

20-5237
No:

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

FILED

JUN 04 2020

OFFICE OF THE CLERK
SUPREME COURT, U.S.

KENNETH LEE MANHARD,
Petitioner

v.

UNITED STATES OF AMERICA,
Respondent.

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**ON PETITION FOR A WRIT OF CERTIORARI TO
HIGHEST COURT OF FLORIDA**

PETITION FOR WRIT OF CERTIORARI

Kenneth Lee Manhard
New River Correctional Institution
P. O. Box 900
Raiford, Fl 32083

In *Mancuso* and *Dorsett* and *McGowan* the highest Court granted review and held when there were multiple impacts, the driver must know of specific impact that actually resulted in the injury. Kenneth Manhard was involved in a daisy-chain collisions. A young man died no one knew which vehicle caused his injury. Kenneth Lee Manhard appeals to highest state for review.

The court determined it should decline to accept jurisdiction.

(1) Was he denied equal protection of the law ?

STATEMENT OF THE CASE

Kenneth Lee Manhard was charged by a second amended Information with Count I leaving the scene of a multiple crash involving death Count II D.U.I manslaughter and Count III driving while license canceled suspended or revoked causing serious bodily injury or death . He proceeded to trial October 25, 2017, the jury returned verdicts of guilty on all counts. On November 11, 2017, Appellant was sentenced to Count I 25 years in prison with 4 years minimum mandatory followed by 5 years probation Count II four years in prison followed by 11 years probation to run concurrent in Count I and Count II time served, a motion to correct sentencing error was filed on May 18, 2018 part was granted part was denied. A second motion to correct sentencing error victim injury points was filed on August 23, 2018 that motion was denied written order on August 22, 2018. The Appeal was filed on September 28, 2018. It was answered by the State on February 12, 2019 we did a Reply Brief March 4th, 2019 on October 1st, 2019 on Case No.: **1D17-5010** we had a 9 page opinion they used case *Miranda v. Arizona*, 388 U.S. 4367 1966 But Affirmed! On October 16, 2019, Motion for Rehearing or Certification of conflict page 9 motion. On December 30, 2019 we filed a Jurisdictional Brief on February 7, 2020 State Answer Brief also the Supreme Court of Florida acknowledgment of new case December 23, 2019 case No.: **SC-19-2133** Answer October 16, 2020 not to invoke jurisdiction.

LIST OF PARTIES

[] All parties appear in caption of the case on cover page.

[X] All parties do not appear in caption of the case on cover page a list to the proceeding in the court whose judgment is the subject of this petition is as follows:

(1) Florida Supreme Court Judge CANADY, CJ, and POLSTON and LABARDGE LAWSON and MUNIZ JJ Concur

(2) First District Court of Florida= Opinion Judge B. L THOMAS and J. Also LEWIS and ROBERT'S JJ Concur

(3) First District Public Defenders Danielle Jorden

(4) State Attorney General Sharon S. Traxler

(5) Judge Michael Overstreet Bay County, Florida

(6) Public Defenders Matthew Merdith and F.R. Mann and Kimberly D. Jewell

TABLE OF CONTENTS

PAGE(S)

Opinions Below.....	5
Jurisdiction.....	9
Constitutional And Statutory Provisions Involved.....	8
Statement of the Case.....	3
Reasons for Granting the Writ.....	14
Conclusion.....	14

INDEX TO APPENDICES

APPENDIX

DESCRIPTION

A	1 page opinion Florida High Court
B	9 page opinion DCA
C	Warrant 4-16-242
D	Warrant 4-16-254
E	Acknowledgment of New Case
F	Walter Crash Report

**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 Case from Federal Courts: 0

☒ For Case from State Court: 1

The opinion of the Highest State Court to Review

The merits appears at Appendix Yes to the petition and is

☒ Reported at A[#]

