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NO.: 18-5991

NO.: 20-14505-D

Orig. Case No.: 6:12-cv-01716-GAP-KRS

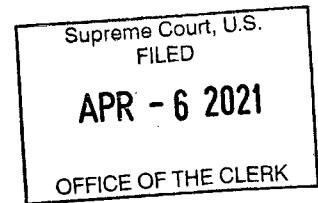
**ORIGINAL**

IN THE SUPREME COURT  
OF THE UNITED STATES OF AMERICA

In re Johnny Ray Bennett  
Plaintiff

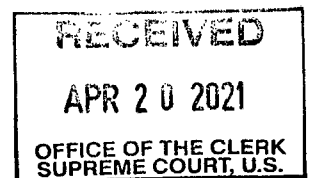
vs.

Mr. Eddie Bell  
Mrs. Leah Ransbottom  
Mr. Michael Hutchenson, et. al  
Defendants'



PETITION FOR WRIT OF PROHIBITION

APPEALS FROM THE ELEVENTH CIRCUIT  
COURT OF APPEALS



Johnny Ray Bennett #623036  
Central Fla. Reception Center-MU  
7000 H.C. Kelley Road  
Orlando, Florida 32831

NO.: 18-5991  
Appeal No. 20-14505-d  
Orig. Case No. 6:12-cv-0176-GAP-KRS

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IN THE  
SUPREME COURT OF THE UNITED STATES

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In re Johnny Ray Bennett - Plaintiff

vs.

Mr. Eddie Bell - Defendants  
Mrs. Leah Ransbottom  
Mr. Michael Hutchenson, et. al

ON PETITION FOR WRIT OF PROHIBITION  
THE ELEVENTH CIRCUIT COURT OF APPEALS  
PETITION FOR WRIT OF PROHIBITION

Johnny Ray Bennett #623036  
Central Florida Reception Center-MU  
7000 H.C. Kelley Road.  
Orlando, Florida 32831

**QUESTION PRESENTED**

SHOULD AN INDIGENT PLAINTIFF THAT'S SUING  
THREE DEFENDANTS BE PERMITTED TO REOPEN HIS  
JUDGMENT IF HE POSSESS THE TWO COMPONENTS OF  
*GONZALEZ VS. CROSBY*?

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APPENDIX E UNITED STATES SUPREME COURT

## LIST OF PARTIES

[ ] All parties appear in the caption of the case on the Cover page of the next page

[x] 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:

- 1.) Eleventh Circuit Court of Appeals
- 2.) Florida Supreme Court
- 3.) State Trial Court
- 4.) United States District Court

A Corporate Disclosure Statement as required by Sup. Ct. Rule 29.6 is referred to the previous Motion for leave to proceed *in forma pauperis* in the United States Court of Appeals, filed November 23, 2020 and December 9, 2020. The U.S. District Court and the 5<sup>th</sup> District Court of Appeal has no interest in the outcome of this Appeal.

IN THE  
SUPREME COURT OF THE UNITED STATES  
PETITION FOR WRIT OF PROHIBITION

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 (A1) to the petition and is

☐ reported at N/A; 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 D to the petition and is

☐ reported at N/A; 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 B to the petition and is

☐ reported at N/A; or,  
☐ has been designated for publication but is not yet reported; or,  
☒ is unpublished.

The opinion of the Florida Supreme court appears at Appendix B to the petition and is

☐ reported at N/A; 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 2-1-2021; 3-9-2021.

☒ 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: N/A, and a copy of the order denying rehearing appears at Appendix N/A.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including N/A (date) on N/A (date) in Application No. N/A A N/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 1-25-2011. A copy of that decision appears at Appendix B.

☒ A timely petition for rehearing was thereafter denied on the following date: 3-18-2011, and a copy of the order denying rehearing appears at Appendix B.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including N/A (date) on N/A (date) in Application No. N/A A N/A.

