

No. 20-8331

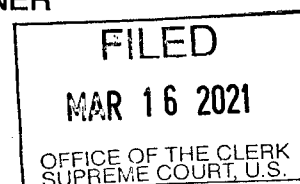
IN THE
SUPREME COURT OF THE UNITED STATES

ORIGINAL

In re- Charlene Rosa — PETITIONER
(Your Name)

vs.

Michael J. Satz, et al. — RESPONDENT(S)



ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeals 11th Circuit

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

PETITION FOR WRIT OF CERTIORARI

Charlene Rosa

(Your Name)

Lowell Correctional Annex

(Address)

11120 NW Gainsville Road
Ocala, Florida 34482

(City, State, Zip Code)

N/A

(Phone Number)

QUESTION(S) PRESENTED

1. Whether the State Attorney's Office as the prosecuting attorney of the Government lost all legal claim to the Judgment and Sentence after, he credit the prosecution to his Adversary the defense attorney during his closing argument, and the fact that the case to which the defense attorney misrepresented to prove truth in the interest of his adversary was terminated in a prior proceeding in favor of the accuse.
2. Whether it is lawful for a state prosecuting attorney of the government to claim a judgment and sentence after, during his closing argument he credit the prosecution to his adversary, the defense attorney credibility of truth, where the defense attorney surprised his client by accuse her of being ^{an extortioner and also} a conspirator to the murder to which she was being tried by the state as a single defendant on an alternative theory.
3. Whether adequate relief can be obtain in any other form or from any other court where, the trial defense attorney's interest bolster the interest of the adversarial system, and the state credit the prosecution to the defense attorney's credibility of truth, and the reviewing courts held that Petitioner is bound by her attorney's strategy.
4. Whether a defense attorney who concedes to share the interest of his client's adversary could harm his client's individual interest, rights ^{denied} equal protection, innocence, and violate attorney-client confidentiality resulted in loss.
5. Whether the state prisoner prove malicious prosecution, where she show that; the prior proceeding ended in favor of the accused. then, the state continued prosecution proceeding, where the defense attorney misrepresented the invalidated case to prove truth, and during the state prosecutor closing argument, he credit the defense attorney credibility of truth for the prosecution. Further during a sidebar conversation the defense attorney concedes to have the interest of the adversarial system, and made statement that if there is a conviction his client will lose her Fifth Amendment privilege against self-incrimination during the criminal trial proceeding.
6. Whether the unconstitutionality of the trial proceeding was discrimination on the basis of the accuse national origin as a Jamaican. setting the pace for all further proceeding(s).

Question(s) Presented Continued

7. Whether the Strategic Decision made by the defense attorney and the prosecutor to infringe on the accuse Fifth Amendment rights and to harm her interest during the criminal trial proceeding after, she invoke her rights against Self Incrimination, adversarial misrepresentation, and asserts that she was innocent and was not involved in the crime to which she was being tried harm her interest, violates her Equal protection, individual rights and attorney-client confidentiality.
8. Whether Petitioner is bound by her Trial attorney Strategy that was made after, she move the Court to discharge him in her best interest and informed the Court that there exist a ~~attorney~~ ~~client conflict~~ un-resolve attorney client conflict of Discrimination and Adversarial attorney that, would misrepresent her invoked rights and interest.
9. Whether the defendant Heidi Betendorf, ~~consecutive~~ defendant and assistant attorney General can represent one self and other concurrent and/or consecutive defendant in her official capacity in this civil rights Action.
10. Whether this is a Bankruptcy case where, the case of State of Florida v. Charlene Rosa went bankrupt on 08/20/2007 when the charge of 1. Murder in the First degree and 2. Solicit to commit armed Robbery was terminated in Favor of the accuse and, to continued prosecution on June 25 through July 5, 2007 was a Tactical Decision to credit the prosecution to the accused defense attorney in an attempted to Wrongfully convicted the accuse, knowing that her defense attorney concede to have his adversary interest and that his client will lose her rights show intentional deception and Malice.
11. Whether the finding of Strategic Decision on the part of
B

Questions Presented continued

defense Counsel by the reviewing Courts in the case of *Charlene Rosa v. State of Florida*, an attack on the judgment and sentence exposed the fact and law that the case of; *State of Florida v. Charlene Rosa* was legally and lawfully declared invalidated in the original proceeding that ended in favor of the accused on 06/20/2007, ~~therefore~~ Case NO: 05-14414 CF10A. Therefore the judgment and sentence on 07/05/2007 Case NO: 04-10877 CF10A Count one of the invalidated case show fraud, a clerical mispision.

Coupled with the fact that; on 08/23/2007 the state attempt to Amend and circuit court disposition order was entered on *no lie prosequi* case no: 05-14414 CF10A on both count one and count two show a direct and positive prove of fraud on the part of the state attorneys office of Michael S. Satz as prosecuting attorney of the government, State of Florida intentional deception to cause harm to Plaintiff individual rights and interest, pursue of happiness, and violate Equal Protection and attorney client confidentiality.

12. Whether a state court or a United States Court of Appeals has decided an important question of federal law that has not been, but should be, settled by this court, in the precedent case of *Heck v. Humphrey et al* 1994, or has decided an important federal question in *Heck* in a way that conflicts with relevant decisions of this court.

Supreme Court of the United States

Charlene Rosa

USCA 11 NO. 20-11386

v.

Michael J. Satz et al

Certificate of Interested Persons And Corporate Disclosure Statement.

Petitioner Rosa asserts that this Certificate of Interested Persons and Corporate Disclosure Statement is in compliance with this Court's rules, to the best of her ability, the following persons may have or have an interest in the outcome of this case:

Altman, Roy K.

U.S. District Judge

~~Hendi, Beth~~ ^{CA}

Bettendorf, Heidi

Assistant Attorney General

Bloom, Beth

U.S. District Judge

Bendi, Pamela Jo

former Attorney General

Bosher

11th Circuit Judge

Damorgian, Dorian K.

Fourth District Judge

Dimitrouleas, William P.

U.S. District Judge

Finkelstein, Howard

Broward, Public Defender

Frankel, David

former Assistant State Attorney

Gerber, Jonathan D.

Fourth District Judge

Greiffin, Ellen

retired Assistant Public Defender

Gross, Robert M.

Fourth District Judge

Haughwout Carey

Public Defender, Florida

Howanitz, Alfred

14th Judicial Circuit Court Judge

Hazouri, Fred A	former Fourth District Judge
Inch, Mark	Secretary, Department of Corrections
Somes, Julie	former Secretary Department of Corrections
Klingensmith, Mark W.	Fourth District Judge
Lazarus, Joel	retired 14th Circuit Court Judge
Lebow, Susan ### ^{CA}	14th Circuit Judge
Levenson, Jeffrey B.	14th Circuit Judge
Luck	U.S. 11th circuit judge
May, Melanie G.	Fourth District Judge
McCarthy, Barbara	14th Circuit Judge
McCullum, Bill	former Attorney General
Moody, Ashley	Florida Attorney General
Polen, Mark E.	former Fourth District Judge
Pryor, Jill	
Rosa, Charlene	Relictious / Plaintiff
Reid, Lissett M.	U.S. Magistrate Judge
Ruiz, Rodolfo	U.S. District Judge
Satz, Michael S.	Broward, State Attorney
Shares, Gary	Assistant Public Defender
Silvershein, Joel	Assistant State Attorney
Singhal, Raag	former 14th Circuit Judge
Smith, Rodney	U.S. District Judge
Society	Societal Interest / Public Interest
Warner, Martha L.	Fourth District Judge
White, Patrick A.	retired U.S. Magistrate Judge
Williams, Jr., H John	former Assistant Public Defender

Respectfully Submitted
~~Charlene Rosa~~

Charlene Rosa 206814
 Lowell Correctional Annex
 11120 NW Gainesville Road
 Ocala, Florida 34482.

Certificate of Service

I hereby certify that I have placed this certificate of interested persons and corporate disclosure statement in the hands of a prison mailroom personnel, to be mailed to:

Supreme Court of the United States
One First Street N.E.
Washington, D.C. 20543

And to

Michael J. Satz
201 S.E. 6th Street
Fort Lauderdale, Florida 33301

And to

Joel Silvershein
201 S.E. 6th Street
Fort Lauderdale, Florida 33301

And to:

Howard Finkelstein
201 S.E. 6th Street
Fort Lauderdale, Florida 33301

And to:

Heidi Bettendorf
1515 N. Flagler Drive
West Palm Beach, Florida 33401

And to:

Harry Dohn Williams Jr.
990 NW 5th Street
Boca Raton, Florida 33486

and to:

David Frankel
46 Sheridan Street #213
Hollywood, Florida 33021

on this 07th day of June 2021

Charlene Rosa 206814
Lowell Correctional Annex
11120 NW Gainesville Road
Ocala, Florida 34482.

