

AUG 19 2020

Provided to OFFICE OF THE CLERK
On 8/19/20 by JK
For Mailing, by JK

20-5566

IN THE

SUPREME COURT OF THE UNITED STATES

JOHN J. WILSON, JR. — PETITIONER

vs.

MIAMI-DADE COUNTY; STATE OF FLORIDA, ET AL. — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

SUPREME COURT OF FLORIDA

PETITION FOR WRIT OF CERTIORARI

JOHN J. WILSON, JR. DC# M86232

Tomoka Correctional Institution

3950 Tiger Bay Road

Daytona Beach, Florida 32124

703-482-0623

QUESTION(S) PRESENTED

1. Can the systematic deprivation of counsel be used as the primary reason to deny access-to-the-courts of Florida?
2. Is a two (2) year period reasonable for a court not to rule on issues pertaining to fraud responsible for Petitioner's false imprisonment?
3. Can the deprivation of a clear and indisputable constitutional right be facilitated through a state court's failure to rule?
4. **(a) Can material facts be subjugated through a state court's failure to correct a judicial usurpation of power or a clear abuse of discretion?**
- 4. (b) Can a lawyer in documented violations of Rule 8 of this Court lawfully file a writ with this Court, who is also named as a principal defendant in the underlying instant civil action for injunction?**

LIST OF PARTIES

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:

5. APEX REPORTING GROUP, INC.;
6. DANIEL J. ALFONSO, City Manager, Miami-Dade County;
7. MIAMI-DADE DEP'T OF CORRECTIONS, by and through DANIEL JUNIOR, Director;
8. MARK S. INCH, Secretary, Florida D.O.C.;
9. CORRECT CARE, LLC;
10. CARLOS J. MARTINEZ, Miami-Dade County Public Defender;
11. PHILIP REISENSTEIN, Principal, Regional Counsel;
12. PEDRO SAEZ, Ph.D.;
13. PCAC Counsel, CHARLES WHITE, Esq.;
14. CHRISTOPHER G. LYONS, Esq.;
15. VICTORIA CUETO GOLDBERG, ASA; Palm Beach County;
16. The Hon. BERTILA SOTO;
17. ALEXIS KORYBUT;
18. VICTOR MILLER DAVIS;

19. DOMINIQUE ATCHINSON, ASA; Miami-Dade County;

20. SHANELL SCHYLERY, [The] Florida Bar

TABLE OF CONTENTS

OPINIONS BELOW	7
JURISDICTION	2
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	9
STATEMENT OF THE CASE	10
REASONS FOR GRANTING THE WRIT	17
CONCLUSION	18

INDEX TO APPENDICES

APPENDIX A: Denial for Discretionary Review by the Supreme Court of Florida on June 3, 2020; denial extension of time.

APPENDIX B: Dismissal of petition for writ of mandamus on January 27, 2020, by the Fourth District of Florida, with original petition attached: 4D20-0028

APPENDIX C: Notice of non-receipt of Respondent's Answer Brief filed on 1st June 2020; Barbara Junge's Notice of 28th May 2020.

APPENDIX D: Copy of Docket for SC20-441, Documenting Ms. Junge's appearance (3) three days prior to filing alleged "answer brief".

APPENDIX E: Motion to Correct the Record, pursuant to Rule 9.200(f) of the Fla. R. App. Never addressed by the Supreme Court of Florida.

APPENDIX F: Notification to the Court of violation of Rule 8 by the subject attorney of the instant action for injunction, filed and pending since Febraury of 2018 (See unlawfully filed writ of certiorari with its court order under petition no. 19-8247, unbeknownst to Petitioner) in violations of Rule 8.)

TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
21. <i>Monell v. Dep't of Social Services of the City of New York</i> , 436 U.S. 659 (1978).....	10
22. <i>Pembaur v. Cincinnati</i> , 475 U.S. 469 (1986)	11
23. <i>Hartman v. Moore</i> , 547 U.S. 250, 265, 126 S. Ct. 1695 (2006).....	13
24. <i>McDowell v. Brown</i> , 392 F. 3d 1283, 1289 (11 th Cir. 2004)	13
25. <i>Carter v. City of Melbourne, Fla.</i> , 731 F. 3d 1161, 1167 (11 th Cir. 2004)	11
26. <i>Diamond Co. v. Collingsworth</i> , 816 F. 3d 1319, 1327 (11 th Cir. 2013)	15
27. <i>Re Bell South Corp.</i> , 334 F. 3d 941, 953 (11 th Cir. 2003)	14
28. <i>Armstrong v. Marietta Corp.</i> , 138 F. 3d 1374, 1355 (11 th Cir. 1998).....	14
29. <i>Seibert v. Jackson Cty.</i> , 851 F. 3d 430, 439 (5 th Cir. 2017)	14
30. <i>State v. Spencer</i> , 751 So. 2d 47 (Fla. 1999)	12
31. <i>Miller v. King</i> , 449 F. 3d 1149 (11 th Cir. 2006)	14
32. <i>Strickland v. Washington</i> , 466 U.S. 668, 104 S. Ct. 2052, 80 L. Ed. 2d 1 (2003) 10	
33. <i>Schoenwetter v. State</i> , 46 So. 3d 535, 546 (Fla. 2010)	12
34. <i>Morris v. State</i> , 931 So. 2d 821, 828 (Fla. 2006).....	12
35. <i>Yarborough v. Gentry</i> , 540 U.S. 1, 5, 124 S. Ct. 1, 157 L. Ed. 2d 1 (2003).....	12
36. <i>Wiggins v. Smith</i> , 539 U.S. 510, 521, 123 S. ct. 2527, 156 L. Ed. 2d 471 (2003) 12	

STATUTES AND RULES

37. Rule 8 of the United States Supreme Court.....	12
38. Rules 9.100; 9.410(a) of the Fla. R. App. P.....	12, 16
39. Rules 1.540, 1.610; 1.630 of the Fla. R. Civ. P.....	10
40. § 768.28 Fla. Stat.; § 810.023(b); § 810.02(3)(a) Fla. Crim. Stat.....	13
OTHER:	
41. Rule 9.120(d) of the Fla. R. App. P., discretionary review by the Supreme Court of Florida. SC20-441, Appendix "A"	

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**:

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 'A' 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 FOURTH DISTRICT court appears at Appendix 'B' 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**:

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**:

The date on which the highest state court decided my case was 6/30/2020.
A copy of that decision appears at Appendix 'A'.

A timely petition for rehearing was thereafter denied on the following date: 6/30/2020, and a copy of the order denying rehearing appears at Appendix 'A'.

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 SATUTORY PROVISIONS INVOLVED

42. **6th** Amendment violations through deprivation of conflict-free counsel.

Article V § 3(b)(4) and Article I, § 21 of the Fla. Constitution.

43. **1st** Amendment violations through denial to access of the courts of Florida, legal mail, and legal research as a pre-trial detainee while in the custody of Miami-Dade County.

44. **14th** and **5th** due process violations by being assigned non-conflict free criminal counsel, circumventing “the wheel.”

45. **14th** and **5th** due process violations through fraudulently alleged “conflicts of interest” that didn’t exist, to deprive Petitioner conflict free counsel.

46. **14th** Amendment violations it pertains to false arrest, based on lack of probable cause.

47. **8th** Amendment violations in documented instances of “torture” to induce pleas.

48. **§ 768.28 Fla. Stat.** related to claimant’s state civil tort claims.

49. **§ 810.023(b) vs. § 810.02(3)(a)**, based on Petitioner being falsely imprisoned on an uncharged crime, clearly apparent from the face of the record.

I.

STATEMENT OF THE CASE

50. JOHN J. WILSON, JR., Petitioner, currently falsely imprisoned on an uncharged crime at Tomoka Correctional Institution in Daytona Beach, Florida, filed a collateral State civil tort and *Monell* claim with accompanying application for injunction pursuant to Rules 1.630, 1.610, and 1.540 of the *Fla. R. Civ. P.* against Miami-Dade County as a jurisdiction, and unlawfully appointed non-conflict free counsel responsible for violation of Rule 8 in this Court by filing petition no. 19-8247 with civil injunction pending against him, named as a principal defendant in the underlying instant case. This same attorney, simultaneously assigned to other cases in the trial court, was also assigned to Petitioner's direct appeal, while being the exclusive reason Petitioner was forced to represent himself before the State courts of Miami-Dade County, Florida. *See Monell v. Dep't of Social Services of the City of New York*, 436 U.S. 659 (1978), and *Strickland v. Washington*, 466 U.S. 668, 104 S. Ct. 2052, 80 L. Ed. 2d 1 (2003).

