No._____

In The

Supreme Court of the United States

OCTOBER TERM 2021

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TYLER LANDON THORNTON,
Petitioner,

v.

STATE OF FLORIDA
Respondent.

_____

On Petition for a Writ of Certiorari to the First District Court of Appeal for the State of Florida

_____

PETITION FOR WRIT OF CERTIORARI

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QUESTION PRESENTED

I. THIS CASE PRESENTS AN OPPORTUNITY TO RESOLVE A CIRCUIT SPLIT ON THE FOLLOWING QUESTION: WHETHER COERCION FROM A NON-STATE ACTOR CAN RENDER A PLEA INVOLUNTARY AND THEREFORE INVALIDATE IT UNDER THE FIFTH AMENDMENT?

LIST OF PARTIES

Tyler Landon Thornton, Petitioner

State of Florida, Respondent

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PETITION FOR WRIT OF CERTIORARI

The Petitioner, Tyler Landon Thornton, respectfully prays that a writ of certiorari be issued to review the decision of the Florida First District Court of Appeal in this case.

OPINION BELOW

The decision and order of the Florida First District Court of Appeal is included in the Appendix, as Appendix A.

JURISDICTION

This Court has jurisdiction to review the decision of the Florida First District Court of Appeal pursuant to Title 28 U.S.C. § 1257.

CONSTITUTIONAL PROVISIONS INVOLVED

The Fifth Amendment to the United States Constitution provides:

> No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

STATEMENT OF THE CASE

Tyler Landon Thornton ("Thornton" or "Petitioner") was arrested September 27, 2014 and unable to bond out of jail. He was charged by information with two counts of lewd or lascivious exhibition.

Thornton entered a "best interest" plea of guilty to the charges on August 8, 2016 and was sentenced pursuant to a negotiated disposition of seven years imprisonment followed by eight years of sex offender probation. Thornton did not file a direct appeal. On August 23, 2018 Thornton filed a motion to extend the time to file a state habeas motion pursuant to Rule 3.850 of the Florida Rules of Criminal

Procedure. On August 27, 2018 Thornton's motion for extension of time was granted extending the deadline to file to "within 60 days of the current due date of September 19, 2018." Thornton timely filed his 3.850 motion on November 19, 2018 raising only one issue: that his plea was not freely, voluntarily, knowingly, and intelligently entered because the plea was counseled and induced by Raj Kristo Gupta, a fellow inmate, who did so while trying to be a cooperating jail house informant and for the purpose of developing favor with the state and court in his own case. The post-conviction court summarily denied this ground on January 14, 2020 finding in relevant part:

> [T]his Court concludes that the Defendant's reliance on the faulty and self-interested religious counsel of a cell-mate does not render the plea "involuntary", under Rule 3.850(a)(5), Florida Rules of Criminal Procedure, nor is defective religious counsel a basis for relief for ineffective assistance of legal counsel (*Strickland v. Washington* 466 US 668 (1984)).

Order on Motion Pursuant to Rule 3.850, January 14, 2020[1] [Appended hereto as Appendix B]. Thornton timely appealed this denial to the Florida First District Court

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1 The order also found that Thornton's 3.850 was filed beyond the time limitation set forth in Rule 3.850(b)(1) and therefore his claim was time barred. This was incorrect as the court had previously granted a timely filed extension of time. The First District Court of Appeal held that Thornton's motion was timely in their January 21, 2021 opinion.

of Appeal, and on January 21, 2021 the First District Court of Appeal issued a *per curiam* order denying relief as follows:

> We affirm the summary denial of Appellant's timely motion for postconviction relief on the claim that his plea resulted from overweening and fraudulent religious influence of a roommate in the jail, and was therefore not freely, voluntarily, knowingly, and intelligently entered.

Order Denying Appeal of Denial of Post-Conviction Motion, January 21, 2021 [Appended hereto as Appendix A].

