

NO: 20-5736

Supreme Court U.S.

F.I.T.D.

SEP 08 2003

OFFICE OF THE CLERK

IN THE SUPREME COURT OF THE UNITED STATES

DAVID P MORAN — PETITIONER

V

STATE OF FLORIDA — RESPONDENT

ON A PETITION FOR WRIT OF CERTIORARI
TO THE FLORIDA SUPREME COURT
TALLAHASSE, FLORIDA

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1. Does the United States Supreme Court have the authority to review the underlying merits of an issue when the action being challenged is a petition for writ of habeas corpus alleging ineffective assistance of appellate counsel? (**Fla. R. App. P. 9.141(d)**)
2. Should an issue that was raised for the first time by the pro se litigant in his initial brief be reviewable on a petition for writ of habeas corpus alleging ineffective assistance of appellate counsel if counsel does not raise it himself in an Anders brief?
3. Should an involuntary incriminating statement be automatically suppressed when the accused was in the intensive care unit of a hospital and being given medications that have known debilitating side effects?
4. Should a prejudicial improper statement of the law by a state attorney in closing arguments require automatic reversal when the nature of the accused case involves a law enforcement officer being injured due to the increased burden placed upon him?
5. Should a case be automatically reversed for a retrial when it was adequately proven that portions of trial transcript are missing?
6. Should a judgment of acquittal motion be granted when there is a defense of lack of intent and all of the evidence used against the accused was based on proven false evidence?

7. Should a judgment of acquittal motion be granted when there is no body camera evidence depicting the alleged crime during a planned take down operation in which officers were staged in position to take the accused into custody despite testimony from the police that the evidence should exist?
8. Should dual convictions for aggravated battery and attempted murder be upheld when there is only one episode of conduct with one victim with no temporal break whatsoever?
9. Should consecutive sentences be imposed for the same episode of conduct with the same victim with no temporal break whatsoever?

LIST OF PARTIES

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RELATED CASES

*Moran v. State, SC20-259, Florida Supreme Court, Judgment entered June 30th 2020.

*Moran v. State, 5D19-1833, Fifth District Court of Appeal, Judgment entered January 17th 2020.

*Moran v. State, 5D17-3044, Fifth District Court of Appeal, Judgment entered February 19th 2019.

*State v. Moran, 16-CF-006177-A-OR, Orange County Circuit Court, Judgment entered September 15th 2017.

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**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

The opinion of the Fifth District Court of Appeal appears at appendix B to the petition and is published.

JURISDICTION

The date on which the highest state court decided my case was June 30th 2020. A copy of that decision appears at appendix A.

The jurisdiction of this court is invoked under 28 U.S.C. § 1257(a)

CONSTITUTIONAL PROVISIONS

United States Constitution Amendment Five ----- i, 9, 17
.....nor shall any person be subject for the same offense to be twice put in jeopardy of life and limb, nor shall be compelled in any criminal case to be a witness against himself.

United States Constitution Amendment Six ----- 7, 11, 20
.....by an impartial jury of the state..... and to have the assistance of counsel for his defense.

United States Constitution Amendment Eight ----- 17
.....nor cruel and unusual punishment inflicted.

United States Constitution Amendment Fourteen ----- 7, 9, 11, 14, 17
...nor shall any state deprive any person of life, liberty, or property without due process of law, nor deny to any person within it's jurisdiction the equal protection of the laws.

Florida Constitution Article I § 2 ----- 17
All natural persons. female or male alike, are equal before the law and have inalienable rights.

Florida Constitution Article I § 9 ----- 9, 11, 14, 17
No person shall be deprived of life, liberty, or property without due process of law, or be put in jeopardy for the offense, or be compelled in any criminal matter to be a witness against oneself.

PRELIMINARY STATEMENT

This honorable court is directed to incorporate by reference transcripts and pleadings from the Orange County Circuit Court. Included in some of the previous petitions is references to trial, sentencing, motion to suppress, and record on appeal. **(See appendix F)** This honorable court is directed to incorporate by reference pleadings from the Fifth District Court of Appeal. This court must examine previous pleadings to gain a full understanding of some of the issues presented in this petition. **(See appendix G)** This was done as this court has easy online access to these documents and so the petitioner did not have to submit a large bulk of documents in the appendix.