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

## STATEMENT OF THE CASE

Petitioner states that: this action is invoking the Courts Original Jurisdiction under Art. III of the Constitution of the United States. See also 28 U.S.C. § 1251 and U.S. Const. Amend. 11; U.S. Sup. Ct. Rule 20 and Rule 22.1: addressed to an individual Judge.

## PROCEEDINGS ON RECORD

The prior proceedings are referred to the Certiorari/All Writs Petition filed on May 31, 2018 on pages 3, 4. Later Plaintiff sought review back to this Court for permission for an extension of time to file a rehearing filed 1-9-2020 and returned. Filed an amended letter to extend the time filed on 1-21-2020. proceeded with a Motion for Rehearing filed 3-13-2020. Lastly a Motion for Demand for Judgment filed 9-4-2020; all returned. Proceeded to the 11<sup>th</sup> Circuit Court of Appeals on a Writ of Prohibition filed 11-23-2020, but denied and/dismissed on 2-1-2021; 3-9-2021; See *Coleman & see Harris vs. Reed* 489 U.S. 255, 103 L. Ed. 2d. 308, 109 S. Ct. 1038 (1989).

With these rulings, Plaintiff was able to proceed with this Writ of Prohibition filed this 26<sup>th</sup> day of March 2021. These are extraordinary circumstances that requires an extraordinary remedy. There is no new arguments or Constitutional challenges that have not been discussed or touched upon. This petition of Writ of Prohibition shall be plain and concise with the information already.

acquired; that requires an adjudication of the merits.

GROUND: ONE

PETITIONER IS ENTITLED TO HIS  
IMMEDIATE RELEASE FROM UNLAWFUL CUSTODY

Plaintiff Case commenced as a Civil Rights suit under 28 U.S.C. §1331 and 1343(a)(3). From this standpoint, he is seeking relief from this Unlawful Custody. See pages 4, 5 of Certiorari/All Writs Petition filed May 31, 2018. see also Appx. (C). This cause warrants the exercise of this Court's discretionary powers and that for this, adequate relief cannot be obtained in any other form or from any other court. The Circuit Court barred Plaintiff from filing any motions or petitions unless accompanied by an attorney. *Spencer vs. State*, 751 So. 2d 47 (Fla. 1999)

The United States District Court basically barred the filings until I pay the statutory filing fee. See Appx. (D); U.S.C.A. 14<sup>th</sup> Amendment, as did the 11<sup>th</sup> Circuit Court of Appeals. See Certiorari/All Writs pages 4, 6. See Appx. (A1). See *Coleman*.

For instance, the Plaintiff appealed to the 11<sup>th</sup> Circuit because he qualified for his case and Judgment to be (Reopened." All along he argued in his 28 U.S.C. § 2254 that the State Court committed fraud of the Court pursuant to F.R.C.P. Rule 60(b)(3). Without committing fraud on the Court, they would not have prevailed with Summary Judgment by the District Court. See Appx.

(D). Fraud on the Court is one Component that was consistently proven in his first Federal hearing in these proceeding for his Federal Habeas Corpus in 2012. Later on the 11th Circuit Court of Appeals made a clerical error on one of their Orders. See Appx.

(A). Now these two components mandate an "Extraordinary Circumstance" that requires relief in *Gonzalez vs. Crosby*, 545 U.S. At 534 (2005); 1h, 9-10 to reopen a habeas judgment pursuant to Rule 60(b)(6). See 28 U.S.C. §1343(a)(3).