51. The Constitutional claims and application for injunction against attorney and Miami-Dade County pursuant to "Monell" were filed in the Nineteenth Judicial Circuit of Martin county, Florida, in February of 2018, along with numerous

collateral filings for assistance of counsel, and to amend the instant complaint, which have been pending in the circuit court without attention or ruling since the instant case was filed in 2018 under L.T. case no. 18-210-CA in Martin County, Florida. *Id.*

52. As the frivolity of attorney's filings became more apparent, Petitioner filed a motion for change of venue to Martin County in light of the newer evidence of attorney's deliberate appointment with the intention to sabotage, i.e. undermine Petitioner's applications for postconviction relief in Miami-Dade County, and serial efforts to impede Petitioner's "access-to-the-courts" of Florida, by and through documented violations under the 1st, 5th, 6th, and 14th Amendments of the United States Constitution in the instant case, in conjunction with multiple documented violations of the 8th Amendment's cruel and punishment clause to induce "plea(s)" while representing Petitioner in L.T. Case No. F15-6748, (3D20-548), since his return to U.S. soil from abroad in 2012. See concerted campaign of harassment, through unlawfully appointed, non-conflict free counsel. *See Pembaur v. Cincinnati*, 475 U.S. 469 (1986), and *Carter v. City of Melbourne, Fla.*, 731 F. 3d 1161, 1167 (11th Cir. 2004).

53. Following multiple motions to rule on the instant action that stayed unresponded to, Petitioner filed a petition for writ of mandamus for the circuit

court to rule in the 4th District of Palm Beach County, Florida, approximately two (2) years later, pursuant to Rule 9.100 of the Fla. R. App. P., assigned case no. 4D20-0028. See Appendix 'B': Instant Petition Attached. *See Schoenwetter v. State*, 46 So. 3d 535, 546 (Fla. 2010), and conflict in *Morris v. State*, 931 So. 2d 821, 828 (Fla. 2006). See Fourth District's denial of mandamus, citing Petitioner requiring counsel in *State v. Spencer*, 751 So. 2d 47 (Fla. 1999), affectively barring Petitioner's access-to-the-court of Florida. Indeed, the instant action, subject of the Fourth District's denial of mandamus was for appointment of counsel, and injunction against same attorney responsible for violations of Rule 8 in this Court through frivolous filing of Petition of Certiorari No. 19-8247. See conflicts inherent to this Court's rulings in *Yarborough v. Gentry*, 540 U.S. 1, 5, 124 S. Ct. 1, 157 L. Ed. 2d 1 (2003), and *Wiggins v. Smith*, 539 U.S. 510, 521, 123 S. ct. 2527, 156 L. Ed. 2d 471 (2003).

See Appendix F: Florida Bar Action, documenting violations by subject attorney of Rule 8 in this Court.

54. A "Motion to Show Cause" was filed by Petitioner with accompanying motion to supplement the record with official documents and records provided by MICHAEL WILLIAM MERVINE, Bureau Chief of Appeals, of the State of Florida Attorney General, demonstrating Petitioner's inability to access-the-court

of his own, lacking an attorney, which was stricken March 11, 2020. These same documents have been subsequently obfuscated from the record in appeal no. 3D19-1715 in the Third District by the court citing a “state’s response” from a different case. TO WIT, 3D19-1625, already summarily denied.

55. Following the Fourth District’s bar from filing anything further pursuant to *State v. Spencer*, Petitioner has been left to wait for a ruling in the underlying instant case in Martin County, while be obstructed from access-to-the court in Miami-Dade for any further petitions for postconviction relief, and through the appointment of non-conflict-free counsel, CHARLES G. WHITE. *See Pembaur, Id.* See also lack of probable cause as key element in Malicious Prosecution. *See Hartman v. Moore*, 547 U.S. 250, 265, 126 S. Ct. 1695 (2006). See False Imprisonment in a trial where Petitioner was forced to represent himself. See § 810.023(b) vs. § 810.02(3)(a) Fla. Stat., clearly apparent from the face of the record; see obfuscation of Petitioner’s 3.800(a) motion by the trial court, demonstrating such facts (3D19-1715). *See McDowell v. Brown*, 392 F. 3d 1283, 1289 (11th Cir. 2004); see conflicts with *Diamond Co. v. Collingsworth*, 816 F. 3d 1319, 1327 (11th Cir. 2013).

