

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

DUANE BLAKE — PETITIONER
(Your Name)

Provided to Madison C.I. on
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vs.

STATE OF FLORIDA — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

FLORIDA FOURTH DISTRICT COURT OF APPEAL
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

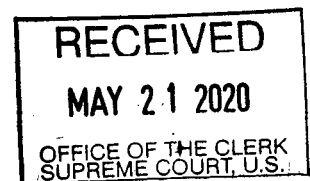
PETITION FOR WRIT OF CERTIORARI

DUANE BLAKE #67195
(Your Name)

MADISON CORRECTIONAL INSTIT.
(Address)

382 SW MCF WAY, MADISON, FL. 32340
(City, State, Zip Code)

N/A
(Phone Number)



QUESTION(S) PRESENTED

DID THE STATE OF FLORIDA VIOLATE PETITIONERS
RIGHT TO DUE PROCESS BY ALLOWING AN
INSTRUCTION TO THE JURY ON ATTEMPTED
MANSLAUGHTER WHICH ERRONEOUSLY
REQUIRED THAT THEY FIND, BEYOND A
REASONABLE DOUBT, THAT PETITIONER
"INTENTIONALLY CAUSED THE DEATH OF
THE VICTIM".

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:

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STATUTES AND RULES

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OTHER

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:**

N/A

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☐ is unpublished.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☐ is unpublished.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 _____ to the petition and is

☒ reported at 4D-19-2823 (INCL. MANDATE); 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☐ is unpublished.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 _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

JURISDICTION

☐ For cases from **federal courts:**

N/A

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:**

N/A

The date on which the highest state court decided my case was _____.
A copy of that decision appears at Appendix _____.

☐ A timely petition for rehearing was thereafter denied 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. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

- 1) THE DUE PROCESS CLAUSE OF THE FOURTEENTH AMENDMENT TO THE U.S. CONSTITUTION PROVIDES THAT "NO STATE SHALL DEPRIVE ANY PERSON OF LIFE, LIBERTY OR PROPERTY WITHOUT DUE PROCESS OF LAW".
- 2) SEC. 782.07 FLA. STATUTES MANSLAUGHTER
- 3) JURY INSTRUCTION 7.7; FLORIDA STANDARD CRIMINAL JURY INSTRUCTIONS

STATEMENT OF THE CASE

- 1) ON FEB. 15, 2011 PETITIONER WAS FOUND GUILTY OF ATTEMPTED FIRST DEGREE MURDER AND ON APRIL 14, 2011 WAS SENTENCED TO LIFE IN PRISON.
- 2) PETITIONER'S APPEALS WERE UNSUCCESSFUL, AS WERE HIS POSTCONVICTION MOTIONS TO THE TRIAL COURT
- 3) PETITIONER WAS LIKEWISE DENIED RELIEF UNDER HIS PETITION UNDER 28 USC § 2254 WHICH WAS DENIED BY THE U.S. DISTRICT COURT ON JUNE 20, 2018.
- 4) PETITIONER'S SUBJECT POSTCONVICTION MOTION, WHICH IS THE SUBJECT OF THIS APPEAL WAS DENIED BY THE FOURTH FLORIDA DCA ON JANUARY 16, 2020. MANDATE ISSUED ON FEBRUARY 17, 2020
- 5) PETITIONER'S SUBJECT MOTION WAS THE FIRST TO RAISE THE ISSUE HEREIN

REASONS FOR GRANTING THE PETITION

THE JURY'S DELIBERATION OF AN ADMITTEDLY
ERRONEOUS JURY INSTRUCTION TAINTED
THE PROCEEDINGS BY REMOVING OPTIONS
FOR A LESSER CRIME THAN MURDER
IN REQUIRING THAT THE JURY FIND
AN INTENT TO KILL FOR ANY AND ALL
CHARGES FOR MURDER OR MANSLAUGHTER

PETITIONER HEREIN INCORPORATES THE FACTS
AND ARGUMENT CONTAINED IN HIS ORIGINAL
PETITION FOR WRIT OF HABEAS CORPUS
FILED IN THE TRIAL COURT AND ATTACHED
HERE TO AS APPENDIX 2.

WHILE PETITIONER UNDERSTANDS THAT THE
FLORIDA COURTS HAVE BEEN RETREATING
FROM THEIR DECISION IN STATE V. MONTGOMERY
39 SO.3D 252 (FLA. SUP. CT. 2010), HE ASSERTS
HEREIN THAT THE ERRONEOUS INSTRUCTION
FATALLY TAINTED HIS PROCEEDINGS.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

⑧ Anne Blake

Date: ⑧ APRIL 10, 2020