STATEMENT OF FACTS

TRIAL PROCEEDINGS

The following is a list of relevant trial proceedings. April 13th 2017 Motion to suppress. April 25th 2017 Motion to suppress hearing. April 28th 2017 Motion to suppress denied. July 13th 2017 Motion for reconsideration of motion to suppress. July 24th 2017 Motion for reconsideration of motion to suppress hearing and denial. July 25th 2017 Changed plea to no contest on counts 3 and 4. July 24th 2017 to July 27th 2017 Trial. August 3rd 2017 Motion for new trial. August 14th 2017 Motion for new trial denied.

SENTENCING PROCEEDINGS

The following is a list of relevant sentencing proceedings. September 15th 2017 Sentencing hearing. The petitioner was sentenced to the department of corrections for life on count 1 attempted first degree murder of a Leo with a weapon, 25 years on count 2 aggravated battery with a deadly weapon or causing great bodily harm on a Leo, 15 years on count 3 aggravated fleeing or attempting to elude a Leo causing injury or damage, and 1 year on count 4 simple battery. Count 1 was run consecutive to counts 2, 3, and 4. Counts 2, 3, and 4 were run concurrent with each other. April 2nd 2018 Motion to correct sentence. (**Fla. R. Crm. P. 3.800(b)**) April 16th 2018 Motion to correct sentence granted to remove the five year minimum mandatory from count 2.

APPELLATE PROCEEDINGS

The following is a list of relevant appellate proceedings. The following briefs and motions were submitted to the Fifth District Court of Appeal. June 8th 2018 Ander's brief. October 11th 2018 Pro se initial brief. February 19th 2019 Direct appeal per curiam affirmed. (See **appendix D**) March 4th 2019 Motion for written opinion and/or certification. March 5th 2019 Motion for written opinion and/or certification denied. (See **appendix E**) March 25th 2019 Direct appeal mandate.

The following petitions and motions were submitted to the Fifth District Court of Appeal. June 21st 2019 Petition for writ of habeas corpus alleging ineffective assistance of appellate counsel. (Fla. R. App. P. 9.141(d)) August 20th 2019 State's answer to petition. September 12th 2019 Reply to state's answer. January 17th 2020 Petition for habeas corpus alleging ineffective assistance of appellate counsel denied with authored opinion. (See **appendix B**) January 27th 2019 Motion for rehearing, certification, and/or rehearing en banc. January 29th 2020 Motion for rehearing, certification, and/or rehearing en banc denied. (See **appendix C**) The following briefs were submitted to the Florida Supreme Court. February 24th 2020 Jurisdictional brief. June 30th 2020 Jurisdictional brief denied. (See **appendix A**)

SUMMARY OF THE CASE

The main issue in this case is that appellate counsel failed to argue five meritorious issues even after the petitioner made him aware of numerous factual

assertions that are on the face of the record related to several of these issues in communications with him. This court should refer to the docket entry from June 21st 2019 on the Fifth District Court of Appeal website to view the petition and it's exhibits. These communications with appellate counsel are entered as exhibits in that petition. This not only shows ineffectiveness on his part but a blatant disregard for the petitioner's U.S. Const. 6th Amend. right that borders the line of malicious intent to keep an innocent man in prison. Appellate counsel's failure to argue these five meritorious issues violated the petitioner's U.S. Const. 14th Amend. right to due process of law by not furnishing him with a fair direct appeal proceeding. **"Failure to file a brief in a non-frivolous appeal falls well below the standard of competency expected and required of counsel in criminal cases and therefore constitutes ineffective assistance of counsel."** (**Songer v. Wainwright** 571 F. Supp. 1384 USDC 11th Cir. 1983)

Trial counsel provided appellate counsel with a statement of judicial acts to be reviewed. Appellate counsel has chosen to blatantly disregard these issues even though the petitioner provided him with evidence on the face of the record showing these to be more than meritorious issues in communications with him. **"When the petitioner requests that his attorney take an appeal, his duty in that regard is to take the appeal when it is deemed meritorious or non-frivolous."** (**Coleman v. State** 215 So. 2d 96 4th DCA 1968)