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

- Charlene Rosa v. State of Florida, No. 05-1441 CF104, 17th Judicial Circuit, judgment entered 08/23/2007.
- Charlene Rosa v. State of Florida, No. 05-14414 CF104, 17th Judicial Circuit, Broward County, Florida. In Validated 06/20/2007, Judgment entered 08/23/07.
- Charlene Rosa v. State of Florida No. 04-10827 CF104, 17th Judicial Circuit, Broward County, Florida. Judgment entered July 5, 2007.
- Charlene Rosa v. State of Florida, No. 4007-2778 Fourth District Court of Appeals, Florida. Judgment entered January 27, 2010.
- Charlene Rosa v. State, No. 4016-1943 Fourth District Court of Appeals, Florida. Judgment entered March 2, 2017, and case No. 4016-1510.
- Charlene Terry-Ann Walker Rosa v. Jones, No. 16-62332-Civ- Bloom/White, Judgment entered May 31, 2018.
- Charlene Terry-Ann Walker Rosa v. Jones, No. 18-12339 United States Court of Appeals 11th Circuit, Judgment entered January 07, 2019.
- Charlene Terry-Ann Walker Rosa v. Jones, No. 18-9065 United State Supreme Court, Judgment entered June 24, 2019.
- Rosa v. State, No. SC11-2433, Supreme Court of the State of Florida, Judgment entered, December 27, 2011.
- Rosa v. State No. 4019-1027, No. 4019-2004, No. 4019-2300, 4019-2310, and 4019-2622. Judgment entered September 25, 2019 and October 11, 2019.

Related Case(s) continued

- Rosa V. State NO: 19-5514 Supreme Court of the United States
judgment entered September 30, 2019.
- Rosa V. State NO: 19-10517C United States Court of Appeals 11th Circuit
judgment entered August 23, 2018.
- Rosa V. State NO: 10827 CF10A Fourth District Court of Appeal, Florida.
judgment entered January 27, 2010.
- Rosa V. State NO: 10829 CF10A, 14th Judicial Circuit Court. judgment entered ~~11/21/19~~ ^{unknown}
- Rosa V. State NO: 02313A F10A, 17th Judicial Circuit Court. judgment entered ~~11/21/19~~ ^{unknown}
- Rosa V. State NO: A79191073, 17th Judicial Circuit Court. judgment entered ~~11/21/19~~ ^{unknown}
- Rosa V. State NO: 4019-0555, Fourth District Court of Appeals, Florida.
judgment entered April 01, 2019.
- Rosa V. State NO: SC 19-1759, Supreme Court of Florida. judgment entered
November 21, 2019.
- Rosa V. State NO: SC 19-1839, Supreme Court of Florida, judgment
entered November 21, 2019.
- Rosa V. State NO: 19-7050 Supreme Court of the United States
judgment entered February 24, 2020.
- Rosa V. State NO: 19-SC20-1617 Supreme Court of Florida.
judgment entered March 18, 2021, and December 15, 2020.
~~Supreme Court of CA~~
- Rosa V. State NO: SC 21-319 Supreme Court of Florida.
judgment entered March 26, 2021, and March 31, 2021 and April 6, 2021
- Rosa V. State NO: 19-7055 Supreme Court of the United States.
judgment entered January 21, 2020.
- Rosa V. State NO: 19-CV-62335-RS United States District Court.

Related Case(s) continued.

judgment entered October 20, 2020 and April 3rd 2020.

- Rosa V. State NO: 20-11480-F United States Court of Appeals 11th Circuit
judgment entered February 10, 2021.
- Rosa V. State NO: 20-11256, 20-11480, 20-11786, 20-12243, 19-11519,
and, or 19-1159. See judgment entered July 01, 2020 United States Court
of Appeal 11th Circuit.
- Rosa V. State NO: 20-CV-62156-BAA United States District Court.
judgment issued December 11th 2020.
- Rosa V. State NO: 19-13909-F United States Court of Appeals 11th Circuit.
judgment entered October 22, 2019.
- Rosa V. State NO: 20-13270-F United States Court of Appeal 11th circuit.
judgment entered September 17, 2020.
- Rosa V. State NO: 20-14284-E United States Court of Appeals 11th Circuit,
judgment entered April 16, 2021.
- Rosa V. State NO: 20-11256-A United States Court of Appeals 11th Circuit.
judgment entered April 29, 2020.
- Rosa V. State NO: 19-13909-F United States Court of Appeals 11th Circuit.
judgment entered ~~April~~ ¹⁰ October 22, 2019.
- Rosa V. InCh NO: 20-60207-CV-Ruiz United States District Court
judgment entered April 14, 2020.
- Rosa V. InCh NO: 20-CV-60208-WFO United States District Court
judgment entered February ¹⁰ ~~12~~ 2020. and May 6, 2020.
- Rosa V. State NO: 20-10627-A United States Court of Appeals 11th Circuit
judgment entered September 30, 2020.

Related Case(s) continued

- Rosa V. North Broward Bureau no: 18-cv-62447-MGC U.S.D.A. Court. Judgment entered 12/27/2018
- Rosa V. Satz et al no: 18-cv-62422-RNS United States District Court. Judgment entered 12/21/2018.
- Rosa V. Howard Finkelstein et al no: 20-cv-60051-RKA U.S. District Court. Judgment entered March 19, 2020 and March 24, 2020.
- Rosa V. Howard Finkelstein et al no: 20-11276-AA, United States Court of Appeals. Judgment entered March 04, 2021, and February 24, 2021 and December 11, 2020.
- Rosa V. Howard Finkelstein et al no: 20-11276 United States Supreme Court. Judgment entered Pending.
- Charles Rosa et al VS. Howard Finkelstein (Broward County Public Defender), et. al. no: 2017-025724-CA-01 Section 25) (Section Judgment entered UNKNOWN.
- Case filed and, or mailed to file in Broward County. Ms. Rosa had never receive a case number and/or can she locate any information to prove that the clerk filed her civil liability complaint against the dependants in this case in 2017.

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TABLE OF AUTHORITIES CITED

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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

☒ 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 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 B 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 _____ 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 _____ 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.

JURISDICTION

☒ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was January 08, 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: March 03, 2021, and a copy of the order denying rehearing appears at Appendix 0.

☒ An extension of time to file the petition for a writ of certiorari was granted to and including 60 days (date) on April 13, 2021 (date) in Application No. A. USC A 11 No. 20-11386

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).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

42 U.S.C. § 1983 Claiming Civil rights were violated and;
42 U.S.C. § 1983 Seeking Damage or take (or cease) a certain
Action.
42 U.S.C. § 1981 breach of contract, breach of
fiduciary duty & legal Malpractice under state law.
Fourth Amendment
Fifth Amendment
Sixth Amendment
First Amendment
Thirteenth ~~Amendment~~
Fourteenth Amendment of the United States Constitution
and Treaties. and
Fifteenth Amendment
Nineteenth Amendment

STATEMENT OF THE CASE

On or about January 26, 2020, Petitioner filed a timely Civil Liability Complaint in the district court, in prose in proper Person, ~~at~~ ^(M) see Appendix C.

Plaintiff/Petitioner asserts that she did not suffer redressable harm until after the district court ~~of~~ ⁸ denied her habeas corpus relief. See Appendix— and the United States Court of Appeals 11th Circuit denied her Application for a Certificate of Appealability on January 07, 2019 and a timely filed rehearing was denied March 07, 2019. See Appendix E.

A clear Majority of the district courts have expressly held that a Cause of action for legal Malpractice does not accrue until the underlying legal proceeding has been completed on appellate review because until that time, one cannot determine if there was any actionable error, by the attorneys. See *SANAK V. Broda & Napier* (Fla. 2d DCA 1989). See also Section 95.11(4)(a), Florida Statutes (1989).

Plaintiff/Petitioner was accused of the stabbing death of her former employer. She was represent the public Defender office of Howard Finkelstein, Broward County, Florida and; was appointed assistant public Defender Harry John Williams Jr. to represent her after, the state attorney office of Michael S. Satz filed a number of versions of First degree murder charges against her, prosecuted by assistant state attorney David Frankel. See Case no: 05-14414 CF10A Exh. E, and Case no: 04-10827 CF10A. Exh. 9.

The First proceeding was terminated on 06/20/2007 in Favor of the Plaintiff/Petitioner. See Case no: 05-14414 CF10A Exh. E

A second proceeding with the same Evidence terminated in Case no: 05-14414 CF10A Exhibit E was misrepresented by her defense attorney in a Jury Trial June 25 Through July 3, 2007 resulted in a Conviction and a Natural life Sentence, allegedly on Case no: 04-10827 CF10A. The trial court error for all the misrepresentation was not preserved for direct Appeal review and for a de novo review from the District Judge.

Statement of the case continued

A timely Direct Appeal was filed, on January 2010, the 4th DCA affirmed conviction finding no error with the Trial Court enter judgment for first degree premeditated murder and sentence the Appellant to natural life in prison, where the State indicted the defendant on Felony or Premeditated murder. see Appendix E.

