

No. 21 - 5076

IN THE
SUPREME COURT OF THE UNITED STATES

ORIGINAL

In Re: Charlene Rosa — PETITIONER
(Your Name)

FILED
MAY 18 2021
OFFICE OF THE CLERK
SUPREME COURT, U.S.

vs.
Mark Inch, Sec. FL. Dept. of Corr.¹⁹ — 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
11120 NW Gainesville Road
(Address)

Ocala, Florida 34482
(City, State, Zip Code)

N/A
(Phone Number)

QUESTION(S) PRESENTED

1. Whether the prior criminal proceeding was terminated in favor of the accused because of the state failure to state a claim.
2. Whether the second proceeding resulted in the present judgment and sentence the prosecution was credit to the defense attorney credibility of truth conceding the Petitioner guilt and involvement through the inappropriate use of the invalidated charges not charged in the alleged indictment to which the accused was being tried.
3. Whether a judgment in favor of the Petitioner would necessarily imply the invalidity of her conviction and sentence, "If it would then this court is to decide, "If Petitioner show that unless writ is granted Adequate relief cannot be obtain in any other form or from any other court", and "If she is Entitled to relief."
4. Whether the finding of strategic Decision on the part of defense Counsel, where the record show that such finding only purpose is to prevent a merit determination and to make this case go away show a compelling reason for the exercise of this court's discretionary jurisdiction due to the conflict that a finding of strategic Decision cause between a concern for the finality and consistency, "The risk of injustice to an accused", "The risk of undermining the public's confidence in the judicial process", and "the risk of departure from basic principle of prosecution procedure in an attempt to convict a innocent individual."
5. Whether the Petitioner is bound by her trial lawyer strategy made where he had no license to concede her guilt and involvement during the guilt/innocence phase of the Jury trial where guilt or innocence was the only issue to be decide by a Jury, and was obviously critical.
6. 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, or has decided an important federal question in a way that conflicts with the relevant decision of this court.
7. Whether the infusion of the defense attorney credibility of truth as to the defendant's guilt as a factor for the jury to weigh in making a determination violate the defendant constitutional right to be convicted and sentence by prove beyond a reasonable doubt.

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

- 1 • Charlene Mosa V. State of Florida, No. 05-1441 CF104, 17th Judicial Circuit, judgment entered 08/23/2007
- 2 • Charlene Mosa V. State of Florida, No. 05-14414 CF104, 17th Judicial Circuit Broward County, Florida. In Validated 06/20/2007, Judgment entered 08/23/07.
- 3 • Charlene Mosa V. State of Florida No. 04-10827 CF104, 17th Judicial Circuit, Broward County, Florida. Judgment entered July 5, 2007.
- 4 • Charlene Mosa V. State of Florida, No. 4007-2778 Fourth District Court of Appeals, Florida. Judgment entered January 27, 2010.
- 5 • Charlene Mosa V. State, No. 4016-1943 Fourth District Court of Appeals, Florida. Judgment entered March 2, 2017, and case No. 4016-1510.
- 6 • Charlene Terry-Ann Walker Mosa V. Jones, No. 16-62332-civ- Blcom/White, Judgment entered May 31, 2018.
- 7 • Charlene Terry-Ann Walker Mosa V. Jones, No. 18-12339 United States Court of Appeals 11th Circuit, judgment entered January 07, 2019.
- 8 • Charlene Terry-Ann Walker Mosa V. Jones, No. 18-9065 United State Supreme Court, judgment entered June 24, 2019.
- 9 • Mosa V. State, No. SC11-2433, Supreme Court of the State of Florida, judgment entered, December 27, 2011.
- 10 • Mosa 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.

(A)

Related Case(s) Continued

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

25 • Rosa V. State NO: 20-11480-F United States Court of Appeals 11th Circuit
judgment entered February 10, 2021

26 • 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.

27 • Rosa V. State NO: 20-cv-62156-AH United States District Court.
judgment Issued December 11th 2020.

28 • Rosa V. State NO: 19-13909-F United States Court of Appeals 11th Circuit.
judgment entered October 22, 2019.