On ground one and two the Fifth District Court of Appeal cited because they

reviewed the issues in the Ander's process and in the petitioner's pro se brief that counsel cannot be deemed ineffective since these issues were raised. This is a serious conflict that this court is obligated to resolve. On ground one the issue wasn't that appellate counsel failed to raise the issue. It is simply that he missed numerous underlying facts that are on the face record that were material to the issue despite the petitioner providing him with the evidence in communications with him. On ground two the title of the petition is ineffective appellate counsel not ineffective pro se litigant. There should not be a rule that precludes counsel from being deemed ineffective when the pro se litigant raises an issue in his brief as counsel is far better equipped to argue issues. **"First, the alleged omissions are of such a magnitude as to constitute a serious error or substantial deficiency falling measurably outside the range of professionally acceptable performance and second, whether the deficiency in performance compromised the appellate process to such a degree as to undermine the confidence in the correctness in the result. The petitioner has the burden of alleging a specific serious omission or overt act upon which the claim of ineffective assistance of counsel can be based."** (Hojan v. State 180 So. 3d 964 FSC 2015)

STATEMENT OF CASE

GROUND ONE

This court must refer to the docket entries in the preliminary statement for the full argument on this issue. (See **appendix F**) On May 18th 2016 two detectives came to Orlando Regional Medical Center to take a statement from the petitioner. The statement the petitioner gave to detectives was based upon an assumption he was going on from what guards watching him at the hospital told him about the incident. The statement contained an assumption that the petitioner must have attempted "**suicide by cop.**" The petitioner's memory about the shooting incident was impaired for many months after the shooting due to it being such a traumatic experience. According to medical records the petitioner was in the intensive care unit and being given two medications (**oxycodone and serequel**) that have known debilitating side effects. There are notes in medical records entered by medical professionals who had contact with the petitioner 10, 12, and 13 days after the involuntary statement was given citing psychiatric issues, short term and long term memory issues, disorientation, dizziness, and conversations with medical professionals about "**time travel.**" The petitioner was in no position many days after the statement was taken to appreciate a knowing and voluntary waiver of his Miranda rights let alone the day of the statement. This issue violated the petitioner's U.S. Const. 5th Amend. and his Fla. Const. Art. I §9 right to not be a witness against himself, and his U.S. Const. 14th Amend. and his Fla. Const. Art. I §9 right to due process of law by not allowing him a fair trial proceeding. The

requisite level of comprehension did not exist for this statement to be deemed voluntary. **"Only if the totality of the circumstances surrounding the interrogation reveal both an uncoerced choice and the requisite level of comprehension may a court properly conclude the Miranda rights have been voluntarily waived."** (United States v. Dudley U.S. Dist. Lexis 31171 USDC 11th Cir. 2011)

The oxycodone and serequel are the improper influences in this case as they have known debilitating side effects and are heavily abused on the streets. **"For an incriminating statement to be admissible in court, it must be demonstrated that the petitioner made the statement voluntarily and that the statement was not involuntary and the result of improper influences, but for which the petitioner would have remained silent. If a petitioner's statement resulted from a law enforcement officer's illegal actions, that evidence is "fruit of the poisonous tree" and the trial court should exclude it from trial."** (Deviney v. State 112 So. 3d 57 FSC 2013)

The medical professionals advise patients not to operate a vehicle or machinery, or to make any important legal decisions. Waiving of Miranda rights falls into this category. If the judge was informed of a petitioner being under the influence of these kinds of medications at a plea hearing he would not have accepted the plea. **"The knowing and voluntary requirements for confessions are similar to the requirements for accepting a guilty plea."** (De Coningh v. State 433 so. 2d 501 FSC 1983)

"Statements made by a petitioner violating the strictures of Miranda v. Arizona are admissible for impeachment if their trustworthiness satisfies legal standards, but any criminal trial use against a petitioner of his involuntary confession is a denial of due process of law even though there is ample evidence besides the confession to support his conviction." (Mincey v. Arizona 437 US 385, 57 L Ed 2d 290, 98 S Ct 2408 USSC 1978)

This court has the authority to review all of the evidence on and off the face of the record when deciding this issue. **"In determining the voluntariness of an accused confession, the scope of review by this court is not restricted to evidence introduced prior to admission of the confession, that court may also take into consideration evidence introduced thereafter." (Blackburn v. Alabama 361 US 199, 4 L Ed 2d 242, 80 S Ct 274 USSC 1960)**

