ORIGINAL

No. 21-5010

IN THE

SUPREME COURT OF THE UNITED STATES

ROBERT R. TAYLOR — PETITIONER
(Your Name)

vs.

STATE OF FLORIDA — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

FLORIDA FIRST DISTRICT COURT OF APPEAL
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

ROBERT R. TAYLOR
(Your Name)

R.M.C. Main Unit, P.O. Box 628
(Address)

Lake Butler, FL. 32054
(City, State, Zip Code)

N-A
(Phone Number)

S. Ct.

QUESTION(S) PRESENTED

1. Under the constitutional provisions and guarantees of the U.S.C. 14th Amendment due process and equal application of the law, providing that there are NO invidious discriminations between persons or different groups of persons in all courts?

2. IF Judgments of state court of last resort dismisses, without argument or opinion, writ of error from judgment of trial court dismissing, without conducting hearing or otherwise determining factual issues presented, petitions of prisoners containing factual allegations which, if true, show that they are being held in custody in violation of federal constitutional rights, require that case be vacated and remanded to state court for resolution?

3. Can challenges to a court's subject matter jurisdiction be raised at any time from convictions obtained outside the jurisdiction of a court?

4. Are judgments entered null and void when the "allegations" occur outside the boundaries of the state in federal maritime jurisdiction ?

5. When a State District Court of Appeal puts up a "Roadblock to Justice" by issuing a Per Curiam Affirmed (P.C.A) decision which effectively blocks State Supreme Court review, after Ruling contrary to State Supreme Court precedent, does justice require the United States Supreme Court to reverse and remand to the state courts to resolve the conflict and follow the binding law of the state?

6. When a state's decisions are contrary to cited Federal Constitutional provisions and guarantees and well established and consitently followed state law on identical points of law, require that because of due process and equal

application of the law guarantees:
"Supreme Court of United States will not dismiss writ of certiorary, but, where it appears to court on appeal that state law is applicable rather than federal law, it will vacate judgment and remand cause for enforcement of applicable principles of state law....."?
7. Under the precedent set forth by this Honorable Court in Hicks v. Oklahoma, 447 U.S 343, 346 (1980) are all state courts legally required to follow their own laws and statutes that are constitutionally mandated and protected under the umbrella of the United States Constitution (U.S.C.) 14th Amendment equal application of the law guarantees?
8. When a Petitioner raises the claim that contrary to federal constitutional rights he stands convicted of an unnoticed an uncharged crime, that he did not request and is "NOT in list of lesser included offenses", are state courts

required to address that claim or request the State Attorney General respond or remand to the trial court to address the merits of the claim ?

9. Is a conviction that is obtained by known use of perjured and false testimony void under the due process clause of the 14th Amendment to the United States Constitution and the precedents set forth in: Mooney v. Holohan, 294 U.S. 103, 112 (1935); Napue v. Illinois, 360 U.S. 264, at 269 and 272 (1959); Giglio v. United States, 405 U.S. 150, 153-154 (1972) and United States, v. Bagley, 473 U.S. 667, 680 (1985) ?

10. Is a person held in custody under a state conviction of a crime in Violation of his federal constitutional rights entitled to his day in court for resolution of those issues when the state courts have made NO Factual Findings on the merits of the claims under this Court's precedent in Jennings v. Illinois, 342 U.S. 104, 110-111 (1951) ?

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:

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INDEX TO APPENDICES

APPENDIX I - Order denying Appellants Motion To Recall Mandate, Rehearing and Rehearing en banc, Clarification, Certification.

February 03, 2021

TABLE OF AUTHORITIES CITED

ALL State cases are from Florida Courts.

State Cases — Page Number

X

CASES- STATE cont.

IN THE

SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

[ ] For cases from **federal courts:**

The opinion of the United States court of appeals appears at Appendix _____ to the petition and is

[ ] reported at _____; or,
[ ] has been designated for publication but is not yet reported; or,
[ ] is unpublished.

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

[ ] reported at _____; or,
[ ] has been designated for publication but is not yet reported; or,
[ ] is unpublished.

[✓] For cases from **state courts:**

The opinion of the highest state court to review the merits appears at Appendix I 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 First District Appellate court appears at Appendix D to the petition and is

[✓] reported at 303 So. 3d 520 (Fla. 1st 2020); or,
[ ] has been designated for publication but is not yet reported; or,
[ ] is unpublished.

JURISDICTION

[✓] For cases from state courts:

The date on which the highest state court decided my case was July 27, 2020. A copy of that decision appears at Appendix D.

[✓] A timely petition for written opinion was thereafter denied on Oct. 9, 2020 and a copy of the order denying a written opinion appears at Appendix F.

[✓] A petition to: Recall Mandate, rehearing and rehearing en banc, clarification, and certification was there after denied on February 3, 2021, a copy of the order denying the Petition appears at Appendix I.