29 • Rosa V. State NO: 20-13270-F United States Court of Appeal 11th circuit.
judgment entered September 17, 2020.

30 • Rosa V. State NO: 20-14284-E United States Court of Appeals 11th Circuit.
judgment entered April 16, 2021

31 • Rosa V. State NO: 20-11256-A United States Court of Appeals 11th Circuit.
judgment entered April 29, 2020

32 • Rosa V. State NO: 19-13909-F United States Court of Appeals 11th Circuit.
judgment entered ~~April~~ October 22, 2019.

33 • Rosa V. Inch NO: 20-60207-cv-RWZ United States District Court
judgment entered April 14, 2020

34 • Rosa V. Inch NO: 20-cv-60308-WFO United States District Court
judgment entered February 11, 2020. and May 6, 2020.

35 • Rosa V. State NO: 20-10627-A United States Court of Appeals 11th Circuit
judgment entered September 30, 2020.

Related Case(s) Continued

- 36 . Rosa V. North Broward Bureau NO: 18-cv-62447-MGC U.S.D. Ct. Court
Judgment entered 12/27/2018
- 37 . Rosa V. Satz et al NO: 18-cv-62422-HNS United States
District Court. Judgment entered 12/21/2018.
- 38 . Rosa V. Howard Finkelstein et al NO: 20-cv-60091-ARKA U.S. District
Court. Judgment entered March 19, 2020 and March 24, 2020.
- 39 . 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.
- 40 . Rosa V. Howard Finkelstein et al NO: 20-11276 United States
Supreme Court. Judgment entered Pending.
- 41 . Charles Rosa et al VS. Howard Finkelstein (Broward County
Public Defender), et. al. NO: 2017-025724-CA-01 Section
25) (Section judgment entered UNKNOWN.
- 42 . 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 defendants in this case.
- 43 . Rosa V. Satz, et al, USCA 11 NO. 20-11386
Pending in this Court.
- 44 . Rosa V. Howard Finkelstein, et al NO. 20-8142
pending in this Court.

any and all missing related cases omitted is not deliberately but, because
of incarcerated limit storage, prison shake downs, transfer documents get lost. Sorry for inconvenience.

(d)

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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 February 10, 2021. December 04, 2020, December 07, 2020
January 22, 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: February 10, 2021, and a copy of the order denying rehearing appears at Appendix A.

☒ An extension of time to file the petition for a writ of certiorari was granted to and including 60 days (date) on May 18, 2021 (date) in Application No. A.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

☐ For cases from **state courts**:

The date on which the highest state court decided my case was _____.
A copy of that decision appears at Appendix _____.

☐ A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

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

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

1. Sixth Amendment of the United States Constitution.
2. Fourteenth Amendment of the United States Constitution and Treaties.
3. Equal Protection of the Law under the Fourteenth Amendment of the United States Constitution and Treaties.
4. First Amendment of the United States Constitution
5. The Fourth Amendment of the United States Constitution.
6. Fifth Amendment of the United States Constitution.
7. Eighth Amendment of the United States Constitution.
8. Thirteenth Amendment of the United States Constitution.

STATEMENT OF THE CASE

Petitioner Rosa assents that Three judgments are sought to be reviewed on a Writ of Certiorari to the same Court and involve identical or closely related questions, therefore Pursuant to this Court Rule 12.4, a single petition for a Writ of Certiorari covering all the judgments suffices. Rule 12.4.

First Judgment district court NO: 19-CV-62335 Appendix B & D Exhibit A
Petitioner Rosa assents that while her original Amended Petition for a Writ of habeas Corpus was pending in the United States district court case NO: 16-CV-62332-BB, she discovered case NO: 05-14414 CF10A in 2017 and supplement her pending claim in her objection to Magistrate Judge report and recommendation to prove her Actual Innocence.