GROUND TWO

This court must refer to the docket entries in the preliminary statement for the full argument on this issue. **(See appendix F)** The state attorney made an improper statement of the law in closing arguments that vitiated from the fairness of trial. This issue violated the petitioner's U.S. Const. 6th Amend. right to an impartial jury, his U.S. Const. 14th Amend., and his Fla. Const. Art. I §9 right to due process of law by not allowing him a fair trial proceeding. The state told the jury "if you come back not guilty for the petitioner your verdict is saying the officers wanted to kill him." Trial counsel motioned for a mistrial at the bench which was denied by

the judge without giving a curative instruction to the jury. This statement tells the jury that if they come back not guilty for the petitioner that officers would automatically be blamed for a wrongful shooting. The jury would be in fear for going against the officers. The petitioner already has an extra burden placed upon him due to the nature of his case in which a law enforcement officer got injured in the line of duty since the jury is predisposed to believe the cops over the petitioner. The state's comment is one which could not be inferred from the evidence since the defense never made the argument that the officers tried to kill the petitioner. **"A prosecutor must confine his closing argument to evidence in the record and must not make comments which could not be reasonably inferred from the evidence. The proper limit of rebuttal is a reply to what has been brought out in a petitioner's closing argument."** (Brown v. State 18 So. 3d 1149 4th DCA 2009)

The state attorney's closing argument clearly told the jury they could find the petitioner guilty for another reason besides the state proved it's case beyond a reasonable doubt. **"A prosecutor's misstatements of law in closing arguments can be grounds for reversal. Included within this restriction are statements that in effect distort the burden of proof by suggesting incorrectly what the jury must find in order to reach a certain verdict."** (United States v. Vargas 583 F. 2d 3801 USCA 7th Cir. 1978)

"Prosecutorial remarks that invite the jury to convict the petitioner for a reason other than his guilt of the crimes charged have been determined to

constitute error." (Northard v. State 675 So. 2d 652 4th DCA 1996)

"The appellate court held that it is legally incorrect to ask the jury to decide, as the test for reasonable doubt who is the liar between the accused and the police officer." (Clewis v. State 605 So. 2d 974 3rd DCA 1992)

GROUND THREE

This court must refer to the docket entries in the preliminary statement for the full argument on this issue (See appendix F) There are portions of trial that did not get transcribed. There are two notable omissions that are missing that are provable through other portions of the record. One omission is the state's final plea offer that was offered the day of trial. The state had made an offer to plea to the bench on count 2 and in doing so that resolve all four counts. The second omission is the judge's final decision and explanation for denying the motion for reconsideration of the motion to suppress. Appellate counsel and trial counsel were different so the petitioner does not have to show any prejudice by the omissions just the fact that portions are missing. "A complete and accurate record of trial court proceedings is essential to the appellate process, when a petitioner is represented by an appeal lawyer different from a trial lawyer, a complete and accurate transcript is an imperative. A criminal petitioner need not show specific prejudice in order to obtain relief.." (United States v. Margetis 975 F. 2d 1175 USCA 11th Cir. 1992)

Just because the Fifth District Court of Appeal did not reference this ground in it's opinion doesn't mean it was without merit. The fact is the petitioner

adequately proved there was portions of transcript missing and satisfied the two prongs of the case laws cited. This issue violated the petitioners U.S. Const. 14th Amend. and his Fla. Const. Art. I §9 right to due process of law by not furnishing him with a fair direct appeal and petition for writ of habeas corpus proceeding.

"When a portion of the transcript is unavailable and the petitioner is represented by the same attorney at trial and on appeal, reversal is not required absent a showing of hardship to the petitioner and a prejudicial effect upon his appeal." (Velez v. State 645 So. 2d 42 4th DCA 1994)

GROUND FOUR

This court must refer to the docket entries in the preliminary statement for the full argument on this issue. (See appendix F) The judgment of acquittal denial based on the argument of lack of intent violated the petitioner's U.S. Const. 14th Amend. and his Fla. Const. Art. I §9 right to due process of law by not allowing him a fair trial proceeding. There is a complete lack of substantial competent evidence from which a rational trier of fact could find guilt. All of the evidence used against the petitioner was based on speculation and proven false evidence. **"A special standard of review of the sufficiency of the evidence applies where a conviction is based on circumstantial evidence."** (State v. Law 559 So. 2d 187 FSC 1989)

Since all of the evidence was based on speculation and proven false evidence that would mean the jury could only infer facts that can't prove any elements needed for conviction. This is similar to the **"fruit of the poisonous tree"** doctrine.