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

1. United States Constitution 6th and 14th Amendments, 43 U.S.C. § 1301(a)(2), and section (b), 1312, Art. 1§10, Art. VI clause 2, Art. III, section 2.
2. Florida Statutes: 775.083, 938.04, 938.06

STATEMENT OF CASE AND FACTS

ISSUE ONE: The Petitioner raised the claim in Ground three, to the trial court and on appeal, that the sentences in Counts One and Two are illegal, unlawful, and unconstitutional as the trial court lacked subject matter jurisdiction to impose any sentence.

> "When a court lacks subject matter jurisdiction, it has no power to decide the case and any judgment entered is null and void, can be set aside and stricken from the record on motion at any time, and may be collaterally attacked".

Waggy v. State, 935 So. 2d 571, 573 (Fla. 1st DCA 2006).

In this present case, the state did not have jurisdiction on the very elaborate and well rehearsed allegations, that were later substantially edited and were the focus and became a substantial feature of the state's case at trial that fell within the exclusive province of federal jurisdiction under U.S. Const. Art. I § 10. See also U.S.C. Article VI, clause 2, and 28 U.S.C. 2254(a).

The United States Constitution (U.S.C.) also provides in Article III, section 2, that federal judicial power extends "to all cases of admiralty and maritime jurisdiction".

The Petitioner provided the only testimony on where he goes fishing:

"... I go way out.... I go 30, 40, 80 to 100 miles out fishing. I go deep sea fishing."

According to well established law, the state has jurisdiction over (alleged) criminal acts committed on the seas within three marine leagues of the state's shoreline. United States v. Hernandez, 715 F. 2d 548, 550-551 (11th Cir. 1983) ("of course, Florida law can only be applied to acts that occur within the boundaries of the state of Florida, which with regard to the west coast of Florida, extends three marine leagues or approximately nine geographical miles seaward of the Gulf of Mexico."); See also: United States v. Florida, 363 U.S. 121, at 122-123 (1959)(three marine leagues); 43 U.S.C. § 1301 (a)(2) and section (b) and 1312. See also 28 U.S.C. 2254(a).

Federal admiralty jurisdiction exists once that boat was 9 miles off-shore. Skiriotes v. State, 144 Fla. 220; 197 So. 736, at 739 (1940)("... the western boundry of Florida as defined in its Constitution is conclusive...").

According to both state and federal

law "Subject-matter Jurisdiction cannot be forfeited or waived and should be considered when fairly in doubt": Ashcroft v. Iqbal, 556 U.S. 662, 671 (2009); Spaulding v. State, 965 So. 2d 350 (Fla. 4th DCA 2007).

The trial court departed from the essential requirements of the law and failed to follow the cited well established and binding law of the district it is located in and thereby abused its discretion when it summarily denied this issue without addressing the facts of the claim and failed to append any Record Attachments to its Order that show conclusively that the Petitioner is entitled to no relief.

The highest court to review the claim Ruled contrary to: other courts of last resort, its own prior-panel-precedent, United States District Court of Appeals precedent and the Holdings of this Honorable Court on the exact same points of law.

See Questions: 1, 2, 3, 4, 5, 6, 7 and 10 raised in this Petition.

ISSUE TWO: In Grounds One and Two raised in the trial court and on appeal, two other claims concerned fines, costs, or fees that are illegal, or were illegally imposed at sentencing that according to state law, the claims can be raised at any time.

In these two claims the state courts had before it, yet chose to ignore, constitutional provisions and guarantees, binding Statutory law, and a multitude of relevent and directly on point case law from several courts of last resort including the binding law of the Florida Supreme Court that decided a case in 2017 to unify precedent in all Florida courts.

See Questions: 1, 5, 6, and 7.

ISSUE Three: The Petitioner raised the claim to the State District Court of Appeal that contrary to both state and federal law and the "unsupported opinion" of the trial court "a manifest injustice" occurred at the Petitioner's trial when he was convicted of an unnoticed and uncharged crime.

The State D.C.A. did not address the claim or remand to the trial court for resolution.

According to the Florida Supreme Court cases of: Weatherspoon v. State, 214 So. 3d 578, 583-584 (2017)("Due process of law requires the state to allege every essential element when charging a violation of law to provide the accused with sufficient notice of the allegations against him." Fla. Const. art I, section 9.); See also State v. Gray, 435 So. 2d 816, at 818 (Fla. 1983); Price v. State, 995 So. 2d 401, at 404 (Fla. 2008); (reiterating that failure to allege an essential element of a crime may be raised in a "Habeas Petition") and many other state courts of last resort "A conviction for an uncharged crime can be raised at any time as it is a denial of due process".

The highest state court to review the claim issued a "Per curiam affirmed (P.C.A) decision thus blocking review by any court.

See Questions: 1, 5, 8, and 10

The Petitioner is greatful of the fact that 28 U.S.C. 2106 exists to deal with ALL forms of injustice. (cited in App. H, pg. 25)

The Petitioner request that you Please read all the motions filed in this appeal.