Prior to that, In August 2017 she filed a second and, or Subsequent motion for Post Conviction relief in the 11th Judicial Circuit Trial Court on this Actual Innocence claim. She further informed the Trial Court that she has her timely filed petition for a writ of habeas Corpus pending in the district court and that she was requesting a ruling on the actual Innocence claim in a reasonable time to properly Exhausted the State Court remedy before she could amend the claim to her pending claim in the district court. See Exhibit A She also Amended in 2018. See Exhibit B.

Subsequently the district court denied petition for a writ of habeas Corpus on May 31, 2018 before the Trial Court made a Final decision.

In objection to Magistrate judge report and recommendation, Petitioner informed the district court as to the discovery of case NO: 05-14414 CF10A, Exhibit A

In response the district court judge held; Given the Lack of evidence, the court cannot evaluate the claim to determine whether it supports Petitioner's actual innocence argument. see page 9, of district court order adopting Magistrate judge report and recommendation dated May 31, 2018 at Exhibit A.

The state did not waive Exhaustion and the district court did not request a Show cause from the state or return to Magistrate judge for further disposition. Therefore, this case was not properly preserved for Appeal review in the 11th Circuit court. The 11th Circuit denied Application for a COA on January 07 2019 rehearing denied March 07, 2019. See Exhibit A.

Statement of the case continued.

Petitioner also filed a timely petition for a writ of Certiorari in this Court that was denied in case no. 18-9065. and;

- ① On September 13, 2019 Petitioner filed this instant Petition in the district Court Case no. 19-cv-62335-RS Appendix B. and,
on 9/19/2019 the clerk's filed Notice of Judge Assignment to judge and order Magistrate judge report and recommendation was entered. and,
on the same day 9/19/2019 the state filed motion to Dismiss Successive Petition for a writ of Habeas Corpus as Successive and,
on 9/30/2019 Magistrate judge made report and recommendation to Dismissed for Lack of jurisdiction as an Unauthorized Successive Petition and,
on 4/3/2020 the district judge entered order Affirming Report and Recommendation and,
on June 5, 2020 order of referral to Magistrate was entered and,
on 10/20/2020 order Affirming Report and Recommendation Affirmed and Adopted, Denied motion for leave to proceed in forma pauperis [DE 24] and 2. Petitioner's Objections [DE 28] are Overruled. See Appendix B.

Petitioner assents that the District Court Erred in Dismissing her Petition as a Successive Petition for a writ of habeas corpus rather to construed the prose Petition as a motion under rule 60(b) or a Petition for a writ of Mandamus.

likewise the district court abuse its discretion in denying her motion for leave to proceed in forma pauperis and Overruled her objection although she provide the district Court with

Statement of the Case Continued

Motion to proceed In forma Pauperis and a copy of her Six Month Inmate Trust Fund Statement from her prison institution where she is incarcerated as prove to show that she is in fact indigent.

Ms. Rosa also present Evidence to prove there exist a Clerical Misprision in her judgment and Sentence Necessary to be corrected from Case No. 04-10827 CF10A to Case No. 05-14414 CF10A and there is new DNA Evidence development in this case that relief can be granted The District Court orders of the foregoing is at Appendix B.

Petitioner filed a Timely Notice of Appeal in the United States Court of Appeal 11th Circuit and a number of Application for leave to file a Second or Successive Habeas corpus petition The decisions is as follow:

Appendix A

Appeal No. 19-13909 -F, Order Dismissed in Part and Denied in part application for leave to file a Second or Successive petition date 10/22/2019. and;

Appeal No. 20-11786 -F, Application for leave to file a Second or Successive Habeas Corpus was Dismissed 5/28/2020. and;

Appeal No. 20-13270 -F; Application for leave to file a Second or Successive habeas corpus was Dismiss in Part Denied in Part September 17, 2020 and;

Appeal No. 20-12243 -F, Application for leave to file a Second or Successive habeas corpus was Dismissed 07/01/2020 and;

Appeal No. 20-11480 -F, Motion for a Certificate of Appealability was denied as unnecessary, leave to proceed in forma pauperis is Denied because her Appeal is Frivolous and, Motion for appointment of a consular officer are Denied on 12/04/2020. and;

Appeal No. 20-11480 -F, notice To pay filing fees or else

Statement of the case continued

Appeal will be close dated December 07, 2021.

and;

Appeal No. 20-11480-F, Notice that Appeal will be close unless pay filing fees order dated January 22, 2021

and;

Appeal No. 20-11480-F, order Dismissal of Appeal for failure to prosecute dated February 10, 2021.