Proven false evidence can never be construed as substantial competent evidence from which a rational trier of fact could infer guilt. "If the guideline that applies to a specific offense expressly provides that a more harsh guideline should be applied if certain facts exist, the preponderance of the evidence standard applies in determining whether those certain facts exist." (United States v. Whitesell 314 F. 3d 1251 USCA 11th Cir. 2002)

The forensic evidence depicted in photos does not support the officers version of events that preceded the shooting. Fragoso's careless act of shooting the petitioner unprovoked led him to lose control of his vehicle and impact Mason's leg against a dumpster. Clearly the petitioner could not have had any premeditated intent to injure or murder Mason or use his vehicle as a deadly weapon. Mason could never have died from a broken leg. There is no evidence anywhere on the record to prove any of the elements needed for conviction on attempted murder or aggravated battery. "A defense if lack of intent not only places the element of intent in issue but substantially reduces the extent to which evidence can be considered overwhelming." (Carter v. Montgomery 769 F. 2d 1537 USCA 11th Cir. 1985)

There is no body camera evidence depicting the shooting incident during a planned take down operation in which officers were staged in position to take the petitioner into custody despite testimony from Fragoso that this evidence should exist. This situation defies conventional logic. If this evidence existed as it should per Fragoso's testimony it would have shown the petitioner being shot by the police

unjustifiably causing him to lose control of his vehicle and impacting Mason's leg against the dumpster. **"In a criminal prosecution the presence or absence of bad faith on the part of the police with regard to the loss or destruction of possibly exculpatory evidence must necessarily turn on the police's knowledge of the exculpatory value of the evidence at the time it was lost or destroyed. The good or bad faith of the state is irrelevant when the state fails to disclose material exculpatory evidence to the petitioner in criminal prosecution."** (Arizona v. Youngblood 488 US 51 , 102 L Ed 2d 281, 109 S Ct 333 USSC 1988)

Two officers who were at the time assigned to road patrol and road patrol supervisor vehicle's mysteriously did not have in dash cameras in them which would have captured footage of the shooting since both vehicle's lights were on and facing the incident. This situation combined with the lack of body camera evidence defies conventional logic. This not only shows bad faith by the police but malicious intent to not capture footage that would have exonerated the petitioner. **"Unless a criminal petitioner shows bad faith on the part of the police, failure to preserve potentially useful evidence does not constitute a violation of due process."** (Kelley v. State 569 So. 2d 754 FSC 1990)

The Fifth District Court of Appeal lied in their opinion to make the petitioner appear guilty. They cited in their opinion that the petitioner never disputed driving towards the officers. The petitioner did dispute that several times at trial. They made an argument that suicide by cop statement had a basis in fact when the

petitioner adequately proved in ground one that statement was not given voluntarily. This court should refer to the docket entry from January 27th 2020 on the Fifth District Court of Appeal website to view the motion for rehearing. This is a horrendous miscarriage of justice that this court is obligated to correct. When honorable judges who took an oath to uphold the law and dispense fair justice blatantly lie in a published opinion to keep a wrongfully convicted man in prison something has to be done.

GROUND FIVE

This court must refer to the docket entries in the preliminary statement for the full argument on this issue. (See appendix F) The petitioner was convicted and sentenced on both aggravated battery and attempted murder for the same episode of conduct and the same victim with no temporal break whatsoever. This issue violated the petitioner's U.S. Const. 5th Amend. and his Fla. Const. Art. I §9 right not to be put twice in harms way for the same offense, his U.S. Const. 8th Amend. right not to be subjected to cruel and unusual punishment, his U.S. Const. 14th Amend. and his Fla. Const. Art. I §2 right to equal protection of the law, and his U.S. Const. 14th Amend. and his Fla. Const. Art. I §9 right to due process of law by not allowing him a fair sentencing proceeding. The petitioner cannot help but commit aggravated battery in the process of attempted murder. The fact of whether the victim was struck or not is inconsequential. The perfect analogy is a person committing completed murder is not charged with aggravated battery even though

that person was injured for a period of time before death. There is a flaw in the language Blockburger analysis that allows for both charges to be upheld. The legislature did not intend for murder convictions to be upheld with aggravated battery so by default the same argument applies with attempted murder. **"We are unable to determine if the legislature intended dual convictions for aggravated battery and attempted homicide that occurred during that attempt where no additional injury was caused to another person but are compelled to reverse the judgment of conviction and sentence for aggravated battery."** (Davis v. State 559 So. 2d 707 4th DCA 1990)