Aside from this, there is another extraordinary circumstance. Plaintiff is claiming he's being held against his will. It's plain to see that it's on the face of the record. Plaintiff involuntarily plead guilty to the offences of Armed Burglary of a Dwelling F.S. 810.02(b)(2) and Sexual Battery F.S. 794.011(3); Convicted and Sentenced to 35 years concurrently with (2) 10-year min. man. sentences and designated a Sexual Predator: 775.24(3)(c). Involuntary plea Fla. R. App. P. 9.140(a)(2)(ii)C.; Fla. R. Crim. P. Rule 3.171(a)(A)(2) See Certiorari/All Writs petition page 8 filed May 31, 2018; when they were under Constitutional scrutiny and later became unconstitutionally "invalid" to convict or sentence him. See page 7 of Certiorari/All Writs petition filed May 31, 2018. 28 U.S.C. § 2241(c)(3). He has now been restrained for 21 calendar years when he only scored out to 15 yrs. at 180 pts. See Appx. (C). This was illegal. U.S.C.A. 14<sup>th</sup> Amendment. See *Hersey v. State*, 831 So. 2d 679, 680 (5DCA 2002); *Taylor v. State*,

818 So. 2d 544, 546 550 (2DCA 2002), and *Green v. State*, 887 So. 2d 1089, 1090 (Fla. 2004). This; What the State did which was the first Ex Post Facto of causing a Defendant to be disadvantaged by statutes that were invalid. 28 U.S.C. § 1343(a)(3); 42 U.S.C. § 1983; and Fla. Const. Art. I, sec. 10. Now for the U.S. District Court to "AFFIRM" what the Circuit Court illegally and unlawfully accomplished made it a "Second" Ex Post Facto violation. See U.S. Question # 5 in Certiorari/All Writs petition filed May 31, 2018; See 18 U.S.C. § 3161(h). Therefore, Plaintiff is entitled to his immediate release from unlawful custody and because the District Courts Judgment was based on a "defective foundation"; point blank. U.S.C.A. Art. I, sec. 10 CL. 1. See Appx. (D).

"Integrity of the proceedings under Rule 60(b)(6)"

1) The State Court (Defendants) committed "Fraud on the Court," Depriving Plaintiff of a fair federal hearing by failing to relinquish the documents that was sufficient evidence to prove he is unlawfully detained. See

2) The District Court Misapplied 28 U.S.C. §2254(d)'s statute of limitation, because Plaintiff was then, and is now eligible under the "Equitable tolling standard" of *Heck vs. Humphrey's* Standard of Review. See 28 U.S.C. §2244(B)(i)(ii); *Gonzalez vs. Crosby*, id. at 488.

3) The 11<sup>th</sup> Cir. Court of Appeals did not follow usual procedure of issuance of a (COA); see *Slack vs. McDaniel*, Supra;

See Certiorari/All Writs Petition, pg. 6 at II.(b).

4) The 11<sup>th</sup> Cir. Court of Appeals made a clerical error in its Order. See Appx. (A)

5) The 11<sup>th</sup> Cir. Court of Appeals Judgment was contrary to that of another Court of Appeals. See Certiorari/All writs petition page 5; Appx. (A1, 4); 14<sup>th</sup> Amendment U.S.A.; 28 U.S.C. §2253(c)(2).

6) The District Court and the 11<sup>th</sup> Cir. Court of Appeals failed to afford the Appellant to appeal in a Civil Rights Case. See 28 U.S.C. §1915(a)(1)(4); *Smith vs. Bennett* 365 U.S. 708, 712, 81 S. Ct. 895 (1961).

#### OTHER CLEAR AND CONVINCING EVIDENCE

The Plaintiff acknowledges that there are several scenarios to persuade this Honorable Court of the illegality of a detention that's on the face of the record by clear and convincing evidence. 28 U.S.C. §2254(e)(1); 28 U.S.C. §2254(a)(b)(1)(A)(B)(i)(ii).

1) The Statutes that the Plaintiff was Convicted and Sentenced by were invalid at that moment in time, "violated the Single Subject Rule Art. III sec. 6 of the Fla. Const. and could be addressed for the first time on Appeal as fundamental error. Cf. F.S. 924.051(b)(3); Cf. *State vs. Johnson* 616 So. 2d 1 (Fla. 1993)

2) Plaintiff cannot plea to an illegal sentence: Fla. Stat. 775.24(3)(c):

All three Defendants and or the 7<sup>th</sup> Judicial Court knew or should have known of the Statutes Constitutionality; and it could not be considered that his involuntary plea to the charges above were knowing and voluntary. Cf. *Mantle vs. State* 592 So. 2d 1190 (5<sup>th</sup> DCA 1992)

3)Therefore Plaintiff was disadvantaged by the invalidness or inapplicability of those statutes. Cf. *Miller v. Florida*, 107 S. Ct. 2446; 96 L. Ed. 2d 351, 48 USC 423 (1987). Art. I, §10, CL. 1, U.S.C.A.