The opinion of the First District Court of Appeals

Appears at Appendix B[#] to the petition and is

☒ Reported at Fla. Law Weekly

TABLE OF AUTHORITIES CITED

<u>CASE</u>	<u>PAGE(S)</u>
<i>Mississippi Choctaw v. Holifield</i> , 104 L. Ed. 2d 490 U.S. 30 (footnotes) (1931-1934).....	14
<i>Wxyz Ind. v. Hand</i> , 658 F. 2d 420 7 Media L. Rep (BNA) 1817 (6 th Cir. 1981).....	14
<i>Cohens v. Virginia</i> , 19 U.S. (6 Wheat.) 264, 404 5 L. Ed. 257 (1821)	14
<i>Miranda v. Arizona</i> , 384 U.S. 436-437 (1966).....	3
<i>State v. Dorsett</i> , 158 So. 3d 557 (Fla. 2015).....	2
<i>State v. Mancuso</i> , 652 So. 2d 370-371-72-76 (1995).....	2
<i>McGowan v. State</i> , 139 So. 3d 934 (Fla. 4 th DCA 2014).....	2
 <u>STATUTES AND RULES</u>	
316.027 Fla. Statute National Uniform Code.....	14
Article III §2 United States Constitution.....	9
28 U.S.C. 1257(A) to accept Jurisdiction.....	9
Rule 29.5B.....	Index I

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

- | | |
|--|------------------------|
| (1) U.S. Constitution 4 th Amendment | Unreasonable Searches |
| (2) U.S. Constitution 5 th Amendment | Due Process of Law |
| (3) U.S. Constitution 6 th Amendment | Right of the Accused |
| (4) U.S. Constitution 8 th Amendment | Bail and Punishment |
| (5) U.S. Constitution 14 th Amendment | Equal Protection Right |

JURISDICTION

☐ For case from Federal Courts: 0

The jurisdiction of this case under 28 U.S.C. 1254(1)

☒ For cases from State Courts

The date on which the Highest State Court decided my case April 16, 2020. A copy of that decision appears at Appendix ☒ YES]

☒ A timely petition for rehearing was thereafter denied Rehearing appears at Appendix ☒ YES]

THE JURISDICTION OF THIS COURT IS INVOKED UNDER 28 U.S.C § 1257(A)

FACTS OF THE CASE

(1) The defendant Kenneth Manhard was arrested April 16, 2016 **I. E. placed** in full handcuffs and placed in and in FHP patrol care 5.30 April 17, 2016) By FHP Troopers at 5:30 A.M. After he drove a damaged Hyundai Accent small sedan dark factory tint window up to a gas station. Pump Island on Panama City Beach, Florida.

(2) The Defendant was arrested for the troopers belief he had been the driver that hit and run after striking a scooter and Mr. Jones the victim. **With no eyewitnesses that saw Mr. Manhard Hyundai Accent, hit the victim or scooter! (Corporal Mathers in deposition page 7-16Q thru page 11-A-13, he knew of the Tahoe 2 small sedan and a black car when he left crash scene. As many as 5 to 6 cars could hit the victim. In this multiple crash scene accident.) (All of this Info was left out of the Affidavit for the warrant) Corporal Mathers lead investigator got on scene 5:10 A.M. 1 hour 10 min after the crash.**

(3) Defendant Kenneth Manhard made no admissions to the Troopers at the gas station and was never identified by anyone (at any location as driver or car that struck scooter and victim. Before the Defendant was summarily arrested, he was arrested for having glass on his shirt and the smell or odor of alcohol coming from him. **The arrest complaint reflects he was arrested by the lead investigator Corporal Mather's of FHP. The only statement the Defendant made (after his plenary arrest without probable cause) (were that he had not been the driver to hit and kill the scooter's operator. But that his vehicle, and been hit by a scooter, that was thrown at his car! Then Corporal Mather's arrested him.**

(4) The Defendant's statement are not inconsistent with another vehicle having hit the victim and the scooter, throwing the scooter into the Defendant's car on dark black out bridge they are also not inconsistent with the Defendant having been other than the first vehicle to hit the scooter and it operator, in this daisy chain of vehicle's to hit the scooter.