The Real Facts of the Case:

On January 27th in 1993, the Petitioner broke several bones in both of his hands when he severely beat-up a child molester (twice) until he was unconscious (and then didn't stop the second time) on the day the Petitioner had discovered what had been done to his first step-daughter when she was 6, 7, and 8 years old, before she was in the Petitioner's care.

The first 3 punches of the fight were thrown by Dennis Ingram and witnessed by two people passing by that reported what they had seen to a Sheriff's Deputy that arrested Ingram within an hour.

Before Ingram arrived at the Petitioners property and started the fight he had a physical altercation with his estranged wife of 10 months, 100 pound "Amanda" at her apartment where he promised that, "If he (Ingram) could not have her then anyone who did would never have peace".

The Petitioner had been dating Ingram's estranged wife for over 6 months at that time.

Pictures of Amanda are in App. H, Exhibit H pg. 2

Because Ingram had picked up a chain with a lock at the end and was swinging it at the Petitioner being in fear for his life severely mauled Ingram and knocked him out the first time to remove the chain and lock from play.

Ten days later, on his 40th birthday, Feb. 5th, the Petitioner reported to the same prosecutor that handled this present case, what had been done by Ingram when he was 13, 14, and 15 years old to the Petitioner's step-daughter which was a capital sexual battery offense the Petitioner found out about during the fight. This caused the Petitioner to knock Ingram out the second time and not stop.

The state did not take action on the sexual battery charges, but did take action on the assault charges which caused Ingram to no longer be eligible to continue being in law enforcement. Ingram pled out to a lesser offense rather than face an attempted murder charge due to his wielding of that chain and lock.

In keeping his promise that "no one would have peace" that was with his estranged wife, when

Ingram found out about the Petitioner reporting another child molester, within a year after the fight, where the state did take action and removed two young daughters from his and his mother's care who were extorting money (and other favors) from the mother of the two girls, Ingram had a co-worker make a report on the Petitioner.

The report was investigated by state child protection and H.R.S. employee Richard Messerly who found the report to be not only false, but that Ingram had tried to coherse his daughter who denied the claims and exposed Ingram's attempts at coaching and improper influence.

The case was closed by H.R.S. as unfounded.

Afterwards on numerous occasions the Petitioner got Ingram fired from several jobs for being a child molester and sexually harrassing waitresses under his supervision.

Due to his ongoing decadent behavior, 2 days after his daughter returned to Petitioner's home in August of 2002, after summer visitation with irregular menstrual bleeding the Petitioner

did "His Dad Job" and required her mother to have her examined at the gynecologist office the mother had worked at for over five years.

The Doctor found "no signs of abuse" even though the accusations over 3 1/2 years later were the complainant had been fully penetrated about 160 times before the August of 2002 exam had taken place.

The mother was in the exam room with her daughter and the Doctor during the examination but was not asked any questions about the exam at trial

The "Good Doctor" who had picked-up the complainant after school on several occasions to visit the Doctor and her toddler age baby saved the complainant's mother a $5.00 co-pay on a health insurance claim and did not do, or does not have a required medical chart of the examination.

Before the "Good Doctor" had done a deposition, she had twice confirmed that she remembered the exam and would testify in the Petitioner's favor.

Trial counsel had the Petitioner's wife, "Amanda" the mother of the complainant, sign a release statement allowing trial counsel to talk to the Doctor before her deposition which was the point "Everything Changed."

At the deposition the Doctor had been struck with amnesia and the "Good Doctor" made one of the most bizzare statements ever made by a 'gynecologist' and stated "that she would have needed to use a speculum" to be able to view the hymen of an 11½ year old patient.

The Doctor has thus far gotten away with the lie about needing a speculum to view the hymen which is at the **opening** of a female's vagina and not in its interior.

SPECULUM" An instrument for enlarging the opening of a cavity in order to facilitate inspection of its interior. Stedman's Medical Dictionary, at 812 (3rd ed. 1997)

("A speculum is used to visualize the cervix...") Cathart v. Stenburg, 11 F. Supp. 2d 1099 (8th Cir. 1998); Welch Allyn Inc. V. OBP corp. (2nd Cir. 2017) 2017 U.S. Dist. LEXIS 98654 (June 23, 2017)("The patent discloses advancements

in the design of "a vaginal speculum, a device commonly known and used in the field of diagnostic medicine for purposes of examining the Cervix of a female patient"; See also Adedeji v. United States, 1988 U.S. Dist. LEXIS 17269, "He then performed a manual examination of her vagina" and inserted a speculum to view her cervix".

It was well known after the August of 2002 examination that the complainant at that time was a virgin.

The Doctor did not testify at trial.

(See App. C. pgs 35-37 and Exhibit E and J pgs. 1-15)

H.R.S. investigators again cleared the Petitioner, on other allegations, 3 months after the examination when Ingram fought for custody again and lost. (Oct. 2002)

The daughter who was interviewed at school, unanounced, chose to stay with her mother and the Petitioner and when questioned about any physical or sexual abuse denied any was or had occurred.