II.

LEGAL ARGUMENT

56. A lawfully filed petition for writ of mandamus in an instant action documenting the causes of Petitioner's false imprisonment through appointment of non-conflict free counsel to Petitioner in criminal State court conflicts directly with this Court's decisions in *Strickland*; *Yarborough*; and *Wiggins*, *Id.*, in that Petitioner's due process and 1st Amendment safeguards to "access-to-the-courts" of the United States through the Fourth District of Palm Beach County, Florida, have been essentially compromised. *See also Armstrong v. Marietta Corp.*, 138 F. 3d 1374, 1355 (11th Cir. 1998), and *Seibert v. Jackson Cty.*, 851 F. 3d 430, 439 (5th Cir. 2017).

57. *See* Art. I, § 21 and Article V § 3(b)(4) of the Florida Constitution, in relation to conflicts with this Court's previously cited holdings: "The court[s] shall [b]e open to every person for redress of any injury." *See Re Bell South Corp.*, 334 F. 3d 941, 953 (11th Cir. 2003), and *Miller v. King*, 449 F. 3d 1149 (11th Cir. 2006), in relation to *Strickland* and *Wiggins*: "Whether the attorney/client conflict was so great that it had resulted in total lack of communication, preventing an adequate [d]efense." See Rule *; see Appendix F. *See also United States v. Blackledge*, 751

F. 3d 188, 194 (4th Cir. 2014)(quoting *United States v. Gallop*, 838 F. 2d 105, 108 (4th Cir. 1988)(internal citations omitted.).

58. In Petitioner's criminal case, in which he was forced to represent himself by being stripped of all conflict-free counsel from the Office of Public Defender and then Offices of Regional Counsel, to be assigned same attorney responsible for Rule 8 violations in this Court, the Circuit Court Judge of Miami-Dade County abused her discretion by refusing counsel's motions to withdraw in other cases pending before the same trial judge of the same trial court. See F15-6748 (3D20-548); see 1:19-cv-23582-MGC. Here, WILSON's fundamental, sacrosanct guarantee to conflict free counsel was systematically violated when CHARLES G. WHITE was appointed as appellate counsel, while ineffectively representing WILSON in other cases pending in the same trial court. See F15-6748 (3D20-548).

59. WILSON only represented himself to avoid being represented by this same attorney at trial in the instant criminal case for which he was unlawfully convicted. *See Strickland, Yarborough, Wiggins, Id.*, as was documented in the subject instant civil complaint, pending in Martin County since 2018. See corresponding conflicts in applicable Florida cases: *Schoewetter v. State* (Fla. 2010); *Morris v. State*, (Fla. 2006), and *State v. Spencer* (Fla. 1999) cited by the Fourth District to deny

Petitioner's access-to-the-court while refusing to enforce the circuit court's ministerial duty to rule on appointment of counsel.

60. As is enumerated in the three cited Florida Supreme Court cases, “[A] party must be given reasonable notice at the [t]rial level.” Here, access to the trial level court is being deprived; hence the mandamus action subject of this petition was lawfully filed pursuant to Rule 9.100 of the Fla. R. App. P., without any claim being given the opportunity o[f] being substantiated by the L.T. court of Martin County, pursuant to *Spencer*. *Id.* Here, the Fourth District has made a determination of the facts without ever hearing the case, and is intentionally impeding WILSON's access to relief from the trial court of Martin County. *See Miller v. King*, 449 F. 3d 1149 (11th Cir. 2006) *Id.*

III.

REASONS FOR GRANTING THE PETITION

61. If a Florida District Court of Appeal mandates through its opinion that Petitioner must have an attorney to access the court, then the District Court of Appeal must at least enforce the lower court's duty to rule on a petition for appointment of counsel. Case law conflicting with the tenets and laws of the United States and Florida Constitutions cannot be relied upon as a tool-of-the-court or clerk to obstruct a Petitioner's lawful access, hinged on protected conduct. Essentially, allowing this Court to pass without granting certiorari is allowing the District Court[s] of Florida to contradict its own order, through failure to issue writ of mandamus, deciding whether counsel shall or shall not be appointed, and for injunction against same attorney culpable of Rule 8 violations of this Court.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Date: 8/19/2020