(5) The trooper Corporal Mathers later confirmed in deposition page 48 A1 to page 50 A25) that **they forgot the password so as to access the necessary template forms on the laptop for warrant for the blood.** Filing (For Blood 59815779 E-08/01/2017) and the state response file for blood 59840066/8/02/2017 the Defendant's motion is uncontested. Also he pulled the warrant's out of trunk of his car to search the Defendant vehicle how did the judge sign the warrant, also the warrant 16-242 is from old case 2015. But Judge sign it! It was application and affidavit for search warrant. Does not meet the 4 corner's, also the warrant for scooter was warrant 16-254 was returned April 19-2016 two days before the same judge sign it on April 21, 2016 this is just reckless police work with boiler maker of allegation of facts. The warrant 16-242 was sign 6 month prior to the Incident at hand 2015 Case October 14, 2015. The warrant 16-242 was and is insufficient on it's face and no probable cause in the affidavit. **All of this violated my 4th Amendment Constitutional right to unreasonable searches and seizures).**

(6) The Troopers in the area of the gas station to first see the Defendant and been investigating two hit and run fatality that night near the Bridges Hathaway Bridge speed limit 50 mph at approximately 4 A.M. The victim a black male (Jerry Jones Jr.) had been riding 49^{cc} Tao 1 scooter on road higher then/post 35 mph speed limit (electric blue) that scooter top speed/ east bound in the center lane of the East bound span of the bridge when he was struck from behind! He was not wearing a helmet and lights on the bridge were off at time of the collision nor is it possible to know if light were on the scooter-were turn on at time first or any multiple impacts.

(7) Dr. Racke the medical examiner, would later testify in deposition that he cannot associate which impact caused the injuries to the driver of the scooter or which injuries were the Life Ending injuries.

(8) According to the FHP and the various civilians who came upon Jones body and his scooter on the Bridge, no one was ever identified who was an eyewitness to the first vehicle that actually struck the scooter and its operator Jones.

(9) Blood trails, debris field and scape marks on the pavement as well as 3 eyewitness testimony, indicated that FHP and Corporal Mather's knew the evidence at night. **That body of Jones had been hit and the scooter minimum of 5 to 6 times according to a couple that pulled over when they first saw Jones (Alive) body lying in the road (Debra Groves and Mather Shavers) these two were eyewitness.** Later in deposition Debra Groves said she saw white or silver Tahoe hit the body and the body went airborne. Depo page 1-3). She also said in Depo page (1-13 Groves) two small sedan hit the body and black Nissan Altima hit the body and scooter she told that to first officer on the scene. (Devesh. Gadia) Bay County Police next Bay County Police Sergeant (Shawn Magaudog) all of this Info Shawn Magaudog gave all notes to FHP lead Det. for the FHP Corporal Mather (Depo. 1p-50p.) this Info was all missing from the warrant 16-242 from affidavit to get the warrant 16-242. **No officer witnessed Mr. Manhard behind the wheel of the car that night.** Also no bolo was put out for any vehicle that night. A phone call came from Gold Nugget was for a white Tahoe with broke windshield who heard call come over radio officer (Devesh Gadia) in dep (1p. - 9p.) **all of this violated my 5th Amendment right to Due Process of Law and my 6th Amendment Constitutional right of the accused.** Also in deposition page 20/ FHP Officer Lucas Tavares 16a thru page 20 A22 **I just remember a bird in the vehicle and that what caused the damage!**

(10) It was not found this info to the Defendant attorney. Mr. F.H. Mann until he took the deposition almost 9 months later.

(11) According to Mr. Scott Walter expert accident reconstructionist for defense "Corporal Mather's first area of collision on the (FHP Report shows one car) his reconstructionist diagram would be more consistent with a second or third area of a collision Walter Report at page (4) Also in the report body could been hit as many as 5-6 vehicles-to hit Mr. Jones before he died!