Petitioner Mora filed a timely motion for Post Conviction relief and in 2016 the trial court adopted the State response requesting to deny relief. see ~~Exhibit~~ h

She filed a timely notice of Appeal subsequently the 4th DCA affirmed without an opinion. see Mora v. State ~~Mar 28, 2017~~ 2017
see Exhibit I

She filed a timely Petition for a Writ of habeas corpus in the district court. the district court concedes that, the court relied on the 4th DCA Direct Appeal record on opinion January 2010 Appendix E, which provides a recital of the evidence presented at trial, regardless of whether petitioner disagrees with the veracity of such evidence and how her case was presented to the jury. See page 6 of Appendix E.

On Appeal, the United States Court of Appeals 11th Circuit denied application for a Certificate of Appealability finding that because Ms. Mora failed to make a substantial showing of a Denial of a Constitutional rights. See Appendix E.

A Cause of action for professional Malpractice does not arise until the existence of redressable harm has been established.

Petitioner Rosa contends that; The Adversarial decision by both the district court and the 11th Circuit court of Appeals was a result of the named defendants in this Civil Action Wrong Acts, Setting the pace for all further proceedings, and because the trial courts error in allow, the defendants to Misrepresent Material Evidence not charged in the alleged Indictment to which she was being tried by the State of Florida Broward County was not object to at trial, therefore was not presented for Direct Appeal review and, or for a De novo review from the district Judge show that;

Both the State Court and the United States Court of Appeals 11th Circuit holding under AEDP's bar was an unreasonable adjudication of the claim(s), resulted in a decision that involved an unreasonable application of clearly establish federal laws, 28 U.S.C 2254(d)(1) and, resulted in a decision that was based on an unreasonable determination of the facts, Id 2254(d)(2), and the defendants in this complaint is responsible for Petitioner's lost, where there wrong Acts harm her substantial rights, her individual rights and interest and attorney client confidentiality.

Plaintiff Rosa assents that; the district Court judge Lacked Subject Matter jurisdiction in regards to the trial judge decision on admitting or excluding Evidence and, or any other error that affected her substantial rights during the trial by the trial judges error, allowing the trial defense attorney to Misrepresent Material Evidence not charged in the alleged Indictment to which she was being tried by the State, and to allow the State prosecutor to rely on his adversary to establish a claim against Petitioner.

She contends that; her claims that was before the district

Court in Petition for a writ of habeas corpus was one of ineffective assistance of counsel claims, and the general rule is that; Ineffectiveness of trial counsel is not cognizable on direct appeal review. See Rule of criminal procedure 3.850 and rule of Appellate procedure. Direct appeal is not a vehicle for FRC claims. Therefore both the district court and the 11th circuit court of appeals improperly relied on the direct appeal record resolution on the question of facts on petitioner's ineffective assistance of counsel claims, where the trial court error was procedural bar.

Petitioner Rosa contends that the defendants Harry John Williams Jr. who misrepresented the material facts at trial is responsible for her lost, and the state prosecutor who relied on his adversary to provide a material fact needed by the state, where it is incumbent upon the state to prove that the accuse perpetrate the crime to which she is being tried is also responsible, and the defendants Hiedi Bottendorf and Joel Silversheim who continued the malicious prosecution through all further proceedings is also responsible, and Michael J. Satz who negligently supervised the office of the state attorney, and Howard Finkelstein who negligently supervised the office of the public defender also is responsible party to Plaintiff Rosa lost that affect her substantial rights, individual rights and interest and attorney client confidentiality during her criminal jury trial proceeding that entirely deprived her of her Fifth and Sixth Amendment rights. U.S. Const. Amend. 5, and 6 and, entirely deny her First Amendment rights to petition the government for a redress of Grievance. U.S. Const. Amend. 1

See trial transcript Page 861 Exhibit A as Evidence
7

where trial defense attorney Harry John Williams Jr. Concedes to his adversary assistant state attorney David Frankel that he had an adversarial interest as follows:

In the event that Ms. Rosa was convicted she would lose her Fifth Amendment privilege. At that point in ~~time~~^{the} the state Attorney's Office could take a statement from her, a sworn statement, ask her about what she said on the tape, and if she confirms what she said on those tapes - recorded phone calls, that, in conjunction with the polygraph, the stipulated polygraph examination, the state Attorney's office would have a viable prima facie case against Dutch, they would have this supposed convicted Coconspirator and an examination that he agree to and flunked to bolster the state's case. See Exhibit A, Transcript page 861.

See the State Prosecutor David Frankel closing argument as evidence that he relied on the defense attorney, his adversary misrepresentation of Coconspirator theory not charged in the indictment, and what was also terminated in a prior proceeding case no. 05-14414 CR04 in order for him to establish a claim against Ms. Rosa and to prove a material fact, to prove that allegedly Ms. Rosa is the alleged perpetrator of her former Employer's murder, and guilty. The intelligent prosecutor David Frankel vouches for the truth of his adversary credibility on his misrepresentation of Coconspirator theory to the jury as follows:

David Frankel, for the state; the first thing I

want to do & tell you that if you have any doubt how serious that we take our job, if you have any doubt or you think that Mr. Williams or my self lied to you, hide things, and his job is just to do what ever he can to get guilty people found innocent, you're wrong, and if you think that you're not qualified to sit on this jury. And when I say this it's not necessarily that I want to build him up, but I want you to understand how serious that this man here how much of a man of integrity this is, and how much of a man of integrity that is see trial transcript page 1346. Exhibit C. See also page 1347 he continued to vouch for the integrity of his adversary on the issue of truth establish double prosecution.

Felony Murder Coconspirator theory the defense misrepresented to the jury was terminated in prior proceeding in favor of the accused. (Beck v. Humphrey, supra, 512 U.S. at p. 484.)

Petitioner Mora asserts that Coconspirator Felony Murder Case misrepresented to the jury by defense trial counsel was based on case no: 05-14414 CF04, charge description 1. Murder in the first degree and; 2. Solicit to commit armed robbery Solicitation, which was amended on 08/30/2005 from original information filed on September 11, 2002. Charge description 1. Murder not premeditated and; 2. Robbery W/Weapon. See also supporting affidavit attach.

both Amended Information and Original Information was notice prosecuted on 06/20/2007 after a Circuit Court judge found that no charges was filed and no Indictment was Issued on 06/06/2007. See Exhibit F.

Circuit Court disposition order entered on charges of 1. Murder Not Premeditated and 2 Robbery w/weapon on 06/20/2007 Case No: 05-14414 CF104 and;

After Petitioner's trial attorney inappropriately misrepresent what appears to be Nolle prosequi Amended Information Case No: 05-14414 CF104, charge description 1. Murder in the first degree and 2. Solicit to Commit Armed robbery Solicitor's allegation to successfully argued Co-conspirator theory from his interpretation of a preview of the State Evidence including the primary evidence the alleged Tape Telephone Conversations resulted in a conviction, the State then Amended this Information and Circuit Court disposition order entered on what appears ^{to be} 08/23/2007 after, Petitioner was Sentenced to prison on 07/05/2007 on what appears to be a clerical misprision Case No: 04-10827 CF104 Judgment and Sentence. See Appendix 9.

During habeas and Post conviction proceeding Ms. Hosa presented Intertwine claim of:

- 1) her trial attorney was ineffective for failure to Challenge the alleged Taped Telephone Conversations and,
- 2) her attorney was ineffective for misrepresent argument to the Jury alleging that she Solicit a Individual name Dutch to Extort payment from her former employer resulted in her death.

In response the district Court finds that; ... defense Counsel provided a preview of the states evidence consisting of Telephone calls in which Petitioner admitted she enlisted Dutch's assistance to collect money owed by the victim and that the encounter with the victim went awry when she

from a knife and swung it at Petitioner. Id at 364, 366, Defense Counsel then argued that Dutch killed the victim. Id. See Appendix E page 13-14.

The district court failed to take judicial notice that Ms. Rosa denied having the alleged taped telephone conversations with the state witnesses. She submitted Evidence of Trial Transcript page 3-6 and 9-10 to the court to make part of the court file to show that she timely and properly informed the court that she did not have the alleged taped telephone conversations with the state witnesses, and that it is not her voice. She requested a reasonable investigation of the alleged taped telephone conversations by reminding the court that a long time ago he promised her (at the hearing on motion to discharge counsel) that he will get the tapes tested for authenticity and he did nothing. She asserts that she is invoking her rights. See Exhibit B.

For reconsideration, Ms. Rosa also submit to the district Court Memorandums mailed to her by defense Counsel alleging that 1). In regards to the alleged taped telephone conversations, he informed the client that he recognized the voice on the alleged taped telephone conversations to be hers and, 2). In regard to the charge, he alleged that he informed the client that she was charged with Felony murder during the commission of a robbery and that she is not charged with premeditated planned murder. See Exhibit I.

base on the foregoing Evidence show that defense attorney Harry John Williams Jr.