The Petitioner purchased a copy of the D.C.F. report in 2002 after being warned by the Child Protection Service Supervisor that Ingram would make false accusations again in the future. (The Petitioner provided the DCA with excerpts from that report in App. H, Exhibit F.)

The DCF Supervisor was right, three years later, in March of 2006, accusations were again made that were "alleged" to have occurred 5 years earlier in the first week of February in 2001. "In the cabin" of a boat that had a permanantly installed wooden box that housed an electronic Fish Finder that blocked access to the cuddy cabin at the front of the boat. (See App. H, Exhibit G, Pictures of the boat)

At the boat repairman's deposition it was proven that the accusations were the product of fabrication, invention and collusion by a vindictive ousted teenager who had just been caught altering her report-card on two occasions to hide failing grades and the fact she had been skipping school for 20 days.

(See App. H, Exhibit D - Depo. of boat repairman)

On month after the complainant had moved in with her father to avoid pending punishment and had plenty of time to get "THEIR STORY straight" she was interviewed at the Sheriff's Dept.

That interview was recorded on a DVD and is a major problem for the State due to the "Brady material" contained in that interview that "could reasonably be taken to put the whole case in such a different light as to undermine confidence in the verdict, F.N. 1

Evidence on that DVD shows the state does not have jurisdiction on where the accusations were "alleged" to have occurred.

The Prosecutor in this case "claims" she does not have a copy of the DVD, But, the Sheriff's Dept. does. (See App. H. Exhibit E

F.N. 1 Brady v. Maryland, 373 U.S. 83, 87 (1963); Wearry v. Cain, 577 U.S. 385, 136 S. Ct. 1006 (2016); Kyles v. Whitley, 514 U.S. 419, at 435 (1995); Smith v. Cain, 565 U.S. 73, 75-76 (2012); Cone v. Bell, 556 U.S. at 470.

The Sheriff's Dept. following the lead of the State Attorney would not let the Petitioner receive a copy of the DVD "unless" it had been redacted first in November of 2020 even though on July 14th, in 2011 it was allowed.

"If" the state Attorney has not viewed the DVD then the Sheriff's Dept. and the Petitioner and his trial counsel are the only ones who have clearly seen and heard the DVD which proves a "physical impossibility".

The copy of the DVD that was given to the Petitioner "after" the complainant's depo. required special equipment (a DVD Enhancer, even though the DVD had been ran through 3 filters at a local T.V. station 'to clean it up') was not played at trial and allowed false and perjured go uncontroverted contrary to this courts Holdings in:

Mooney v. Holohan, 294 U.S. 103, 112 (1935); Napue v. Illinois, 360 U.S. 264, 269 (1959); United States v. Bagley, 473 U.S. 667, 680 (1985) and the U.S.C. 14th Amendment.

Not everyone who cries "Wolf" is telling the truth. (See App. H, pgs. 40-41) Harrison v. State, 33 So. 3d 727, at 731 (Fla. 1st DCA 2010)("...experts in the field have determined

that thirty percent of the time reports of child sexual abuse are false".)

The real question is: "Why did the Petitioner have to get his copy of the DVD 'Cleaned up'".

Thus far the state has put up a "Roadblock to justice" and hid the exculpatory evidence contained in the DVD and has not let that DVD be played in any Court. (See App C, Exhibit C - Post-conviction Court's order.)

No conviction can stand on false and perjured testimony. Giglio v. United States, 405 U.S. 150, 153-154 (1972).

After the boat repairman's depo. there was a dramatic 'CHANGE' in the "boat story" that shows more than just accommodation by the State Attorney in coaching the "alleged victim" tell another lie, just differently, after she had been caught "red handed" in the first one. (See App. C, pg 40 - 45)

In this case the pictures of roll-bar pipes and re-bar metal that blocked the complainant's bed room windows from being opened exposed another lie and "physical impossibility" for which the jury found the Petitioner NOT GUILTY on any sexual abuse accusations above the age of 12. (Counts: 4, 5, 6, 7, 8) See App. H, Exhibit I - Pictures of those windows. App. C, Exhibit K, - Amended Information and Verdict forms. See also in App. H, Exhibit J - Pictures of Day Break Marina where the

Petitioner was not a member until July of 2004, 3½ years later, and "does not have a place to launch a boat on a trailer" as was alleged. (The jury did not see those pictures, or Day Break Marina employees testimony)

See also in App. H, Exhibit K - pictures of the boat in late 2000-2001 "during the time of the boat story."

Likewise, the long distance telephone records that were admitted into evidence, but not properly presented at trial, held proof of factual Innocence. (App. C, pg. 32)

The Petitioner could not be at his office on a 'land line' and out in a boat in the winter time at the same time. (See App. C, pg. 32 and Exhibit I) See also App. H, Exhibit L - telephone proof sheet the Petitioner was not allowed to review during his testimony at trial.

See App. C, pgs. 30-39 and App. H, pgs. 30-35.

There is one more Actual and Factual Innocence claim that so far has not been presented in any court, yet.