(12) The FHP extrapolated from the scene that the body of the victim had been hit twice more after an initial strike based simply on blood pools on the bridge and a superimposed trajectory lining them up

from an assumed initial impact point (where there was neither blood nor paint, nor DNA of the victim's).

(13) The state did not list its “jail house information” witness Waldrup, until 10-25-2016 over 6 months after the Defendant's arrest, obviously the prosecution recognized the weakness in the case then they decided to add this witness who claims Mr. Manhard told him all, to avoid what would otherwise be a case dismissible as entirely circumstantial in nature, and “not inconsistent with a reasonable hypothesis of innocence” under Florida circumstantial evidence test!

(14) No eyewitness saw the Defendant hit the victim and the scooter the Defendant has made no admissions: No “road side” test were done of the Defendant for impairment, no BAL testing was done in this case the Defendant was first arrested 5:30 A.M. But not given Miranda warnings until 6:25 A.M. Almost one hour without probable cause at the gas station, no warrants for Blood or the car to search as required by Law, the Defendant never consented to the extraction of his blood at least 4 vehicles hit the victim, and as many as (6) may/have. Based on the Debris Field and the nature of damage to the scooter and supposed “initial impact point selected by the FHP, Corporal Mather's was never found to be expert in field of accident at time of the crash also no college. No paint matched no glass matched and only a small spot of blood at top of Defendant's car to matched the **warrant dated from 2015 Case October 14 6^{mt} prior to ~~Incident~~ at hand ~~Sign By~~ Judge Timothy Campbell by Troopers Mathers.**

Also it's important and reckless that next warrant to get the scooter another reckless ~~Boiler~~ sign by the same judge Timothy Campbell and by Troopers Mather was sign April 21, 2016. But return two days prior to the application for issuance of the search warrant, “no nexus reckless and boiler maker of false facts on the affidavit on warrant No.: 16-242 and warrant 16-245.

(16) When the Defendant was first arrested and charged by the FHP, he was charged with two counts of D.U.I one count for D.U.I manslaughter (A 300,000 bond set) and one count for D.U.I failure to render aid (150,000 bond set) He was also charged with the F-3 of DWSLR at time of death or serious

personal injury (25,000 bound set)

(17) The state ultimately charged the Defendant in a 3 count Information with leave scene of crash with death (added by the state attorney per Information) D.U.I manslaughter (as alleged in the complaint) and DWLSR causing serious bodily injury or death. **(Thus the bond's actually in effect at present total (325,000) with no bail amount ever having been set for count 1[#] as added by the state.**

This violated my 8th Amendment constitutional right to Bail and punishment.

REASON FOR GRANTING THE PETITION

Applicable to this appeal we have appellate jurisdiction to review a state court judgment where is drawn in question the validity of a statute of any state on the ground of its being repugnant to the constitution treaties or law of the United States and the decision is in favor of its validity. It is sufficient that the validity of the statute be challenged and sustained as applied to a particular set of facts! *Mississippi v. Oilfield*, 104 L. Ed. 2d 490 U.S. 30 (footnotes) (1931-1934) *Wxyz Inc. v. Hand*, 658 F. 2d 4207 *Media L Rep (BNA)* 1817 6th Cir. 1981 and *Cohens v. Virginia*, 5 L. Ed. 257 (6 Wheat 264) Invoked under 28 U.S.C, §1257(A).

CONCLUSION


Based on the fact's and argument of citation of authority Petitioner request that this Court. Exercise its discretion to accept jurisdiction of this case is ripe for the picking, and (1) order full briefing of the record on merits (2) Count 1[#] of the Defendant conviction should be vacated and reversed and should be remanded for discharge on Count 1[#]

CONCLUSION

The petition for a writ of certiorari should be granted.

6-4-2020

Date


Kenneth Lee Manhard