D. invoked himself as an expert witness in voice recognition

and, therefore he could not put his adversarial belief aside in order to conduct a reasonable investigation into the authenticity of the alleged Taped Telephone Conversations and, or to adequately cross-examine the State Witness on their motives to fabricate the tapes, and the promised that was made to them by the State. and;

2) The statement made by Trial defense Counsel in Memorandum assenting that he informed the client that she was charged with Felony murder during the commission of a robbery and that she was not charged with Premeditated Planned Murder show that he intentionally mis-informed Petitioner as to the charged accusation to which she was being tried by the State. See Exhibit ~~4~~ ¹.

The fact that he failed to move the Court to correct the record ~~where~~, the Trial Court informed the Jury that the State indicted MS. Rosa on one Count of First degree Premeditated murder. Contrary to his Memorandum, where he conceded that he misinformed MS. Rosa that she was charged with Felony Murder during a robbery. Coupled, with the fact of the Direct Appeal opinion record Appendix ~~E~~ ^F, which held that the State indicted MS. Rosa on Felony or Premeditated murder show that there is no meaningful way available for MS. Rosa to challenge the judgment and sentence relying on the 4th DCA Direct Appeal record January 2010. Appendix ~~E~~ ^F, that held that; the State indicted MS. Rosa on Felony or Premeditated Murder.

base on the foregoing Facts and Evidence stated give rise to a civil rights Complaint against the Defendants;

- 1). Michael J. Satz State attorney of Broward County, Florida who who negligently supervised assistant state attorney David Frankel, whether negligently or willfully.

- 2) David Frankel, assistant state attorney, who committed misconduct during the jury trial, when he relied on his adversary to misrepresent Felony murder Coconspirator and robbery case in order for the state to establish a case against Petitioner, and to prove that; allegedly she perpetrated the murder of her prior employer to which she is being tried, although the felony murder Coconspirator and robbery case was terminated in prior proceeding in favor of the accuse. and;
- 3) Howard Finkelstein, who negligently supervised the office of the public defender and Harry John Williams Jr. whether willfully or negligently, and;
- 4) Harry John Williams Jr. who misrepresent Mrs. Rosa during her Criminal jury trial when, he misrepresent Felony murder Coconspirator and robbery case to the jury alleging that; his client solicit a individual name Dutch to extort payment from her former employer resulted in her death, his mis-advise to her as to the charge and accusation to which she is being tried, and his concession of having the interest of his adversary, his discrimination against her on the basis of her national origin, and his action to allured unknown mind altering substance to be administered to her in preparation of her jury trial. and;
- 5) Joel Silvershein assistant state attorney, and ⁶⁾ David Bettendorf ~~assistant attorney general, as~~ consecutive defendants who continued the malicious prosecutions in all further proceedings by relying on trial attorney misrepresentation in order to affirmed conviction and sentence, and by requesting for the reviewing courts to deny Petitioner the relief to which she seeks and is entitled by, a finding that trial defense counsel had a strategic justification for his wrong action in the interest of his client. Therefore due to overwhelming evidence, there is no prejudice, and that she is bound by his trial attorneys alleged strategy.

Petitioner Rosa asserts that, Relying on the foregoing Cumulative effect of the defendants Wrong Acts Establish a Cause of action against the defendants for;

- 1) Malicious Prosecution and/or
- 2) Professional Malpractice suit.

Petitioner Rosa filed 5 claim against the defendants in the district Court as follow;

- 1). Malicious prosecution, where the state attorney office of Broward County, Wrongfully accused, arrest, and charged Petitioner for the murder of her former employer, after a due diligent Investigation resulted in the case being terminated in favor of the accused (Heck v. Humphrey, supra, 512 U.S. at p. 484.). See Case No: 05-14414 CF104. Exhibit E.
- 2). The result show that the state attorneys office did not have probable cause for the accusation, arrest, and, or prosecution, instead of release Petitioner from custody of the 17th judicial circuit court.
- 3) The 17th judicial circuit appoint Petitioner assistant public Defender Harry John Williams Sr. from the public Defender office of Howard Furkhalstein. Subsequently he concedes to violate ms. Rosa Fifth Amendment rights against Self Incrimination, and of having the Interest of the State. Prior to the trial this assistant Public Defender attempt to Intimidate and put fear into ms. Rosa in an attempt to obtain a confession by telling her that because of her Jamaican national origin, he cannot go before a Jury in America and tell them that was a Jamaican she was innocent and was not involved in the crime to which she was being accused and is facing trial, because all Americans believe that Jamaicans are known drugs slingers and murderers and that her only choice is to plea guilty, because she bears the responsibility for the reputation of her country.

During the Jury Trial proceeding, trial attorney Mr. Williams made discriminating argument to the Jury that; he would never from the start of the trial indicate to them that his client was innocent and was not involved in the crime to which she is being tried, he would lose his credibility with them if he did. See Appendix E page 15. She filed this claim of discrimination on the basis of her national origin.

- 4) As a result of Mr. Williams' adversarial approach to Ms. Rosa. Subsequently she filed a motion to discharge him due to attorney client conflict. The trial Judge dismissed motion on October 19, 2006. At the start of the June 25 through July 5, 2007 Jury trial she again attempt to renew her motion to discharge him. See Trial transcript Exh. B, page 3-6 and 9-10. Subsequently, she was removed from the courtroom and she was administered unknown mind altering substances, she have no recollection of ~~making~~ any appearance before a Jury. Ms. Rosa contends that she was drugged, and a judicial assault was committed upon her and the justice system because she would not agree to make a confession, false statement incriminate herself as the alleged perpetrator of her former employer. She filed this claim that she was drugged for trial.
- 5) Petitioner asserts that the cumulative effect of the defendants action shows Intentional Fraud. It also show a clerical misprision in case NO: 04-10827 CF10A, where
1. Relying on the Evidence presented during the Trial, of Robbery / attempt robbery / extortion, solicitation coconspirator theory show; Felony murder. Case NO: 05-14414 CF10A.
 2. Relying on the 4th DCA record and interpretation of the Evidence and finding that the State indicted Ms. Rosa for Felony or Premeditated murder. Since the statute does not require its prove, it is not necessary to define "premeditation". Therefore, the Direct Appeal record show Felony murder and the record need to be correct to Case NO: 05-14414 CF10A from Case NO: 04-10827 CF10A.

3. Relying on trial attorney advise to Petitioner prior to trial Exhibit ~~E~~ alleging that he informed the client that; she was not charged with Premeditated Planned murder but, she was charged with Felony murder during the commission of a robbery, coupled with his co conspirator, solicit to commit extortion theory to the jury show Felony murder. see exhibit ~~F~~ page 861. also see Exhibit ~~F~~ felony docket entry case no: 05-14414 CF10A charge description 1. murder in the first degree 2. solicit to commit armed robbery solicitation.

base on the foregoing facts show that there is a Intentional Misprision Case no: 04-10827 CF10A.

under the facts of the Evidence presented whether the district and 11th circuit Court erred in finding that Plaintiff / Petitioner Rosa failed to state a claim to which relief can be granted. see Appendix A, Appendix B, Appendix C. and;

② Whether Petitioner Prove one element that must be alleged and proved in a malicious prosecution action; Termination of the prior criminal proceeding in favor of the accused. (Heck v. Humphrey, supra, 512 U.S. at p. 484.). see case no: 05-14414 CF10A ~~App~~ Exhibit ~~F~~ Terminated on 06/20/2007. on charges of;

1. Murder in the first degree
 2. Solicit to commit armed robbery solicitation
- and

1. murder not Premeditated
2. Robbery w/ Weapon. and;

③ Whether there exist a clerical Misprision and the district Court decision the claim that the State Amend Information case no: 05-14414 CF10A charge description 1. murder in the first degree 2. Solicit

to commit armed robbery solicitation and circuit court disposition order entered on 08/23/ after her conviction and sentence to prison on 07/05/2007 on case no: 04-10827 CF104 show that the state is concealing that the conviction and sentence was obtained base on Felony murder Coconspirator theory misrepresented by defense counsel, see page 8-9 of Appendix E, Was ~~Contrary~~ to, or involved an unreasonable application of, clearly established Federal law 28 U.S.C. 2254 (1), or resulted in a decision that was based on an unreasonable determination of the facts, "Id 2254(d)(2), where the district court finds that;

Given the lack of evidence, the court cannot evaluate the claim to determine whether it supports Petitioner's actual innocence ~~arg~~ argument. see page 9 Appendix E.

Petitioner assents that she presented this claim that would have supplement and enhance her intertwined claims of ineffective Assistance of Counsel claim alleging that defense counsel was ineffective for 1) Misrepresent prejudicial argument alleging that she solicit a Individual Name Dutch to extort payment from her former employer resulted in her death and 2) his failure to challenge the allege taped telephone conversations.

