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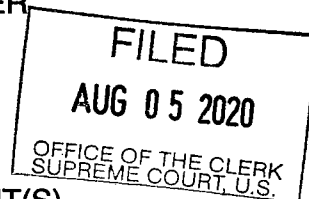
IN THE

SUPREME COURT OF THE UNITED STATES

ROBERT L. DAVIS — PETITIONER
(Your Name)

SECRETARY, Florida vs.

MARK INTCH
DEPARTMENT OF CORRECTIONS RESPONDENT(S)



ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeal (11th Circuit)
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Robert Leslie Davis
(Your Name)
Walton Correctional Institution
691 Institutional Road
(Address)

De Funiack Springs, Florida 32433
(City, State, Zip Code)

Not Applicable
(Phone Number)

QUESTIONS PRESENTED

Explanation # 1

United States Court OF APPEAL and Middle District OF Florida, has departed so far from the accepted and usual course OF judicial review OF a 'LaFler V. Cooper' 566 U.S. 156 - 'Missouri V. Frye' claim, it is a mis-carriage OF justice.

Question # 1

In ineFFECTive assistance OF counsel claim disputes, does the weight OF the evidence go to Defendant-Petitioner IF the record reveal that counsel lied about a material issue?

Explanation For Question # 2,

Petitioner Filed Motion to be appointed counsel On Federal hab, because he felt he was unable to overcome the difficulty OF the Antiterrorism EFFECTive Death Penalty Act OF 1996, when Presenting arguments. The U.S. District Court denied Petitioner's Motion For appointment OF counsel (Doc. 3). So Petitioner moved For the Pro Se Liberally Construe' Protection, but the District Court denied Pro Se Protection, stating, "Petitioner has not overcome the AEDPA, or explained how the error would undermine the legality OF his conviction and sentence" (Doc. 43, Pg. #29). And the 11th Circuit held, "Davis's claim was facially insufficient" (Appendix-A, Pg. #2).

Question # 2

Does a Pro Se Liberally Construe doctrine request protect some OF Petitioner's limited legal ability on a (AEDPA) review?

Explanation For Question # 2A

IF the habeas Corpus From Petitioner used to File his claim came From the U.S. District Court, and States, "you do not need to cite law (APPENDIX-F).

Question 2A

Can the U.S. District Court deny Petitioner Relief because he did not cite law because Form's instruction (5) stated it is not required?

Explanation For Question # 3

Petitioner's claim and the evidence in the Record For Ground One, shows that his counsel entered courtroom and moved For jury trial, even though the Prosecutor OFFERED her 24-months Plea deal For Petitioner, Counsel then blocked Petitioner From accepting Plea OFFER, and or making a decision on Plea OFFERS.

Question # 3

IF counsel Committed structural error by Preventing Petitioner From deciding what Plea to enter Does a subsequent questionable statement that Petitioner desired a 2-years split sentence, terminate the structural error? On a Frye claim?

LIST OF PARTIES

☒ All Parties do not appear in the caption of the case....

Parties Not Listed

1.) Public Defender of The 13th Judicial Circuit Court In
and For Hillsborough County, Florida;

Julian Holt

P.O. Box 172910

Tampa, FL 33601

RELATED CASES

Unknown

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INDEX TO APPENDICES

- APPENDIX A - U.S. Court of Appeal 11th Circuit, order denying Appeal.
 A - U.S. Court of Appeal order denying reconsideration).
- APPENDIX B - U.S. Middle District of Florida, order denying Petitioner's
 28 U.S.C. § 2254 Petition.
 B1 - District Court order denying in forma pauperis. B2 order denying C.O.A.
- APPENDIX C - U.S. Court Middle District of Florida, order denying
 In forma pauperis For Certificate of Appealability
- APPENDIX D - Second District Court of Appeal of Florida
 * (Not attach - do not have) Per curiam Affirming State Court
 Denial.
- APPENDIX E - State sentencing court's Denial of Post-conviction Relief,
 Case # 2013-CF-017145, and 2013-CF-18157.
 * (Not attached - do not have).
- APPENDIX F
 Instructions of The 28 U.S.C. § 2254 Habeas Corpus
 Form Petitioner received from the U.S. District Court,
 Middle District of Florida, in which told Petitioner
 that, "you do not need to cite law..."

TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

McCoy V. Louisiana,	138 S. Ct. 1500	(2018)
Bunt V. Titton,	571 U.S. 12	(2013)
Lafler V. Cooper,	566 U.S. 156	(2012)
Missouri V. Frye,	566 U.S. 134	(2012)
U.S. V. Oregon,	366 U.S. 643	
Bobby V. Hook,	558 U.S. 4	(2009)
Rosales Miracles V. U.S.,	201 L. Ed. 2D 326	(2018)
Erikson V. Pardus,	551 U.S. 89	(2007)
Early V. Packer,	537 U.S. 3 at 8	(2002)
Ortiz V. Mark Inch,	2019 U.S. Dist. Lexis 8	

STATUTES AND RULES

28 U.S.C. § 2254 (d)
(ADEPA) OF 1996

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 A to the petition and is

☐ reported at _____; or, Do Not Know
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the United States district court appears at Appendix C to the petition and is

☐ reported at _____; or, Do Not Know
☐ 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 D to the petition and is

☐ reported at _____; or, Do Not Know
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the State sentencing, 13 Judicial circuit court appears at Appendix C to the petition and is

☐ reported at _____; or, Do Not Know
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

B

JURISDICTION

☐ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case

was January 28th, 2020, and March 10th, 2020.

☒ A timely Motion For Reconsideration was Filed, Denied 3/10/20

☐ 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 _____.
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).

JURISDICTION STATEMENT

Petitioner seeks Review OF His 28 U.S.C. § 2254 Petition denied by a U.S. District Court, and The 11th Circuit Court OF APPEALS. This Court has Jurisdiction to re-view and Grant Petitioner's Writ OF Certiorari, Pursuant, to U.S. Supreme Court rules. As the U.S. 11th Circuit Court denied the Petitioner's Motion For Reconsideration on March 10th, 2020, and Petitioner used this Court's additional 150-days coronavirus extension to File a Timely Petition For Writ OF Certiorari. But the clerk OF the U.S. Supreme court returned the Writ to Petitioner, as being wrongly Fashion, and entered an order on September 1st, 2020, giving The Petitioner an additional 60-days to reFile the Writ.

Where the Petitioner comes timely on this 28th, day OF October, 2020, mailing the Writ to the U.S. Supreme Court, and Respondent. This court has jurisdiction to review and grant this writ, where Petitioner was denied relief by the U.S. District Court's misleading hab Form Instructions (Appendix-F), and denied Due Process to have a 'structural Error' ruled on.

This court has jurisdiction to Grant this Petition For a Writ OF Certiorari, Pursuant, to 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

- 1.) 6th Amendment to The United States Constitution
- 2.) 14th Amendment to the United States Constitution
- 3.) Pro Se Liberally Construe Doctrine
- 4.) Florida Rules of Criminal Procedure, Rule 3.171(c)(2)
- 5.) Florida Rules of Criminal Procedure, Rule 3.850(j)
- 6.) Florida Rule of Professional Conduct, Rule 4-1.2
- 7.) (AEDPA) of 1996.

STATEMENT OF THE CASE

The Petitioner was charged with burglary of a structure on December 11th, 2013, in case # 13-CF-017145, and on January 7th, 2014, in case # 13-CF-18157. Filed by the Florida State attorney of the 13th Judicial Circuit Court of Florida (APPX. B, Pg. 2). The blood found at burglary construction site was tested by Florida Department of Law Enforcement. And matched the DNA data of Petitioner, Robert L. Davis, at 1 in 19-quintillion math (APPX. B, Pg. 8). The Petitioner also qualified to be sentenced to 10-years for each charge, as a habitual Felony Offender (APPX. B, Pg. # 3). Sixty-five days elapsed from the initial charge before Petitioner had a chance to accept a Plea Offer. But at the February 12th, 2014, Pre-trial conference, Petitioner's assistant Public Defender walked into the courtroom. And asked Judge, Timmerman, for a trial date without asking, or allowing Petitioner to except a Plea Offer (APPX. B, Pg. # 2). It was later discovered at a Nelson' hearing on May 12th, 2014, that the Prosecutor gave Petitioner's counsel a (24-months) Plea Offer for Petitioner, before the February 12th, 2014, Pretrial conference began (APPX. B, Pg. # 6, last Paragraph). But counsel never presented the 2-year Plea Offer to Petitioner, or the court during the February 12th, 2014, Proceeding. The record also shows that Petitioner's counsel lied at the May 12th, 2014, 'Nelson' hearing. When stating that she told Judge, Timmerman, at the February 12th, 2014, Proceeding. About the:

- a.) 24-month Plea Offer Prosecutor offered,
- b.) that she informed the Petitioner of the Plea offer,
- c.) and that Petitioner, "did not want to accept it".
- d.) "So that is what I told Judge [Timmerman] that he wished to reject the offer;..." (APPX. B, Pg. # 6).