In 2004 the "alleged victim" had her first sexual encounter (with a male) in a trailer park where her boyfriend lived with his mother, in late January or early February. (TY Arbogast)

When this case went to trial in 2007, there was not any social media web sites like "twitter or facebook" to get in touch with this young man.

No investigators from D.C.F. ever contacted the complaint's mother or the Petitioner to verify any facts of the case and trial counsel severely bumped heads with the Petitioner before trial. See App. H, Exhibit M - Post-conviction counsel's Affidavit verifying an unworkable relationship between Petitioner and his unwanted trial counsel.

REASONS FOR GRANTING THE WRIT

ISSUE ONE: Under Supreme Court Rule 10(b) a state court of last resort has decided an important federal question in a way that conflicts with the decision of another state court of last resort or of a United States Court of appeals.

The state court's current decision is Contrary to both, and also contrary to the Holdings of this Honorary Court, and the provisions and guarantees of the United States Constitution.

In Appendix (App.) H, pages 42-43, the Petitioner did a summary of where the constitutional violations claims have been raised in every motion filed in the state courts to comply with the principles of O'Sullivan v. Boerckle, 526 U.S. 839, 844-845 (1999) and presented the "federal nature" of the claims.

The Petitioner in the abundance of caution, and because of the 'stigma' that automatically attaches 'IN these type of

cases" has clearly presented both the state and federal law and the constitutional provisions that protect Petitioners, Appellants, and Defendants from convictions illegally obtained outside the jurisdiction of a state court in every motion filed in the state courts.

In this case jurisdiction was not established, or proven by the state, and the trial judge was clearly asleep, along with trial counsel, which denied the Petitioner a constitutionally valid trial in the proper court. See Mansfield, C. & L., M. Ry. Co. V. Swan, 111 U.S. 379 (1884) at 382 and at 384. ("This Court will, where no motion is made by either party, on its own motion, reverse a judgment for want of jurisdiction, not only in cases where it is shown negatively that jurisdiction does not exist, but even when it does appear affirmatively that it does exist.") See also the other cited cases of Polk County V. Sofka, 686 So. 580, 702 So. 2d 1243, at 1245 (Fla. 1997); Johnson V. State, 177 So. 3d 1005, 1009 (Fla. 1st DCA 2015)

A review of App. A, pgs. 25-26 (in Motion to trial court) will show the lower court Ruled contrary to the cases cited: Ball v. United States, 140 U.S. 118 (1891) and from the binding district court the trial count is located in: Waggy v. State, 935 So. 2d 571, (2006); Willie v. State, 600 So 2d 479 (1992) and Davis v. State, 998 So. 2d 1196 (Fla. 1st DCA 2009) where this same District Court of Appeal Ruled: "subject matter jurisdiction may be raised at any time" and "A trial court must attach portions of the record refutting the claim or hold an evidentiary hearing".

The trial did neither even though an application of Stare Decisis was, by law, warranted. See Pardo v. State, 596 So. 2d 665, at 666-667 (Fla. 1992) ("The decisions of the district court of appeals represent the law of Florida unless and until they are overruled by this court.") Id. at 666 ("If the district court in which the trial court is located has decided an issue the trial court is bound to follow it.") Id. at 667.

according to well established and consistently followed law and Florida Rule Criminal Procedure 9.141(b)(2)(d) the D.C.A. was legally required to remand this case back to the trial court who failed to address the merits of the claim that the judgment entered in that court is null and void due to the lack of subject matter jurisdiction, "The Where".

Furthermore, contrary to the state's current decision "challenges to the courts subject matter jurisdiction can be raised at any time", because according to both state and federal law "if a Court lacks subject matter jurisdiction, it does not have power to hear a case" and "any judgment entered is null and void." See Waggy v. State, supra, Davis, supra, State v. Williams, 260 So. 3d 472, 474 (Fla. 1st DCA 2018); Wardell v. State, 944 So. 2d 1089, 1091 (Fla. 5th DCA 2006); State v. Gray, 435 So. 2d 816, 818 (Fla. 1983); Strommen v. Strommen, 927 So. 2d 176, 179 (Fla. 2nd DCA 2006); Hardman v. Koslowski, 135 So. 3d 434, 435 (Fla. 1st DCA 2014)("any time", "void"), See also: Harris v. United States, 149 F. 3d 1304, 1306-1308 (11th Cir. 1998); Ex Parte Sawyer, 124 U.S. 200,

220 (1888) (See its cited progeny); Doolan v. Carr, 125 U.S. 618, at 627 (1887); Elliott et. al v. the Lessee of Piersol, 26 U.S. (1 Peters) 328, 329, 340 (1828); Sebelis v. Auburn Reg'l. Med. Ctr., 133 S.Ct. 817, 824 (2013) ("objections to a tribunal's jurisdiction can be raised at any time..."); Henderson v. Shinseki, 562 U.S. 428, 434-435 (2011) citing Arbaugh v. Y & H Corp., 546 U.S. 500, at 508 (2006). Arbaugh at 514 cites: United States v. Cotton, 535 U.S. 625, 630 (2002) ("[J]urisdiction properly refers to a court's power to hear a case, a matter that "can never be forfeited or waived"). See also: Ashcroft v. Iqbal, 556 U.S. 662, 671 (2009) ("Subject-matter jurisdiction cannot be forfeited or waived and should be considered when fairly in doubt."); Howard v. United States, 374 F.3d 1068, 1071 (11th Cir. 2004) ("a jurisdictional defect cannot be waived or procedurally defaulted and... a defendant need not show cause and prejudice to justify his failure to raise one.")