So basically Plaintiff is suing for his freedom and requesting this Court to exercise its Superior Discretional Powers to grant the relief requested. To be exonerated; charges dropped, because of the deliberate malicious prosecution. 18 U.S.C. § 3161(h).

In closing, Plaintiff is entitled to bring forth evidence in his first Law Suit. *Haines v. Kerner*, 404 U.S. 519, 92 S. Ct. 594-595-(U.S. Ill. 1972); entitled to a complete review of counsel ineffectiveness, see C.f. *Trevino vs. Thaler*, 133 S. Ct. 1911 (2013); entitled to appeal in a civil case without paying the statutory filing fee. *Smith vs. Bennett*, 365 U.S. 708, 712, 81 S. Ct. 895 (1961); U.S.A. 14<sup>th</sup> Amendment. See Writ of Prohibition filed, page 6 on 11-23-2020 in the 11<sup>th</sup> Circuit Court of Appeals; while page 7 acknowledges that a plaintiff can reopen his Judgment (five) years or more after its original Judgment, see *Ritter vs.*

Smith, 811 F. 2d 1398, 1341-1402 (CA. 11<sup>th</sup> Cir. 1987); 28 U.S.C. § 1343 (a)(3). See Appx. (D). Whether a plaintiff needs a (COA) to appeal in a civil case, I probably will never know; but one thing I do know; see section 2 Chambers, Course of Lectures on English Law 1767-1773, at 6 (Liberty may be violated by arbitrary imprisonment without Law or the appearance of Law, or by a Lawful Magistrate for an unlawful reason"), This is so... even when the prisoner is detained after a criminal trial conducted in full accordance with the production of the Bill of Rights. See Certiorari/All Writs filed May 31, 2018 pages 8-9., Appx. (C).

Plaintiff never will be in this position of committing crimes, again; but to only prevent them. Being deprived deliberately of life and liberty of the American Way; To be drug through the Courts year after year; and to be taken from our Love ones much longer than the Law called for applicably only made me Stronger and Wiser. United States Laws and Rules provided the people of this Country to be concisely liable for any wrong doing. 42 U.S.C. § 1983; on page 13 is case authority pursuant to the Civil Rights Suit. See also Certiorari/All Writs page 5.

THEREFORE, Plaintiff prays that this Honorable Court intervene pursuant to 28 U.S.C. § 2403(a)(b) of the statutes constitutionality and retroactivity of the "2002 enactments", Reverse its prior decision of denial on November 13, 2018 and Reverse the 11<sup>th</sup> Circuit last Judgment in Appx. (A1) and release



Plaintiff from unlawful custody. 18 U.S.C. § 3161(h).


*Haines v. Kerner*, 404 U.S. 519, 92 S. Ct. 594 (U.S. Ill. 1972); Petitioner is a pro se Litigant, Layman in the science of Law and should not be held by stringent standards of formal pleadings drafted by lawyers.

A complete review is necessary to prevent a fundamental Miscarriage of Justice. See *Coleman v. Thompson*, 501 U.S. 722, 735, 740, 115 L. Ed. 2D 640, 111 S. Ct. 2546 (1991) declining to apply long presumption to Summary Dismissal Order). See Appx. (A1)

OATH

I DECLARE (or Certify, Verify, or State) under penalty of perjury that the foregoing Writ of Prohibition is true and correct.

WHEREFORE, the Plaintiff respectfully prays for the granting of this Writ of Prohibition and to immediately be released or discharge him from unlawful custody or incarceration. See 18 U.S.C. § 3161(h).

