

No. 05-5371

20-6023

ORIGINAL

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SUPREME COURT OF THE UNITED STATES

Carlos Anderson-PETITIONER
(Your Name)

vs.

Mark Inch-RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Florida Supreme Court
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

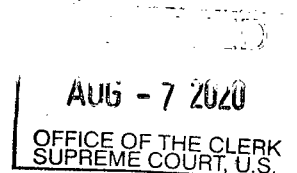
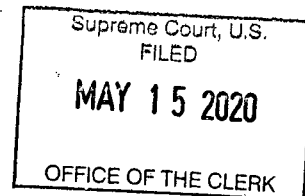
Carlos Anderson
(Your Name)

Jackson C. I. 5563 10th Street
(Address)

Malone, FL 32445
(City, State, Zip Code)

(Phone Number)

(1)



QUESTION(S) PRESENTED

Can the Florida Supreme Court use state court decisional law to procedurally bar a non-homicide juvenile defendant from seeking relief from an illegal life sentence that has been declared a violation of the Eighth Amendment of the U. S. Constitution by this Court in *Graham v. Florida*, 560 U.S. 48 (2010)?

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:

RELATED CASES

Graham v. Florida, 560 U.S. 48 (2010)

Lawton v. State, 181 So.3d 452 (Fla. 2015)

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STATUTES AND RULES

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**:

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☐ is unpublished.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☐ is unpublished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 G 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☒ is unpublished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 Florida Supreme Court
Appears at Appendix G to the petition and is

- ☒ reported a not yet published; 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

☐ 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 February 18, 2020. A copy of that decision appears at Appendix G.

☐ A timely petition for rehearing was thereafter denied on the following date: N/A, 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

Eighth Amendment, U. S. Constitution

STATEMENT OF THE CASE

Petitioner, a juvenile, was charged by criminal information with three counts of sexual battery, and one count of armed burglary. All counts were the results of a single criminal episode. (Appendix-A).

The case went to trial and a jury convicted Petitioner on all four counts (Appendix-B).

Petitioner filed a timely Notice of Appeal that was Affirmed on June 20, 2008 (Anderson v. State, 991 So.2d 860 (Fla. 2d DCA 2008)).

Petitioner filed a Motion To Correct Sentencing Error on November 10, 2016 (Appendix) and that motion was subsequently Affirmed (Appendix-D).

A similar Motion To Correct Illegal Sentence was filed by Petitioner as an original Petition To Recall Mandate or in the alternative Petition For Writ of Habeas Corpus into the Second District Court of Appeal, (Appendix-E) and was denied. Carlos v. State, 274 So.3d 362 (Fla. 2d DCA 2019).

Petitioner finally filed a Petition For Writ of Habeas Corpus (Appendix-F) that was denied as successive on February 18, 2020. (Appendix G)

REASONS FOR GRANTING THE PETITION

This Court, now being the Court of last resort, is called to correct what has evolved into a miscarriage of justice and/or manifest of injustice. The decision by the Florida Supreme Court to leave Petitioner exposed to life sentences, on non – homicide, serves as an attempt to establish a precedent in this State that violates both the Eighth Amendment of the U. S. Constitution and the categorical bar rule announced in *Graham v. Florida*, 560 U.S. 48, 130 S.Ct 2011 (2010).

The miscarriage of justice/manifest injustice that comes into play here is when the Florida Supreme Court cites to the antiquated *Jenkins v. Wainwright*, 322 So.2d 477, 478 (Fla. 1975) decision to apply a procedural bar rule of successiveness when this same court in a more modernized decision in *State v. McBride*, 848 So.2d 287 (Fla. 2003) allowed for successive review and consideration in order to correct a manifest injustice.

Petitioner is fully entitled to the Graham ruling which has been reflected in *Lawton v. State*, 181 So.3d 452 (Fla. 2015), and has been indiscriminately across the board to reach all non-homicide juvenile defendants. Petitioner, for no legally established reason(s), is being unconstitutionally exempt from an equal application of the Graham ruling by the state supreme court's decision to use a 1975 antiquated court ruling, *Jenkins v. Wainwright*, 322 So.2d 477, 478 (Fla. 1975), to circumvent awarding Petitioner the benefit of this Court's *Graham* ruling.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Carl M

Date: 5-14-20