A void judgment is so defective that it is deemed to have never had legal force

or effect." Wiggins v. Tigrant, Inc., 147 So. 3d 76, at 81 (Fla. 2nd DCA 2014) citing Johnson v. State, Dept. of Revenue, 973 So. 2d 1236, 1238 (Fla. 1st DCA 2008). The state courts have overlooked that there are "No time limitations" on setting aside a void judgment. 2

A Review of: Appendices A, pgs. 25-26, App. C, pgs 17-29, App. E, pgs. 7-11 and App. H, pgs. 4-8 and 17-30, will show the state Courts had before it, yet chose to ignore evidence and both state and federal law and constitutional provisions that were cited in all of the Petitioner's motions. See Miller-EL. v. Cockrell, 537 U.S. 322, at 346 (2003); Taylor v. Maddox, 366 F. 3d 992, 1008 (9th Cir. 2004).

According to 'other courts of last resort' and this same court's 'prior-panel-precedent' a trial court should review the merits of a post-conviction motion, even if untimely, which raises a jurisdictional issue that was not previously considered on the merits." See Spaulding v. State, 965 So. 2d 350 (Fla. 4th DCA 2007); F.N. 2 - Malone v. Meres, 109 So. 667 (Fla. 1926).

Smith v. State, 11 So. 3d 473, 474 (Fla. 5th DCA 2009); Brown v. State, 917 So. 2d 272 (Fla. 5th DCA 2005); Wesley v. State, 375 So. 2d 1093 (Fla. 3rd DCA 1979) and State v. Williams, 260 So. 3d 472, 474 (Fla. 1st DCA 2018) ("Lack of jurisdiction constitutes a fundamental error because a trial court cannot act in excess of its authority and failure to correct that error "would undermine the integrity of our system of justice".) See App. C, pg 21-22 and Ashcoft v. Iqbal, supra ("... should be considered when fairly in doubt."). See also: App. H, pg. "25"-27 and Questions: two, three, four, five, seven and ten raised in this present petition.

The most important federal question that can only be answered by this Honorable Court is Question One which boils down to:

Are Defendants, Appellants and Petitioners who have been accused of 'certain types of crimes' allowed the same protections the constitution guarantees ALL Other Citizens in ALL State and federal courts?

In this present appeal the answer to that question thus far is NO.

Many books and shows are now about the imbalance in the criminal justice system: 'Anatomy of Innocence' fleshes out personal accounts of wrongful convictions, with a twist: In each chapter, a mystery or thriller writer tells the story of a real-life exoneree.

'Outcry' on Showtime, a Crime Docuseries that asks "What does the Justice System Owe the People it Fails?".

The real question in the Petitioner's case is: What are you going to do about the fact the Petitioner could always prove his Actual and Factual Innocence, and that the state lacked subject-matter jurisdiction on the boat "story".

Because the trial court threatened the Petitioner with "sanctions" for exercising his constitutional rights to due process and equal application of the law - AND ruled contrary to the law, the Petitioner is taking his case to the public in a book or a T.V. show.

Under Supreme Court Rule 10(b)

ISSUE TWO: Contrary to due process and equal application of the law guarantees the state's current decision is in conflict with Florida Statutes: 775.083, 938.04 and "the decisions of other courts of last resort on the same points of law", and with its own prior-panel-precedent.

In Ground One that was raised in the trial court and on appeal, the cited cases from other courts of last resort that are in conflict with the current decision of the highest court to review the claims are: Williams v. State, 957 So. 2d 600 (Fla. 2007); Carter v. State, 786 So. 2d 1173, 1176 (Fla. 2001); Chapman v. State, 974 So. 2d 625 (Fla. 4th DCA 2008); Finkelstein v. State, 944 So. 2d 1226 (Fla 4th DCA 2006); Hare v. State, 687 So. 2d 1371 (Fla 5th DCA 1997); In re Rule 9.331, 416 So. 2d 1127-1128 (Fla 1982); Pardo v. State, 596 So. 2d 665, 666-667 (Fla. 1992);

Reyes v. State, 655 So. 2d 111, 114-115 (Fla. 2nd DCA 1995);

Taylor v. State, 214 So. 3d 700 (Fla 4th DCA 2017).

See also: Johnson v. State, 60 So. 3d 1045, 1049 (Fla. 2011).