Petitioner Rosa contends that the United States Court of Appeals abuse its discretion in dismissing her appeal for failure to pay filing fees even though she file Motion to proceed in forma pauperis and attach the Inmate Trust fund statement in accordance to the 11th Circuit court rule. She also filed Motion to the district Court to deem her Indigent for the purpose of the appeal. The 11th Circuit and the district Court also find that she was indigent in other recent pleadings show that the Courts abuse its discretion and made this adversarial decision, that is beyond the reason for filing fee.

Petitioner Rosa contends that the 11th Circuit continued to misunderstand her claim(s) and to twist her claims away from the supporting facts. Therefore she is requesting a full review of the entire attachment of Appendix A by this honorable Court.

Miss Rosa contends that she take responsibility for a part of the Courts misunderstanding of her claim due to the fact of her third World Education from Jamaica, her Intellectual disability under Florida Law with a IQ of 72, the complexity of this case, the inadequate research skill, the inadequate prison law library research time and limited research material due to the on going Covid 19 social distance and quarantine in the prison, and Lack of professional assistance due to poverty. She is unable to pay professional assistance to assisted in investigation and to properly and adequately prepare claims, and a consulate officer

from Jamaica to advise her of her rights under the Equal Protection of the Law under the United States Constitution and Treaties. U.S. Const. Amend. 14.

(A) Petitioner assents that the 11th Circuit abuse its discretion in denying her Motion for Consulate general from her Country Jamaica to which she is a citizen, and it is apparent on the record that she is unlawfully detained where she has present Evidence of Case NO: 05-14414 CF10A to prove that she was maliciously prosecuted after the State case against her was terminated in her Favor. See Heck V. Humphrey, Supra, 512 U.S. at p. 484.) and, The State continued prosecution by allow the Petitioner assigned defense assistant public Defender to prosecute her through the inappropriate use of said invalidated charges not charged in the alleged indictment to which she was allegedly on trial, then² the Trial Court entered judgment and sentence in the alleged indictment case NO: 04-10827 CF10A which bolster Count one of the invalidated case, to which the Evidence presented at Trial show that she was tried on invalidated charge description 1. Murder in the first degree and 2. Solicit to commit armed robbery/entention/solicitation not charged in the alleged indictment to which she was sentenced. Coupled with³ the fact that, allegation presented to the Jury by the State prosecutor theory of rage depraved murder was also terminated on 06/20/2007 Case NO: 05-14414 CF10A prior to the June 25 through July 5, 2007 Jury trial establish that the trial was not base on the alleged grand Jury indictment case NO: 04-10827 CF10A one Count of first degree premeditated murder. Like wise, the State prosecutor amended and Circuit Court disposition order was entered on 08/23/2007 in Case NO: 05-14414 CF10A charge description 1. Murder in the first degree and 2. Solicit to commit armed robbery solicitation show intentional fraud on the part of

the State attorney's office of Michael P. Satz Broward County as prosecuting attorney of the government of the State of Florida, and the public defender office of Broward County who take an oath under the Sixth Amendment to represent indigent defendants when face with the adversarial system. See D.O.C. Link on Website that show that Mrs. Rosa was sentence to prison for other crimes not charged in indictment such as Solicitation, robbery, attempt Robbery extortion Co-conspirator Invalidated charged that Mr. Williams Jr. from the public Defenders office was hand picked and assigned to her inquire was her defense attorney but, in reality was an adversarial attorney to prosecute her because the State of Florida did not have probable cause to prosecute her and all charges was terminated in prior proceeding because of the States failure to state a claim.