STATEMENT OF THE FACTS PERTINENT TO THIS PETITION

Thornton consistently and adamantly denied his guilt with respect to the charged offenses and had repeatedly turned down all state offers. Thornton consistently advised his counsel, first his retained counsel then his court appointed regional conflict counsel, that he was in fact not guilty and wished to proceed to trial. His original retained counsel, Mark Barnett (who worked under Curtis Fallgatter at the time), provided the state with a detailed written defense of the charges, which included two polygraph exam results exonerating Thornton and a psychosexual evaluation produced by a forensic child sex abuse expert that found that Thornton had no abnormal interest in prepubescent children. Thornton's original trial counsel also provided the state with an affidavit of one of the state's witnesses, contradicting claimed incriminating statements alleged to have been made by her and reported in

the original arrest report. Additionally, at the time the alleged child victim witnesses were deposed, they provided statements which although incriminating nevertheless were inconsistent with their original CPT interview statements to such an extent that the state amended the charging document to conform to the new sworn statements and to remove the recanted statements. It was immediately following these depositions that the state reduced its offer from thirty years imprisonment to seven years. Even after the depositions Thornton persisted in his assertion that he was factually not guilty. Thornton's initial reaction to the dramatically reduced seven-year prison offer was that he was still unwilling to accept any offer because he was not guilty.

The entire time Thornton was in pretrial detention at the Duval County Pretrial Detention Facility one of his roommates in the jail was Raj Kristo Gupta ("Gupta"). Gupta was 46 years old and incarcerated for fraud and theft related offenses - crimes of dishonesty. Thornton was only 23 years old at the time of his plea and 21 at the time of his arrest. Thornton looked up to Gupta who pretended to be concerned for and interested in helping Thornton. Gupta worked in the law library in the jail so Thornton let him know all of the details of his case so that he could help do legal research for him. Gupta pretended to be very religious and pretended to provide spiritual counsel to Thornton. After Thornton's attorney had advised him about the

new seven-year plea offer and he turned it down, he went to Gupta and told him about it. Gupta told Thornton that he, Gupta, was a prophet from God and that he was supposed to sign the deal because God told him that was what he was supposed to do. Thornton believed Gupta and would have trusted him with his life. Based on what Gupta counseled him, Thornton felt that if he did not accept the state offer, he would be deliberately going against God's will. Gupta led Thornton to believe that this was God sending him on a mission. Gupta told him if it goes to trial it is going to be bad, because you cannot go against God's will. Thornton still did not want to do it, but Gupta convinced him that this is what God wanted him to do. Gupta told him that he knew he did not want to do it, but God told him he had to walk this road.

Later, after entering the guilty plea, Thornton learned that Gupta had been trying to cooperate with the state and that he was a fraud.

Gupta wrote a letter to the judge in his case, Judge Mark Hulsey, a letter which was filed in the court record in case number 2014-CF-1753 shortly after Thornton accepted the state's plea offer, in which Gupta told Judge Hulsey that he had been to the State Attorney's Office and spoken to two prosecutors and that they were very

pleased with what he reported.[2] Gupta also told Judge Hulsey that he had led over 245 inmates into salvation.

ARGUMENT IN SUPPORT OF GRANTING THE WRIT

I. THIS CASE PRESENTS AN OPPORTUNITY TO RESOLVE A CIRCUIT SPLIT ON THE FOLLOWING QUESTION: WHETHER COERCION FROM A NON-STATE ACTOR CAN RENDER A PLEA INVOLUNTARY AND THEREFORE INVALIDATE IT UNDER THE FIFTH AMENDMENT?

A guilty plea must be the voluntary expression of the defendant's own choice. *See Brady v. United States*, 397 U.S. 742, 748 (1970). This Court has held that "if a defendant's guilty plea is not equally voluntary and knowing, it has been obtained in violation of due process and is therefore void. *McCarthy v. United States*, 394 U.S. 459, 466 (1969) Furthermore, "[a] guilty plea, if induced by promises or threats which deprive it of the character of a voluntary act, is void [and a] conviction based upon such a plea is open to collateral attack." *Machibroda v. United States*, 368 U.S. 487, 493 (1962). Here, Thornton's plea was induced by the coercion of a fellow inmate in the jail, Raj Kristo Gupta. Thornton, as he alleged below, asserts that Gupta was acting as a quasi state agent in pressuring Thornton to plea in order to obtain