Contrary to: In re Rule 9.331, 416 So 2d 1127, 1128 (Fla. 1982)

the cited cases from this same court that are in conflict with the court's present decision in this appeal are:

Bradshaw v. State, 638 So. 2d at 1025(

Brown v. State, 211 So. 3d 325 (1st DCA 2017

Harrison v. State, 146 So. 3d 76 (1st DCA 2014)

Henderson v. State, 192 So. 3d 638 (1st DCA 2016)

Howard v. State, 213 So. 3d 1076 (1st DCA 2017)

Lawley v. State, 680 So. 2d 472 (1st DCA 1996)

Scott v State, 629 So. 2d 1070, 1071 (1st DCA 1994)

Smiley v. State, 704 So. 2d 191, 195 (1st DCA 1997)

Smith v State, 606 So. 2d 427 (1st DCA 1992)

Spencer v State, 650 So. 2d 228 (Fla 1st DCA 1995).

In this Ground the trial court lacked statutory authority to impose Fines at Sentencing on Counts 1 & 2 under Florida Statute 775.083(1).

In Ground Two that was raised in the trial court and on appeal the cited cases from other courts of last resort that are in conflict with the current decision of the highest court to review the claims are:

Osterhoudt v. State, 214 So. 3d 550 (Fla. 2017) which is the controlling Florida Supreme Court case on this issue that was decided to unify precedent in all Florida courts.

Williams v. State, 198 So. 3d 778 (Fla. 2nd DCA 2016)

Masengale v. State, 969 So. 2d 1218 (2nd DCA 200;

Mc Fadden v. State, 210 So. 3d 1283 (2nd DCA 2016)

Pardo v State, 596 So. 2d 665, 666-667 (Fla. 1992)

Dadds v. State, 946 So. 2d 1129 (Fla. 2nd DCA 2006)

Reyes v. State, 665 So. 2d 111 (Fla. 2nd DCA 1995)

In re Rule 9.331 ...., 416 So. 2d 1127, 1128 (Fla. 1982)

(cited at II in App. H, pgs. 5-7)

Mojica v. State, 192 So. 3d 1271 (Fla. 2nd DCA 2016)

Carter v. State, 786 So. 2d 1173, 1176 (Fla. 2001).

The Petitioner brought to the trial court's attention that at sentencing fines, casts or fees were imposed contrary to well established statutory provisions that are the law in Florida.

The lower courts failed to consider key aspects of the record that was provided in exhibits attached to the Petitioner's motions and denied the Petitioner "Equal application and Protection of the law" as is guaranteed and was cited through-out the Petitioners motions in the state courts to comply with principles of O'Sullivan V. Boerckle, 526 U.S. 839, 844-845 (1999) citing Picard.

There are No time limitations on a 3.800 motion.

In Appendix A, pages 16-24 the proof of the facts, statutory provisions, and the relevant laws that have been violated in the Petitioners quest for relief in state courts is explained in detail for Grounds One and Two raised in the trial court.

The Petitioner humbly, respectfully, and prayerfully requests this Honorable Court review the attached records, decide the merits and vacate the judgment and remand this case for enforcement of applicable principles of well established and consistently followed state law according to U.S.C. 14th Amendment guarantees and the

precedent established by this Honorable Court in the cited case of Hicks v. Oklahoma, 447 U.S. 343, 346 (1980) (state courts are required to follow their own laws) (See App. A, pgs. 18, 22; App. C, pgs. 15, 20) See also App. H, pg. 16 - Misapplication of law.

There are 16 cases cited in Ground One and 29 for Ground two. in the motions filed to the state courts.

According to the Florida Supreme Court case of: Carter v. State, 786 So. 2d 1173, 1176 (2001) which is the binding law all Florida D.C.As are required to follow, Grounds One and Two can be raised at any time. See also: Fla. Rule Crim. P. 3.800. cited in: App. C, E, and H.

According to Fla. Rule App. P. 9.141 (b)(2)(d) an appellate court **Must** reverse unless the record shows conclusively that the appellant is entitled to no relief.

The state courts have clearly violated the Petitioner's Constitutional rights both at sentencing and on appeal.

ISSUE THREE: The decisions of other courts of last resort that are in conflict with the decision of this present court on an important federal question are:
Castillo v. State, 244 So. 3d 1098 (Fla. 4th DCA 2018);
Powell v. State, 174 So. 3d 498 (Fla. 4th DCA 2015);
Jaimes v. State, 51 So. 3d 445 (Fla. 2010);
Price v. State, 995 So. 2d 401 (Fla. 2008);
Reed v. State, 276 So. 3d 65 (Fla. 2nd DCA 2019);
Figueroa v. State, 84 So. 3d 1158 (2nd DCA 2012);
Mc Donald v. State, 264 So. 3d 202 (4th DCA 2019);
Anderson v. State, 291 So. 3d 531 (Fla. 2020);
Pittman v. State, 22 So. 3d 859 (Fla. 3rd DCA 2009);
State v. Gray, 435 So. 2d 816, 818 (Fla. 1983);
Tucker v. State, 459 So. 2d 306 (Fla. 1984).
Weatherspoon v. State, 214 So. 3d 578, 583-84 (Fla. 2017).
The States decision is in conflict with the U.S.S.C.
Thornhill v. Alabama, 310 U.S. 88, 96 (1940);
Cole v. Arkansas, 333 U.S. 196, 201 (1948) citing
De Jonge v. Oregon, 299 U.S. 353, 362 (1937)
In re Oliver, 333 U.S. 257, 273-274 (1948) and
Jennings v. Illinois, 342 U.S. 104 (1951).

