and contempts in general. The issue was raised again on direct appeal and in several other postconviction proceedings with the inclusion of *Dixon* and eventually *Bloom*. This Court makes the following analysis:

The confusion seems to be with the State Court failing to equate s. 921.244, Fla. Stat., with their own holding and the holdings of this Court. *Dixon* is clear in the fact that a contempt prosecution is barred by double jeopardy if based solely on the violation of a condition of a court order previously prosecuted. *Bloom* is clear in the fact that contempts are a crime in the ordinary sense, a violation of law where all procedures of criminal law apply.

Therefore, with the statute in question having the sole purpose of prosecuting contempt of court, and here the contempt of an order of probation previously prosecuted through revocation, the prosecutions in question are barred by double jeopardy. - End of Example.

It should be noted that the Judge whom denied the pre-trial motion to dismiss stated that the reason for the denial was the fact that he felt Florida Statute § 921.244 was distinct from general contempt statutes, and specifically Florida Statute § 38.23, which was the subject offense for the case law presented within the motion to dismiss. Transcripts are included with the Order to Dismiss at Appendix Exhibit D.

Florida Statute § 921.244 is a contempt statute created to enhance the contempt of a "no victim contact" court order to a felony, as opposed to a misdemeanor in preceding contempt statutes such as Florida Statute § 38.23. It was not intended to be applied to orders of probation. The wording of the statute's text has confused the judiciary. This Court needs to clarify the fact that the statute is simply a contempt of court by nature and in violation of the United States Constitution when applied to probation order violations.

(B) NATIONAL SIGNIFICANCE

As established, a publication will have a significant affect on thousands of current probationers and innumerable future probationers nationwide. It will cure all deficiencies in the State of Florida while providing a guiding principle for all similar future cases and enactments nationwide. It will forever be the basis for deciding common situations brought to the attention of every level of court nationwide. And it will alleviate this Court of the possible need to hear this issue again at a later date. The efficiency of this Court is always of national significance to the tax payer.

RELIEF SOUGHT

This is an inordinate situation amid even commonly presented exceptional circumstances. Based on this reason, the Petitioner should be afforded an expedient writ.

The Petitioner is requesting a Writ of Habeas Corpus dismissing the Judgment of Conviction and Sentence on Counts Two, Three, Four, and Five in Florida State Court Case Number 14-14289-CF. If applicable, the Petitioner further requests a Writ of Supervisory Control.

If the sentences must first take affect for the Petitioner to be considered in unlawful restraint, the Petitioner requests for a Writ of Supersedeas so that the sentences can commence under the supervision of this Court and be immediately vacated thereafter.

CONCLUSION

WHEREFORE, the Petitioner, STEVEN BEEBE, respectfully requests that this Honorable Court grant this petition based on the facts and reasons stated above.

DECLARATION / OATH

Under penalties of perjury, I declare that I have read the foregoing petition and that the facts stated in it are true and correct.

I hereby certify that the foregoing petition and accompanying appendix was provided to the Institutional Mail Officer at Bay Correctional and Rehabilitation Facility with first-class postage prepaid for mailing to the Clerk of the Supreme Court of the United States on this 2 day of MARCH, 2020.

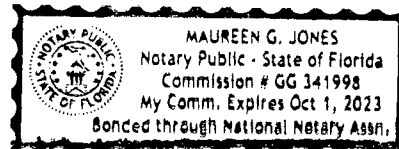
- Respectfully submitted.

S+B

Steven Beebe - Petitioner
Fla. Dept. Corr. I.D. #: R79546
Bay Correctional Facility
5400 Bay Line Drive
Panama City, Florida 32404

Notary: _____

Maureen G. Jones



3/2/20