2 The letter is included in the Appendix as Appendix C.

favorable treatment from the state attorney's office and the court.[5] However, both the post-conviction court and the First District Court of Appeal appeared to ignore this aspect of Thornton's claim and denied Thornton's claim purely on the basis that Gupta was a third-party religious influence and therefore could not render Thornton's plea involuntary. To the extent that Thornton's claim is construed as a claim of undue influence from a non-governmental third party, Thornton argues as follows:

There is a split in the Federal Circuit Courts of Appeals on whether improper pressure from actors who are not state agents can invalidate a plea. The Court of Appeals for the Second Circuit held that guilty pleas induced by threats are vulnerable only in cases dealing with threats made by government officials. *See United States ex rel. Mascia v. Zelker*, 450 F.2d 166, 169 (2d Cir. 1971). However, the 9th Circuit held as follows:

> This court and others have discussed claims that coercion by non-attorney third parties can render pleas involuntary; none of these cases has found conduct that rose to a level of coercion that would invalidate a plea, *but none precludes the possibility of such a finding in an appropriate case*. *See United States v. Webster*, 468 F.2d 769 (9th Cir. 1972), cert. denied, 410 U.S. 934, 35 L. Ed. 2d 597, 93 S. Ct. 1385 (1973); *Melnick v. United States*, 356 F.2d 493 (9th Cir. 1966) (per curiam); *Wojtowicz v. United States*, 550 F.2d 786 (2d Cir. 1977), cert. denied, 431 U.S. 972, 53 L. Ed. 2d 1071, 97 S. Ct. 2938 (1977); *Lunz*

5 *See* Appendix C.

> *v. Henderson*, 533 F.2d 1322 (2d Cir. 1976), cert. denied, 429 U.S. 849, 97 S. Ct. 136, 50 L. Ed. 2d 122 (1976); *but see United States ex rel. Mascia v. Zelker*, 450 F.2d 166, 169 (2d Cir. 1971) (suggesting that only acts of government officials can render plea involuntary), cert. denied, 406 U.S. 959, 32 L. Ed. 2d 346, 92 S. Ct. 2066 (1972).
>
> A defendant can hardly be said to have made the voluntary decision necessary to a waiver of constitutional rights if, for example, a third party has threatened to murder his spouse if he does not plead guilty. On the other hand, third parties are not responsible for the integrity of the criminal justice system in the same way as judges or prosecutors nor are they in the same positions of power and authority. Acts that might constitute coercion if done by the court or a prosecutor may not rise to that level if done by others. *See United States ex rel. Brown v. LaVallee*, 424 F.2d 457, 461 (2d Cir. 1970) (statements that might have been coercive if made by prosecutor or judge not coercive when made by defendant's mother and his counsel), cert. denied, 401 U.S. 942, 91 S. Ct. 946, 28 L. Ed. 2d 223 (1971). Mere advice or strong urging by third parties to plead guilty based on the strength of the state's case does not constitute undue coercion. *Wojtowicz*, 550 F.2d at 792; *Lunz*, 533 F.2d at 1327.

Iaea v. Sunn, 800 F.2d 861, 867 (9th Cir. 1986) (emphasis added). Thornton asks that this Court grant this petition for certiorari and resolve the circuit split in favor of the Ninth Circuit's holding that coercion by non-attorney third parties can render a plea involuntary as it aligns with a commonsense interpretation of this Court's decisional history regarding the necessity that pleas of guilty be truly voluntary. Thornton's case presents especially compelling facts demonstrating coercion. Gupta had convinced Thornton that he was a prophet from God, and therefore it was God instructing him to plead guilty and that ignoring Gupta's instruction would be

deliberately defying God's will. But for the overweening and fraudulent religious influence exercised by Gupta, Thornton would not have pled guilty but would have continued to insist on taking his case to trial. Thornton's plea was not freely and voluntarily made, but was made under the undue, improper, and fraudulent influence of Raj Kristo Gupta, who was trying to gain favor with the State and Court in inducing Thornton and others to plead guilty. Therefore, Thornton asks that this Court grant certiorari, resolve the circuit split, and hold that coercion by a non-attorney third party can be basis for finding that a plea was involuntary and must be invalidated pursuant to the Fifth Amendment.

CONCLUSION

WHEREFORE, the Petitioner, Tyler Landon Thornton, respectfully requests this Honorable Court grant this petition for certiorari.

Respectfully submitted,

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