The Petitioner raised the claim that he stands convicted of an unnoticed and uncharged crime that he did not request and is not in list of lesser included offenses. The state D.C.A. did not address the claim or remand to the trial court. (See Appendices C, pgs. 33-35, 43-44; App. H, pgs. 36-40.)

"It is a fundamental principle of due process that a defendant may not be convicted of a crime that has not been charged by the state." Thornhill v. Alabama, 310 U.S. 88, 96 (1940); Cole v. Arkansas, 333 U.S. 196, 201 (1948) citing De Jonge v. Oregon, 299 U.S. 353, at 362 (1937).

A person held in custody under a state conviction of a crime in violation of his federal constitutional rights is entitled to his day in court for resolution of these issues. Jennings v. Illinois, 342 U.S. 104, (1951)

"A conviction for an uncharged crime can be raised at any time as it is a denial of due process." See Castillo v. State, 244 So. 3d 1098, 1102 (Fla. 4th DCA 2018) citing, Powell v. State,

174 So. 3d 498 (Fla. 4th DCA 2015) ("We Reverse and Remand for trial court to consider the merits of Powell's motion and determine whether he was convicted of uncharged crimes in counts 3 and 4.") Powell cites Jaimes v. State, 51 So 3d 445, 448 (Fla. 2010). See also, In re Oliver, 333 U.S. 257, 273-274 (1948) ("... notice of the charge against him...") "The Petitioner had not been charged with all the elements in "simple battery" in any count until Jury Instruction which was well after he had testified and the Defense had rested its case." (App. C pg. 33, App. H, pgs. 36 ("... unnoticed and uncharged crime that is not in list of lesser included offenses"); See U.S.C. 6th Amendment.

"The constitutional guarantees of due process and equal protection both call for procedures in criminal trials which allow no invidious discriminations between persons and different groups of persons, all people charged with crime must, so far as the law is concerned, stand on an equality before the bar of justice in every American court." Griffin v. Illinois, 351 U.S. 12 (1956); Chambers v. Florida, 309 U.S. 227, 241 (1940)

The Petitioner was Ambushed at trial on allegations that were easily proven to be false by the complainants own statements and the observations and findings of the investigators from the Department of Children and Familys (D.C.F) who visited the complainant unannounced at school years earlier. (see App. C, pgs 32-35, 43-44) and (App. H, pgs 36-39, and Exhibit F, excerpts from DCF report)

There were other available witnesses that could have presented very substantial evidence to refute the charges besides the three DCF employees if the charges had been known before the Defense had rested its case.
eg. School teachers, an Attorney who represented the Petitioner and his wife during a previous custody battle, close friends, a doctor friend who use to pick the complainant up after school and many others.

No reviewing court has addressed

the merits of this claim which became a focal point in the Prosecutor's closing arguments that very likely swayed the jury to provide a guilty verdict on only a few of the charges.

The Petitioner humbly, respectfully, and prayerfully requests that this Honorable Court vacate the judgment and remand to the state courts to address the merits of the claim under 28 U.S.C. § 2106, and the precedent of this court in Jennings v. Illinois, 342 U.S. 104, 110-111 (1951); Thornhill, Cole, and De Jonge, supra, and the cited state cases that are in conflict with the decision of the state court at this present time. Thank you.

Pro se motions are to be liberally construed regardless of how inartfully they are pleaded, Haines v. Kerner, 404 U.S. 319 (1972).

CONCLUSION

The Petitioner understands that the United States Supreme Court is more overburdened than any other court in the whole country and yet is the final arbiter of a state prisoner's claim that he has been deprived of his rights under the Federal Constitution.

The Petitioner has brought his complaint because he embraces the values of the United States Constitution and the scope and nature of these very important constitutional protections and guarantees that have been denied by the State courts.

The Petitioner stated his claims to the State courts who failed to follow their own law, and the law of this court along with the cited constitutional provisions that are guaranteed to every citizen in this country "evenly and equally," no matter "what" the accusations are.

The Petitioner's only request is

that you read the motions filed in the state courts, research the cited relevant laws, decide the presented facts, and follow the law, and require the State courts to follow the law and the constitution's due process and equal application of the law guarantees.

Thank You for your service. I would never want your job. I was very happy being the best plumber in town, a good husband, father, and employer to some very hardworking and dedicated people.

Respectfully Submitted,

Robert R. Taylor

Robert R. Taylor P34566

Petitioner/Pro se

Submitted on this 18th day of June, 2021