This claim would have prove that; the case that was misrepresented by both the state prosecutor case to the jury of rage depraved murder and the defense attorney misrepresentation of solicit to commit armed robbery / extortion resulted in murder theories was all terminated in case no: 05-14414 CF104. all the charges that was presented to the jury by both the state and defense attorney double prosecution trial was terminated on 06/20/2007 prior to the June 25 through July 5, 2007. There were no charges filed and no indictment issued in neither case pretext by the state nor defense June 25 through July 5, 2007.

Therefore, there exist a clerical mispison on the Judgment and Sentence documents in Case NO: 03-14414 CF10A, Necessary To exercise this Court's discretionary Jurisdiction.

Relitiner Rosa contends that this claim was pending in the trial Court at the time that the district court finds that she failed to submit a copy of the Indictment or Information in this Case NO: 03-14414 CF10A so that the court could evaluate this actual Innocence claim. see Appendix E Page 8-9. Subsequently, the Trial Court adopted the State response to deny the claim as time bar, and the 4th DCA Section her on the appeal, and order that the clerk must not accept any pro se motion from her unless it is submit by ~~the~~ a member of the Florida Bar. The State failed to serve her a copy of alleged Indictment and, or Information, which violates due process.

base on the foregoing show that there is not any other form or from any other Court to obtain adequate relief, because the Courts failed to ~~Admit~~ State prosecution office of Michael J. Satz as prosecuting attorney of the government of the State of Florida Violates its own prosecuting procedure by allowing his adversary to misrepresent case that was invalidated ~~because~~ the State failed to State a claim and,

That the present confinement is as a resulted of the State prosecutr relied on its adversary to misrepresent invalidated ~~felony~~ murder, Coconspiratory robbery perfection theory that was not charged in any alleged Indictment resulted in a clerical mispison that only a true Innocent person who determine to solve this wrongful conviction could have discover in her limited Education, research material, and skill, and lack of professional assistance.

REASONS FOR GRANTING THE PETITION

The district Court dismissed her civil rights complaint under 42 U.S.C. § 1983 and ordered that; Dismissal is without prejudice to seek relief if Plaintiff's conviction is at some point invalidated. see Appendix A, B, C, d.

On the other hand, Petitioner contends that adequate relief cannot be obtained in any other form or from any other court unless judgment enter in favor of Plaintiff and action allow to proceed for the Court to order the defendants to take or cease a certain action to correct the clerical misposition, and to resolve the existing attorney client conflict, make decision on ~~own~~ evidence. It is undisputed that Petitioner Rosa's trial attorney had an Adversarial interest and intentionally misrepresented her in the interest of the state through the inappropriate use of Felony murder coconspirator material evidence not charge in the alleged indictment, and also evidence that was terminated in prior proceeding case no. 03-14414 CF104. Exhibit F compare Exhibit A.

See Defense attorney statement as follow:

In the event that Ms. Rosa was convicted she would lose her Fifth Amendment privilege. At that point in time the State Attorneys office could take a statement from her, a sworn statement, ask her about what she said on the tape, and if she confirms what she said on those tape-recorded phone calls, that, in conjunction with the poly graph, the stipulated polygraph examination, the State Attorneys office would have a viable prima facie case against Wutch, they would have this supposed convicted coconspirator and an examination that he agreed to and flunked to bolster the state case. see page 861, Exhibit A.

The state Attorneys office as prosecuting attorney of the government relied on his Adversary to prosecute petitioner, and to obtain a Verdict and, therefore share the responsibility for the damage. See Exhibit C and C².

Ms. Rosa contends that her trial attorney personal believe that the unknown Jamaican female voice on the recording conversation was her voice on the basis of her national origin as a Jamaican cause actual prejudice because the alleged taped telephone conversations was highly prejudicial and he misrepresented the this evidence by mis-informed the jury that it is her own voice incriminating herself and Dutch discussing what lead up to the death of her former employer. See Exhibit K he also inappropriately present a preview of the taped telephone conversations to place Petitioner on the scene of the crime at the time of the alleged murder and to re-enact the alleged scene of the crime placing Petitioner blood in the Apartment of her former employer and the place of her employment.

~~On~~ the contrary, Petitioner trial attorney prejudicial argument to the jury undermined Petitioner's individual rights and interest where, she properly invoke her rights to the Trial Court. Exhibit B. See Total Transcript Page 3 as follows:

Defendant: But I have told you a long time ago that the tapes that he have, I didn't have those conversations, and he told me that he was going to get them tested from way back when. See Exhibit C. It's not me, and I know I have my rights, because everything is a lie.

See Francis V. Spraggins (11th Cir. 1983). Spraggins, the capital defendant denied his involvement in the crime and took the stand, testifying to that end. Spraggins, 720 F. 2d at 1194. His attorney, however, undermined his testimony by saying that he believed the defendant to be guilty. Id

Although Petitioner Rosa did not testify, it is apparent on the record that she denied all involvement in the crime and asserts that she was not guilty and that all the allegations was a lie. See Exhibit B, C & L 3 2, 3, 4 & 5.

It also can be infer that she had her interest to take the stand in her own defense. The record show that when the trial judge ask the defense attorney if his client was going to take the witness stand he exclaim "I hope not". Petitioner those asserts that she consistently informed the defense counsel that she wants to take the witness stand in her own defense and he told her that he is not going to call her, the fact that she consistently deny her involvement in the crime and it is impossible for a Jamaican charge with murder to be found ^{not} guilty in American, and due to the Jamaican accent she would be prejudice.

Petitioner insist that she would testify, after she address the Court at trial transcript page 3-6 and 9-10 Exhibit B, she was removed from the courtroom because the trial judge warned her that she cannot at no time speak in the courtroom while the jury is present, she must not say what is true or what is a lie in this courtroom and speak only when is spoken to, or else he was going to charge her with contempt of court. She was then taken down a Hall way at the courthouse, where she was administered unknown substances, that was mind altering, because she have no knowingly, voluntarily, and, or intelligent memory of appearance before a jury, all she can get trying to remember is remember talks about watching Court T.V. but nothing no conscientious memory of being present in a jury trial, she still suffer from memory lost due to the unknown mind altering substances that was administered to her at trial. Petitioner asserts that she was drugged for the trial because she attempted to exercise her right to challenge the alleged taped telephone conversations that would have prove that it is not her but, a imposer.

Petitioner those asserts that; prior to the trial, the state prosecutor Nolle prosequi all charges because they know

that their alleged taped telephone conversations was false and they could not use it against Petitioner unless she was willing to give a confession. She refused to be intimidated into a confession and all charges were terminated. In stead of release her from custody her defense attorney apparently agreed to prosecute her with the invalidated case by misrepresent the exculpatory evidence to a jury as truth while the State prosecutor relied on him to misrepresent the invalid case as true, then the State prosecutor David Frankel in his closing argument vouches for the credibility of the defense attorney as to the issue of truth to the jury in order to wrongfully convicted Mrs. Rosa.

see State prosecutor David Frankel closing argument as follows;

David Frankel, for the State:

The first thing I want to do is tell you that if you have any doubt how serious that we take our job, if you have any doubt or you think that ~~our job~~ Mr. Williams or my self lied to you, hide things, and his job is just to do whatever he can to get guilty people found innocent, you're ~~wrong~~ wrong, and if you think you're not qualified to sit on this jury. And when I say this it's not necessarily that I want to build him up, but I want you to understand how serious that this man here, how much of a man of integrity this is, and how much of a man of integrity that is. See page 1346 Exhibit C. See also Exhibit C²

State Prosecutor continued. Page 1347.

--- I know that there's only one thing Mr. Williams lied to you about, and that was when he told you during picking a jury that he enjoys his job every single day.

Back in '86 when I got out of law school I asked people who are the best lawyers there are, and I got two names. I sent letters to those people and I got a letter back from one of them that said, Mr. Franklin, I wish I could tell you that the Constitution ~~wasn't~~ wasn't in jeopardy and that the United States Supreme Court wasn't making it awful hard for us to challenge or to protect the rights of citizens who are accused of crimes, this is a horrible profession. Signed, H. Don Williams, I remember saying, well, he's not having a good day today, that's ~~in~~ ~~the~~ ~~of~~. But when you look over @ there, there is a man of integrity. See ~~Exhibit C~~ ~~Exhibit C~~ See also Exhibit C the prosecutor of spoke person for his Adversary. Petitioner Rosa asserts that she is unable to find a Supreme Court precedent and, or any Law Create by the legislature to support this state prosecutor action. therefore this ~~is~~ exceptional circumstances warrant the exercise of the Courts discretionary power.

The prosecutor Vouching for the credibility of ~~the~~ Adversary to, surely also show that he concede to doubt the prosecuting trial. a double jeopardy, he admit to be speaking for the defense attorney and himself "we" he state "we" Mr. Williams and his self. This state prosecutor action show that he created a new Law and, or entirely ~~commit~~ ~~an~~ assault upon the justice System, the public trust, and the former individual rights and interest. See Exhibit C and C establish the defense Attorney as the creditor.