Aggravated battery is simply a degree variant of attempted murder. Victim contact being unnecessary to prove attempted murder is inconsequential in this case. If Mason had dodged impact of the petitioner's vehicle he would have been charged with aggravated assault and attempted murder. This court must also consider what intent the petitioner had in his mind. The petitioner could not have had both the intent to injure and murder the officer at the same time. It had to be one or the other despite the fact that it was adequately proven the petitioner had no intent to strike Mason with his vehicle. If the petitioner was charged with attempted manslaughter that would have been double jeopardy with aggravated battery. It defies conventional logic as to how a lesser included can be double jeopardy but the greater included cannot be. **"Dual punishments for attempted manslaughter and aggravated battery arising from the single act committed by a**

petitioner are impermissible." (Carawan v. State 515 So. 2d 161 FSC 1987)

The petitioner was sentenced to life plus 25 years running consecutive for the same episode of conduct on the same victim with no temporal break whatsoever. The petitioner is not treating this as a moot issue as this is the difference between applying for clemency in 25 years as opposed to 12.5 years. In federal sentencing cases this situation would mandate concurrent sentences. The legislature did not intend for anything over a single life sentence to be imposed for this single act.

"Where with respect to cumulative sentences imposed in a single trial, the double jeopardy clause does no more than to prevent the sentencing court from proscribing greater punishment than the legislature intended." (Missouri v. Hunter 459 US 359, 74 L Ed 2d 535, 103 S Ct 673 USSC 1983)

If this were a federal case these counts would be run concurrently and the petitioner would have a single life sentence instead of life plus 25 years. **"All counts involving substantially the same harm shall be grouped together into a single group. Counts involve substantially the same harm within the meaning of this rule: When counts involve the same victim and the same act or transaction." (18 USCS §3D1.2(a))**

REASONS FOR GRANTING THIS PETITION

This honorable court should grant review of this case to correct these substantial violations of due process and because there is overwhelming sufficient evidence to support the petitioner's innocence on counts 1 and 2.. This will ensure appellate counsel is performing at the standards demanded of the U.S. Const. 6th Amend. This court should also have the authority to review the underlying issues of ineffective assistance of appellate counsel. Most pro se litigant's typically know nothing about the law during the direct appeal process. By the time they learn enough about the law they are already representing themselves. If this court grants review of this case it should function as a second direct appeal whereas at the state level it would not.

This honorable court should grant review of this case to correct an injustice in the law when it comes to what is reviewable in petitions for writ of habeas corpus alleging ineffective assistance of appellate counsel. There should be nothing that precludes appellate counsel from being deemed ineffective if the pro se litigant raises an issue for the first time in his pro se brief that counsel failed to brief in Anders. The petition is titled ineffective appellate counsel not ineffective pro se litigant.

This honorable court should grant review of this case to ensure involuntary incriminating statements taken from the petitioner while he is in the intensive care unit at a hospital and being given medications that have known debilitating side

effects are properly suppressed from being used at the trial court level. This will avoid situations in the future where the totality of the circumstances may become an issue. This court should place a figurative "do not enter" sign on all intensive care unit doors everywhere.

This honorable court should grant review of this case to ensure that state attorney's are taking greater care in their comments during closing arguments. This court should establish a separate higher standard for what an improper statement of the law is on cases involving a law enforcement officer being injured in the line of duty.

This honorable court should grant review of this case to ensure that trial proceedings are being transcribed properly and important omissions from the record do not occur.

This honorable court should grant review of this case to allow for automatic granting of judgment of acquittals in situations where all of the evidence is based on circumstance, speculation, and proven false evidence.

This honorable court should grant review of this case to allow for automatic granting of judgment of acquittals in situations where body camera evidence should per officer testimony exist of an incident yet do not. This show of bad faith by the police is a detrimental violation of due process this court is obligated to correct as this favorable evidence would have exonerated the petitioner.

This honorable court should grant review of this case to ensure that the

sentence is withheld on aggravated battery upon dual convictions for aggravated battery and attempted murder for the same episode of conduct with the same victim with no temporal break whatsoever.

This honorable court should grant review of this case to ensure that consecutive sentences for the same episode of conduct with the same victim with no temporal break whatsoever are barred. This court is obligated to bring Florida sentencing guidelines in line with federal sentencing guidelines.

CONCLUSION

This petition for writ of certiorari should be granted. This request is made in good faith. The petitioner swears the facts contained in this petition for writ of certiorari are true and correct.

/s/ D. Moran
David P. Moran X97428
Pro se Litigant

Date: September 8th, 2020.

APPENDIX A