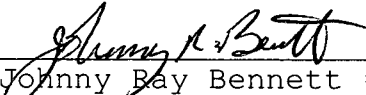
  
Johnny Ray Bennett #623036  
Central Fla. Reception Center-MU  
7000 H.C. Kelley Road  
Orlando, FL 32831

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Writ of Prohibition has been placed into the hands of Institutional authorities fro Mailing via U.S. Mail, First Class, postage pre-paid to: The Supreme Court of the United States at First Street, N.E. Washington D.C. 205423, The Attorney General's Office at 444 Seabreeze Blvd, 5<sup>th</sup> Floor, Daytona Beach, FL 32118, Florida Supreme Court, 500 South Duval Street, Tallahassee, FL 32399-1927; Solicitor General of the United States; Dept. of Justice 950 Pennsylvania Avenue, N.W. Washington DC 20530-0001 on this 26<sup>th</sup> day of March 2021.

Mail Box-Rule: *Thompson vs. State*, 761 So. 2d 324, 326 (Fla. 2000)

\*Attached for Motion for Leave to Proceed In Forma Pauperis and Writ of Prohibition, with the (6) month Bank statements.

  
Johnny Ray Bennett #623036  
Central Fla. Reception Center-MU  
7000 H.C. Kelley Road  
Orlando, FL 32831

(A)

(11)

IN THE SUPREME COURT  
OF THE UNITED STATES OF AMERICA

In re Johnny Ray Bennett  
Plaintiff

Case No.: 18-5991  
Appeal No.: 20-14505-D  
Orig. Case No.: 6:12-cv-0176-GAP-KRS

vs.

Mr. Eddie Bell  
Mr. Leah Ransbottom  
Mr. Michael Hutcheson et. al.  
Defendants

Provided To CFRC M/U  
On 3-29-2021  
For Mailing, by [Signature]

*[Handwritten signature: JRS]*

AFFIDAVIT CERTIFICATE

I HEREBY CERTIFY that Johnny Ray Bennett, DC# 623036, has the sum of \$ 42.95 as of March 24, 2021 on account to his credit at Central Florida Reception Center-M/U. I further certify that he has the following securities to his credit according to the records maintained by the aforesaid prison/institution, to wit: CFRC-M/U.

/s/ [Signature]  
Kathleen Carter / JIM Banking  
Print Name and Title

### REASONS FOR GRANTING THE PETITION

1.) Plaintiff has diligently sought relief in the Federal Courts since 2011; while being advised that he had to sue for his freedom. He recently realized that "Lack of Subject Matter Jurisdiction" was a touchy subject that allowed him to be hindered entirely, so it was excluded in this last petition. He still feels his detention wasn't fully Justified.

2.) Plaintiff fits the eligibility requirements of the two components that this Court considers an "Extraordinary Circumstance" in *Gonzalez vs. Crosby*, 545 U.S. At 534 (2005) to reopen the U.S. District Court Judgments. F.R.C.P. Rule 60(b)(6); 28 U.S.C. § 1343(a)(3).

3.) Plaintiff diligently followed the dictates of *Heck vs. Humphrey*, 512 U.S. 477, 114 S. Ct. 2364 (1994); *Preiser vs. Rodriguez*, 411 U.S. 475, 36 L. Ed. 2d 439, 93 S. Ct. 1827 at No. 15; and Cf. *Wilkinson vs. Dotson*, 544 U.S. 74, 81, 125 S. cT. 1242, 161 L. Ed. 2D 253, 254 (2005); 28 U.S.C. § 2241(c)(3).

4.) And because the "Defendants committed fraud on the Court" pursuant to *Thompson v. Greene*, 427 F. 3d 263 (4<sup>th</sup> Cir. 2005); U.S.C.A., 14<sup>th</sup> Amendment; 28 U.S.C. § 2106; F.R.C.P Rule 60 (b)(3). 18 U.S.C. § 3161(h).