Petitioner Rosa asserts that this state prosecutor action and the defense attorney also commit an assault on the jury's rights as a civil servants, the prospective jurors ask for the attorneys to tell them the truth. If they are to decide someones life they want to know the truth. See Page 242-244

the prospective juror's request as follows:

Mr. Ashley: ~~man~~ I just want to hear the truth. If you're going to deal with somebody's life you got to hear the truth, that's what I'm saying, that's all. I ain't got nothing against you, I just want to hear the truth. The truth would help people.

Mr. HUGHES: I agree with what he's talking about. I agree that, you know, the truth should come out and lawyers should speak the truth.

Well, if she's not guilty, I want to hear everything. Page 242.

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Mrs. HOBORN: I kind of agree with both of them. It could be possible. My thing is that we need to know, if we're making decisions we need to know what you guys know to be able to make the right decision, if you are talking about somebody's life. See Exhibit 2.

The question is whether it could be possible that Petitioner Rosa is not guilty. See Exhibit 152-1-5 5LFB.

Actual Innocence

On 08/03/2014 the State filed notice pursuant to Rule 3.22.0(b)(4) asserting that the American Society of Crime Laboratory advised the Brewster Sheriff's Office (BSO) DNA Crime Laboratory

that there was Inappropriate use of DNA Evidence in this Jury Trial. See Exhibit d

The State Concede that this Evidence may fall in the purview of Brady v. Maryland.

It has been an unreasonable length of time and the Broward State attorney's office has not taken any further action on the DNA Evidence that is Exculpatory Evidence and could have Exonerated petitioner, were her Trial attorney Misrepresent the alleged DNA Evidence during the Trial and Inculcate the defendant, by mis-Informed the Jury that her blood was found on a Wall picture in the Victims Apartment, he further re-enacted the alleged crime scene by demonstrated to the jury how he Insinuated how Science teaches him how the alleged blood got on the Wall picture.

She file Two motion for DNA Testing in the State Court, and Two in the United States district Court the 2 in the State Court was denied and the 2 in the district Court no action was taken; Shows that she is denied justice.

The foregoing Cumulative effect of both the State prosecutor abuse of power and the defense attorney mal practice establish a strategic decision on the part of the adversarial party. Therefore, the district Court finding during habeas corpus proceeding a strategic decision on the part of defense Counsel in an attempt to gain credibility for the Jury to find the petitioner guilty of a lesser included offense of Third degree murder was just to make this case go away, and to prevent a merit determination.

Such decision by the district Court also was contrary

to, or involved an unreasonable application of, clearly established Federal Law." 28 U.S.C. 7254(d)(1), or resulted in a decision that was based on an unreasonable determination of the facts, "id. 7254(d)(2).

- (1) What Petitioner Prosa is requesting for this Court to do is to take jurisdiction notice of this case, that no court has ever attempt to reverse this case under the plain error. She request to consider whether there is plain error and manifest injustice. The rule has been relied upon to correct errors that may have seriously prejudiced a possible innocent defendant, see, e.g., *United States v. Mann*, 557 F.2d 1211, 1215-1216 <*pg. 38> (CA5 1977), and errors that severely undermine the integrity of the judicial proceeding, see, e.g., *United States v. Vaughan*, 443 F.2d 92, 94-95 (CA2 1971). The plain-error rule mitigates the harsh impact of the adversarial system, under which the defendant is generally bound by the conduct of his lawyer, by providing relief in exceptional cases despite the lawyer's failure to object at trial. The rule thus "has a salutary effect on the prosecution's conduct of the trial. If the intelligent prosecutor wishes to guard against the possibility of reversible error, he cannot rely on the incompetence or inexperience of his adversary but, on the contrary, must often intervene to protect the defendant from the mistakes of counsel." 8B J Moore, *Moore's Federal Practice* 52.02 [2J] (1980).

- (2) She is requesting the Court to consider whether she establish the first element in *Heck* termination of the prior criminal proceeding case NO. 05-14414 CFIWA Exhibit F¹⁵², in favor of the accused. "*Heck v. Humphrey*, supra, 512 U.S. at p. 484.)

and;

3) The Second Element This Court held that the test is; Whether a judgment in favor of the Plaintiff would necessarily imply the invalidity of his conviction or sentence; if it would, the Complaint must be dismissed. But if -- the plaintiff's action, even if successful, will not demonstrate the invalidity of any outstanding criminal judgment against the plaintiff, the action should be allowed to proceed... (Heck v. Humphrey, Supra, 512 U.S. at p. 487.)

Plaintiff Rosa is requesting that this Court in making its decision on this Second Element, to consider Exhibit A line 12-24, where the trial attorney ~~concession~~ Mr. Williams Jr. Concession infer that he knowingly and intentionally Violate Ms. Rosa Fifth Amendment rights during her Criminal Trial proceeding, and that the cause was that he had the Interest of his Adversary and;

^{line 10-25}
~~Exhibit C Page 1346-1347~~ line 10-21, In continuance, the state prosecutor Mr. Frankel Closing Argument credit the prosecution to his adversary Harry John Williams Jr. by, a showing that his adversary is credible establish who is the creditor, to whom the judgment and sentence is owed.

If it show the state attorneys office of Michael J. Satz Broward County as prosecuting attorney of the government of the State of Florida, then the action should be dismiss but, If it show the Office of Howard Finkelstein public Defender of Broward County as defense attorney to represent indigent defendants, then the action should be allow to proceed.

3(b) In Addition, see Exhibit C² the state prosecutor David Frankel
Page 27²

as sponsor person for his Adversary.

3 (c) Petitioner Rosa asserts that in Case of State of Florida V. Charlene Rosa Case No: 05-14414 CF10A, and Case No: 04-10827 CF10A, the State Attorneys Office of Michael J. Satz is not the rightful owner of the Conviction, Judgment, and Sentence Contract rather, the rightful owner of the Contract is the Office of the Public Defender Howard Finkelstein. Therefore it is not enforceable by Law.

3 (d) also, the Evidence establish a Presumption of prejudice, which Violates due process, and the Fifth and Sixth Amendment right to Counsel, where the Office of the public Defender Howard Finkelstein, and assistant public Defender Harry John Williams Jr. Head the Credit Union in the Case of State of Florida V. Charlene Rosa Case No: 05-14414 CF10A, case No: 04-10827 CF10A and all related cases.

Note: that all related cases is not listed due to incarcerated and limited locker storage space, prison shake downs and documents get lost, the length of year in prison goes with time, and transfer from institution to institution deprived petitioner of adequate access to the Court on related cases.

3 (e) Further Petitioner contends that at the time of the Auction Case No: 05-14414 CF10A on 06/20/2007, she was represented by Counsel Harry John Williams Jr. and he failed personally informed her that he purchase the property and Contract, and that he became an alliance with the adversarial party and that he no longer have her interest.

3 (f) likewise, at the time that the State of Florida, State

attorneys office of Michael T. Satz et al attempted to re-claim the property and contract and close the deal on 07/23/2007 after, the property was bankrupt to ^{Florida} Department of Corrections, Mark Inch establish Fraud Law-Intentional deception to Cause Injury to Petitioner was completed by the defendants. See also Extrinsic and Intrinsic Fraud.

- 3(9) Also, if there was an alleged Indictment Issued in 2004 in case no: 04-10827 CF104, one Count of First degree Premeditated Murder, on the other hand, an Amendment was done on 08/30/2005 at the time that Petitioner was arrested, to case no: 05-14414 CF104, charge description 1. Murder in the first degree and 2. Solicit to commit armed Robbery Solicitation, and the Evidence misrepresented during the criminal trial proceeding on June 25 through July 5, 2007 is Equal to the Amendment in case no: 05-14414 CF104 on both Count one and two. Therefore, to weigh the judgment and Sentence on Case no: 04-10827 CF104, Count one only would short change the credit union and, or the creditor. Since the statute does not require its prove, it is not necessary to define "Premeditated". See Exhibit 9 compare Exhibit F and F2.

Relying on the foregoing Evidence, this case present the question whether a judgment in favor of the plaintiff would necessarily imply the invalidity of her conviction and Sentence.

Petitioner Mosa contends that it would not because 1. She has presented Evidence on case no: 05-14414 CF104 Exhibit F2 and case no: 04-10827 CF104 to prove that the original proceeding was terminated in her Favor. (Heck v. Humphrey, Supra 512 U.S. at p. 484), where the State Case was Invalidated for failure to State a Claim.

2. Plaintiff's action, even if successful, will not demonstrate the invalidity of any outstanding criminal judgment against plaintiff in the case of State of Florida v. Charlene Rosa, because assistant state attorney David Frankel credited the prosecution contract to his adversary assistant public defender Harry Dohn Williams Jr. See Exhibit E. therefore the office of the public defender Howard Finkelstein is the rightful owner of the judgment and sentence in Case No. 04-10827CF10A, the action should be allowed to proceed, where the dues to Ms. Rosa's interest as to be paid as a matter of right, where she suffered injury, and loss, causing harm to the Plaintiff's individual rights, interest, attorney client confidentiality, mental anguish, and pursue of happiness etc.