The 'Nelson' hearing judge was not Present at any of Petitioner's other Proceedings. Nor did this judge Preside at any other Proceeding other than the May 12th, 2014, one. I told the 'Nelson' court judge that counsel was lying. But the judge didn't believe Petitioner (APPX. B, Pg. 7). Nor did the judge have the February 12th, 2014, Proceeding transcript to verify that counsel lied. So Petitioner was denied a competent counsel, and therefore accepted a 36-month Plea offer as a habitual Felony Offender, (APPX. B, Pg. # 8).

Petitioner Filed a Post-conviction Relief motion stating;

Ground One

Defendant Was Denied Effective Assistance of Counsel
Who Prejudice Him With A Longer Sentence When Counsel
Declined State's 27-Months Plea Offer Without Obtaining
Consent From The Defendant

State-court summarily denied motion, and Petitioner's evidentiary hearing request to have Judge Wayne Timmerman testify to what occurred on February 12th, 2014, Proceeding (APPX. B, Pg. # 9). State-court used the 'Nelson' hearing, and the two statements Petitioner made in a April, 2014, letter, and at a May 8th, 2014, Proceeding to deny claim, (APPX. B, Pg. # 10-11). Even though state-court altered the plain language of the two statements to camouflage a Lafler V. Cooper, and a Missouri V. Frye claim. And the U.S. courts adopted the state-court's unreasonableness when denying hab. While never addressing the structural error adequately preserved for review. That Petitioner's counsel declined Prosecutor's Plea Offer without Obtaining Consent From the Defendant, [Petitioner] (APPX. B, Pg. # 2, Parag. # 2). * The U.S. District Court altered Petitioner's May 12th, 2014, statement by excluding the word "Probable", and entering the words, were not yet resolved (APPX. B, Pg. # 10, Parag. # 4).

The U.S. District Court denied habeas with Prejudice

And the U.S. 11th Circuit denied Petitioner to File a Certificate of Appealability. By using reasons that are in conflict with other U.S. Appeal Courts (APPX. A, Pg. # 2), and LaFleur v. Cooper, 566 U.S. 156.

REASONS FOR GRANTING THE PETITION

- 1.) TWO Federal Courts Declined To Rule on a Structural error That Counsel Declined Plea Offer without Petitioner being allowed to decide what Plea offer to except (Ground One).
- * 2.) The Record shows that counsel lied in Nelson Hearing that Petitioner did not want to accept Prosecutor's Plea Offers, and that is what she told the judge on the February 12th, 2014, hearing. Appex B, Pg. 6.
- * 3.) The Two Federal Courts Departed So Far From this Court's Holdings OF:
McCoy V. Louisiana, 138 S. Ct. 1500 (2018)
LaFler V. Cooper, 566 U.S. 156 (2012) and
Missouri V. Frye, 566 U.S. 134 (2012)

That it is a miscarriage of Justice case here.

- * 4.) This court has validated the Pro Se liberally Construe doctrine atleast twice after the enactment of the (AEDPA) of 1996, making the Pro Se liberally construe Protection in direct conflict of review under the (AEDPA) of 1996.
- 5.) The denial of witness, Judge, Timmerman, to testify at a state court evidentiary hearing to what occurred at the February 12th, 2014, Proceeding between defense counsel, and Petitioner, denied the Petitioner From Presenting the best star-witness in town, who could have answered to all ineffective assistance of counsel claims.

* 6.) This Court is compelled by Constitutional Due Process to enter an executive order correcting the instruction #5 of the 28 U.S.C. § 2254 Form Federal Courts mail to Petitioner's that request a habeas Corpus Form. Because Paragraph #5 states, "...You do not need to cite law." But U.S. hab courts deny a Petitioner's hab because he or she didn't cite a U.S. Supreme Court holding supporting the Petitioner's claim under the (AEDPA) of 1996 review. This Petitioner was denied relief in both Federal courts because he relied on Instruction #5 of hab Form AO241 (Rev. 09/17)

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Robert L. Davis
Robert L. Davis #652400

Date: July 28th, 2020,