4. Relying on the Supreme Court decision in Heck, whether the state court or a United States Court of Appeals has decided an important question of federal law that has not been, but should be settled by this court, or conflict with relevant decision of this court in Heck v. Humphrey, supra 512 U.S. at p. 487. See Rule 10(c).

5. Petitioner Rosa contends where the United States district court found a strategic decision on the part of defense counsel in the interest of Petitioner and, where the 11th circuit denied Application for a COA. See Appendix E district court page 15.

On the contrary Exhibit A show that defense counsel concedes that he had his Adversary Interest and that Petitioner would lose her Fifth Amendment rights of the United States Constitution if she is convicted, due to his adversarial action and;

Further, During closing Argument this adversarial party relied upon his adversarial misrepresentation in order to obtain a conviction

and assured the Jury that he was creditable. See Exhibit C¹. This evidence shows prove that the adversaries intentionally cause injury and loss to Petitioner rights and interest and attorney client confidentiality and due process and, that the alleged Strategic Decision was in the interest of the Adversarial System.

Relying on the foregoing Evidence;

this case present the question whether Strategic Decision was in the interest of Petitioner, if it was not then Strategic Decision should be deem UN-Constitutional in this Petitioner case.

therefore a prayer for relief, Petitioner request the Court to order the defendants to take or to cease certain action to correct the record, because absent a Evidentiary hearing, a court cannot determine that defense counsel had a Strategic justification for his action.

This case present the question whether a Evidentiary hearing is necessary to determine if defense counsel had a Strategic justification in the interest of his client.

The district Court and the Court of Appeals decision rejecting the claim(s) finding of Strategic Decision without an Evidentiary hearing was contrary to, or involved an unreasonable application of, clearly established Federal Law, "28 U.S.C. (d)(1) or resulted in a decision that was based on an unreasonable determination of the facts," 42 U.S.C. (d)(2), in 2018-2019 habeas corpus proceeding under AEDPA because contrary to, the Florida Supreme Court decision in Harvey V. Duggan, 656 So. 2d 1253, 1256 (Fla. 1995) and Nixon a Evidentiary hearing was necessary to decide whether trial counsel had a Strategic

Justification for his action, see also Strickland V. Washington 1984. likewise, another similar case in this Petitioner Rogers case is Spragins. Relying on Trial Transcript Page 3-6 and 9-10 Exhibit B, Exhibit C², and Exhibits L¹, L², L³, L⁴, and L⁵.

Exhibit B also see Exhibit ² & ⁵ shows that as a Individual Petitioner denied her involvement in the crime, she asserted in her post conviction claims that she was prevented from testifying by the wrong action of her trial attorney, and that she had interest to testify was willing and ready to testify. The State response requesting to deny this claim alleged that it was the defense attorney decision to chose who to call as a witness and that he made the decision not to call Petitioner as a witness. In Post conviction proceeding on habeas Corpus relief in the district court, the district court judge finds that; The appellate Courts opinion provides a recitation of the evidence presented at trial, regardless of whether Petitioner disagrees with the veracity of such evidence and how her case was presented to the jury see page 6 of Appendix E. Petitioner Rosa assert that such Adversarial decision by the State Court and district Court and United States Courts appeal is in conflict with the decision in Francis V Spraggins, 720 F. 2d 1190 (11th Cir. 1983), it own prior decision, where Spraggins denied his involvement in the crime and took the stand, testifying to that end. Spraggins, 720 at 1194. His attorney, however, undermined his testimony by saying that he believed ~~that~~ defendant to be guilty. id.

Petitioner Rosa contends that the district court and the 11th circuit Court decision during habeas corpus proceeding Appendix F that give rise to this instant civil rights Action against the defendants is in conflict with this Courts decision in Strickland v. Washington and Crenic 198~~8~~ prejudice prong.

Petitioner Rosa filed a Timely Petition for a writ of Certiorari no: 18-9065 in this court which was subsequently denied, followed by numerous writs motions, pleadings, and/or Petitions seeking to correct the Fundamental Miscarriage of Justice which is Plain error on the record, to no available remedy. base on the foregoing facts and Evidence, this case present the question whether the lower Court dismissal of civil rights Action under §1983 without prejudice to seek relief if Plaintiffs conviction is at some point

invalidated is just to make this case go away, where the record show that, adequate relief cannot be obtained in any other form or from any other court unless a judgment is enter in favor of the Plaintiff in this civil tort claims, and the action is allow to proceed on Demand for judgment and, or a prayer for relief for the court to order that the defendants take or (cease) to Waive procedural bars, and correct the record on alleged Strategic Decision that prevent a merits determination.

6. Petitioner Rosa contends that the Defendant Michael J. Satz entered into De-fault Judgment when he failed to filed Brief in response as ordered by the 11th circuit court see Appendix A; and, the 11th circuit court of Appeal decision not to grant Petitioner Motion to enter Default Judgment is a important question of Federal Law that has not been, but should be settled by this Court, or the United States Court of Appeals has decided an important Federal question as to whether a default judgment should be ~~grant~~ entered in a way that conflict with relevant decisions of this Court. See Rule 10(c).

7. Likewise, the decision to deny motion to consolidate see Appendix A. is in conflict with this courts Rule 12-4 which held in pertinent part that; when two or more judgments are sought to be reviewed on a writ of Certiorari to the same court and involve identical or closely related questions, a single petition for a writ of Certiorari covering all the judgments suffices.

7.(a) Petitioner contends that the Defendants in both case no: 20-11276-AA Charlene Rosa a.k.a.

CHARLENE TERRY-ANN WALKER ROSA,

Versus

Plaintiff/Petitioner

HOWARD FINKELSTEIN,

JOHN WILLIAMS, Jr.

Defendant/Appellants

and;

33.

Case No: 20-11386-CC

CHARLENE WALKER ROSA,

Charlene Rosa

Plaintiff/Petitioner

Versus

MICHAEL J. SATZ et al

Defendants - Appellees

are all the same, the two judgments are sought to be reviewed on a writ of Certiorari to this same court and involve identical or closely related questions.

Therefore she is requesting to consolidate both Petitions for a writ of Certiorari in one single Petition. The question is whether a single petition for a writ of Certiorari covering both judgments is sufficient.

7.(b) Further, if should in case this Court decide not to consolidate both Case No: 20-11276-AA and No. 20-11386-CC Petitioner is requesting to strike the former since it was inadequately prepared due to the ungoing Covid 19 health concerns quarantine and social distancing in the prison deprived her of adequate law library service and access to her legal material in stored property, which deprived her of access to the courts. "or"

7.(c) Petitioner asserts that she also notified the clerk that Case No: 20-11276-AA was inadequately prepared due to Covid 19 related and that she transfer from one institution to the next and only copy service was readily available to her, and in order to meet this court's deadline on Case No: 20-11276-AA she inadequately prepared the form blindly and request for extension of time to correct. Therefore she request for this Petition on Case No: 20-11386-CC be join as one and be treated as the correct and true Petition joined as one in both Case No: 20-11276-AA and No: 20-11386-CC. The question is whether it is within this court's ^{judicial} discretionary power to consolidate both petitions.

7.(d) In Addition, there exist a clerical Error in Case No: 20-11276-AA Petitioner Exercise her Fundamental Constitutional rights to sue

Harry Dohn Williams Jr. and Howard Finkelstein for legal Malpractice, where Harry Dohn Williams Jr. Intentionally misrepresented her during her Criminal Jury Trial, which Cause harm to her Individual rights and interest and violated attorney client Confidentiality due to his personal beliefs, and Interpretations adversarial to his client; and Howard Finkelstein, negligently Supervised Harry Dohn Williams Jr. and the Office of the public Defender and therefore he is also responsible for the damage along with all consecutive and concurrent dependants in this civil action.

The district Court clerk entered the complaint as a petition for a writ of habeas corpus, Petitioner Rosa has filed a number of motions seeking both the district Court and the United States Court of Appeals 11th Circuit to correct the scrivener Error and both Court failed to correct the clerical mispicion in the record. Subsequently her complaint was dismissed as a un-autherized successive Petition for a writ of habeas corpus.

Petitioner Rosa asserts that this writ will be in aid of the Courts appellate jurisdiction where the United States district Court and Court of Appeals denied her of her right to sue, such decision by the lower Courts was unreasonable and exceptional circumstances warrant the exercise of this Courts discretionary powers to preserve Petitioner rights due to scrivener Error on record.

Petitioner contends that the district Court and the 11th Circuit Court decision is in conflict with the decision of other Courts and, or has departed from the acceptable and usual course of judicial proceedings to instruct the lower Court to correct a scrivener error in the judgment and to clarify that Petitioner insisted that she filed a civil rights complaint under §1983, her pleading titled complaint and therefore should not be construe any differently. See Mosely v. State (Fla. 2d DCA 1997) see also case no: 2016-31, MCGILLOUGH v. State Decided November 08, 2017, the Court instructed the trial Court to correct a scrivener's error in the judgment.

Exceptional circumstances warrant the exercise of this Court's discretionary power.

Relitiner Rosa contends that the error was intentional because, on the same date, she submitted three complaint to the district Court to be filed under §1983.

1. The Clerk entered Case no: 20-60163-CV-Altman as a civil rights action and, mailed Relitiner order of instructions See Appendix B.
2. In the case no: 20-11276-AA the clerk entered this "complaint" as a Petition for a writ of habeas corpus and, mailed Relitiner order of instruction of civil rights litigant as the former complaint and;
3. The third complaint, the clerk entered it twice as a complaint, but assigned it to two separate judges and 2 separate case no: 20-60207-CV-Huiz and 20-CV-60208-WPO.

Relitiner Rosa contends that; all the foregoing mis-hap, mish-mash, and mis-information on the record is to confused the record and to confused her. Had the complaints filed by a individual in the free world and, or an attorney license by the bar they would not have been treated this way. She asserts that judicial assault has been committed on her civil rights by the district Court and the United States Court of Appeals, and unless this Court accept Appellate jurisdiction and correct the scrivener clerical error in ~~district court~~ Case no: 20-11276-AA, Appeal number and district Court no: 20-CV-60051-BKA there exist a judicial assault that is committed upon her civil rights that gone uncorrected.

This claim present the question as to whether she has the right to file a civil action against her trial attorney that negligently and intentionally and materially misrepresented her in her criminal jury trial, and that his action harmed her individual rights, interest, and violates attorney client confidentiality due to his adversarial believe, and interpretation against Relitiner national origin as a Jamaican and, Whether the lower courts filed and treat her complaint as a petition for a writ of habeas corpus deprived her of her right to sue, her trial attorney for legal malpractice. District Court no: 20-CV-60051-BKA, Appeal no: 20-11276-AA, and, whether it is necessary for this Court to issue a writ of certiorari to correct the clerical scrivener's error and to allow Plaintiff / Relitiner civil rights complaint under §1983 to be deem filed in the district

count as a civil rights complaint, rather than a petition for a writ of habeas corpus.

7(c) Likewise, both the district court and the United States Court of Appeals 11th circuit unreasonably allow the defendant Heidi Bettendorf to act in her official capacity as an assistant attorney general to represent the civil rights claim filed under § 1983, case of: Charlene Walker Rosa
CHARLENE WALKER ROSA district court no. 20-cv-60057-ANA
Charlene Rosa Appeal no. 20-11276-ANA
CHARLENE ROSA
Charlene Terryann Walker Rosa
CHARLENE TERRY-ANN WALKER ROSA
Plaintiff/Petitioner.

V.

HOWARD FINKELSTEIN, et al

Plaintiff/Petitioner Rosa contends that Heidi Bettendorf is a consecutive defendant in this case, who continued malicious prosecution in the state appellate court and Federal district court, and United States Court of Appeal criminal proceeding of post conviction and habeas corpus proceeding.

Defendant Heidi Bettendorf conceded in her answer/brief that the Attorney General's office of Florida is authorized to represent the Department of Corrections in proceedings brought pursuant to 28 U.S.C. § 2254. See Page 3 of Exhibit III and;

On page 9-10, Defendant Heidi Bettendorf conceded that she is not authorized ~~and~~ in her official capacity, and, the office of the Attorney General is not authorized to represent Howard Finkelstein and Harry John Williams Jr. and other concurrent

and consecutive defendants in this civil rights action.

See Exhibit III

Plaintiff/Petitioner Rosa asserts that, relying on the defendant/Respondent Heidi Bettendorf's own statements show that she knowingly and intentionally abuse the office of the attorney General, breach of contract, breach of fiduciary duty and commit malpractice when she filed Answer Brief of Appellee on behalf of the case of Howard Finkelstein et al case no. 20-11276-AA through the use of the Attorney General's office.

Plaintiff/Petitioner Rosa filed a motion to the United States Court of Appeals to strike the un-authorized Brief from the record because in Heidi Bettendorf's own statement she concedes that the office of the attorney General's is not authorized to represent the defendants in this civil action under § 1983.

The United States Court of Appeals denied motion to strike un-authorized Brief filed by the defendant Heidi Bettendorf in her official position as an assistant Attorney General and through the use of the office of the Attorney General.

This claim present a question whether defendant Heidi Bettendorf in her official capacity ~~as~~ attorney General, State of Florida is authorized to represent the defendants Howard Finkelstein et al in ~~and~~ through the use of the office of the Attorney General, and;

Whether the United States Court of Appeal 11th Circuit improperly denied Plaintiff/Petitioner motion to strike un-authorized Brief and;
Whether the 11th Circuit improperly relied on un-authorized Brief to dismissed complaint as a petition for a writ of habeas corpus, and;
Whether, default judgment should be entered on the defendants Howard Finkelstein et al for failure to enter court and to file a response Brief authorized under 1983 ~~and~~ the 11th circuit order at Appendix A.

8. After, the State of Florida v. Charlene Rosa case no! 03-14414CF104 charges of 1. Murder in the First degree and 2. Solicit to commit armed robbery was terminated for failure to state a claim in favor of Plaintiff/ the accused. see Exhibit F.

The Defendants in this civil action Michael J. Satz et al credit the prosecution to Petitioner trial defense attorney Harry John Williams Jr. Credibility of Truth, who then Misrepresent his client by charging the jury that she committed the Crime of solicit to commit armed robbery/ extortion solicitation and that she was a Coconspirator, such charge against Petitioner by her trial attorney constitutes professional malpractice, Evidence of a direct and positive prove that allegedly his client is responsible for the First degree premeditated murder to which she was being tried by the state. See Exhibit G.

Petitioner contends that the accusation misrepresented by her trial attorney denied her Equal treatment during her criminal trial proceeding when face with the adversarial system, and cause harm to her individual rights and interest, and violates attorney client confidentiality.

Therefore, both the district court and the United States court of appeals improperly dismissed complaint finding that she failed to state a claim to which relief can be granted. see Appendix ~~Appendix~~. because the Evidence presented by Petitioner Rosa show direct Evidence of Malicious prosecution and that she has a claim on charge of solicit to commit armed robbery/ extortion solicitation Coconspirator charge resulted in the death of the victim to which she was on trial by the state, material Evidence that was not charged in the indictment, and was misrepresented by her defense attorney state a claim to which relief can be granted. Petitioner Rosa contends that she had no prior conviction for solicitation to commit armed robbery/ Extortion, Coconspirator murder charge in the State of Florida and, or any other state and, or any other part of the World. therefore her trial attorney accusation was harmful and she has the right to state a claim against the defendants for the damage. and;

2. The lower courts held that such a dismissal is without prejudice until if at some point her conviction is being Validated. See Appendix ~~Appendix~~.

Petitioner Rosa asserts that; unless a judgment is enter in favor of Plaintiff there is no Adequate remedy available to her, and, or to be more accurate remedy is non-existence, which violates the First Amendment rights of the United States Constitution to petition the government for a redress of Grievance. U.S. Const. Amend 1. Petitioner asserts that she went on a meaningless charade on attack on the judgment and sentence proceedings, the result show that she was denied Equal Treatment, a violation of Equal Protection under the 14th Amendment of the United States Constitution and Treaties. U.S. Const. Amend 14; where, during her criminal jury trial the state prosecutor David Frankel closing argument exhibit ~~the~~ establish her defense attorney Harry John Williams Jr. as the creditor for the prosecution, exchange the states burden of proof, reasonable doubt for the defense attorney Mr. Williams Jr. credibility of truth which undermined Petitioner not guilty plea, presumption of innocence, individual rights and interest. Violates attorney clients confidentiality, and denied Equal protection, and the judgment sentence ~~is~~ award is the defense. The foregoing show Evidence of prove that this writ will be in aid of the courts appellate jurisdiction, that exceptional circumstances warrant the exercise of the courts discretionary powers, where Petitioner show that adequate relief cannot be obtained in any other form or from any other courts. See related cases. see also Rule 26.1.

CONCLUSION

Petitioner Rosa trial attorney Harry John Williams Jr. negligent Malpractice ~~bolster~~ the state prosecutor David Frankel Breach of fiduciary duty and interest during her criminal jury trial proceeding, prove that as a individual, and a American national origin, and a citizen of Jamaica she was denied Equal Treatment under the 13th 14th and 19th Amendment of the United States Constitution and Treaties Guaranteed to all individual. See U.S. Const. Amend. 1, 5, 6, 13, 14, and 15, and 19. see 42 USC § 1981.
Setting the pace for all further proceedings.
The petition for a writ of certiorari should be granted.

Respectfully submitted,



Date: 06/07/2021