The Evidence also shows a double prosecution trial, a double jeopardy violation. Compare Exhibit C and Exhibit d and 2. Like wise, the alleged Information case NO. 05-14414 CF104 to which the Evidence show that Mrs. Rosa ~~was~~ was prosecuted on during the trial was filed on 08/30/2005 at the time of her arrest which superseded the alleged grand jury indictment filed on 06/30/2004 and did not presented the First degree murder charge, Count one at the time when the charges on all counts was terminated on 06/20/2007 after a Circuit court judge found on 06/06/2007 that no charges were filed and no indictment were issued case should be closed. ~~Compare~~ Exhibit C and d'. U.S. Const. Amend 5, 14.

base on the foregoing facts show that there exist a clerical mispision necessary to correct the judgment and sentence from case NO. 04-10827 CF104 to case NO. 05-14414 CF104 to which the Evidence presented at trial show that she was being prosecuted on.

also, the foregoing Evidence Establish Malicious prosecution and that there were no outstanding charge pending against MS. Rosa by the State of Florida after all charges and all counts was nolite prosequi on 06/20/2007. There were no Amendment to the alleged Indictment and the State. Conceded so in its response to Newly Discovered Evidence Motion for Post Conviction relief filed August 2017 denied July 23, 2019. See Exhibit A, and Amendment at Exhibit B and;

The 4th DCA enter Sanction on Appeal ordered that the Clerk must not accept any prose pleading from MS. Rosa unless it is submitted by a member license by the Florida bar.

MS. Rosa asserts that it is apparent on the record that the 4th DCA action is failure to admit that they was wrong in 2010 when the Court Affirmed the conviction without correcting the Plain error. Sanction was entered to make this case go away because this prose filer is too poor to hire professional assistant license with the bar to submit her prose Appeal. See 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. See also related case from the Florida Supreme Court adversarial decisions.

her Second actual innocence claim misconstrued by the 11th Circuit Court is Notice pursuant to Rule 3.220(b)(4) filed by the State attorneys Office in the 17th Judicial Circuit Court Filing # 59928304 E-Filed 08/03/2017 where the State conceded that this Evidence may fall within the purview of Brady v. Maryland. No action has been taken and this Notice is pending in the State Court for a unreasonable length of time. Petitioner filed Petition for a writ of Mandamus

in the Florida Supreme Court which was denied, the Court find that it will not entertain any motion from Relitiner who abuse the lower courts judicial system. She filed motion for DNA testing in both the State and Federal Court. The State Court adopted the State response to deny her motion as factually Insufficient and the Federal Court record is Silent on any action Taken on this Issue.

Relitiner assert that there is a match to the alleged DNA blood and it is not hers. And the State failed to serve her a copy of the DNA Exculpatory result and report. See Exhibit 9. and both the State and Federal Courts failed to take Action on new Evidence.

- ② She also filed an attorney-client Conflict of Interest claim in her original motion for Post Conviction relief asserting that the Trial should not have move forward unless the attorney client conflict was resolved and that her motion to discharge defense Counsel should have been granted where she expressed her fear to the Trial Court that she was entirely innocent, she plea not guilty and Exercise her rights to a impartial Jury determination where she is seeking a not guilty Verdict, and that her assigned Public Defender is an Adversarial defense Counsel that is attempting to coerce her into plea guilty and that she is not in agreement with him because she was not involved in the alleged murder of her ex-Employer. She had no knowledge that Mrs. Salzman was dead or allegedly murdered until she was arrested, she did not have a conflict with Mrs. Salzman and she did not solicit Dutch to extort payment from Mrs. Salzman and that Dutch did not know Mrs. Salzman. This Conflict claim the 11th Circuit also mis understood Relitiner attorney-client conflict claim and finds that Ms. Rosa implied that her defense attorney pressured her into plead guilty. Ms. Rosa had never implied that she plead guilty. she asserts that she would never plea guilty, and she had never plead guilty because she is not

guilty and she would never incriminate herself in a crime that she did not commit not even if she was facing the death penalty she would never compromise her integrity. See page 6 of 11th circuit 9/17/2020 order Appendix A.

The 11th circuit also shows bias by arguing that Ms. Rosa does not appear to argue she did not commit the murder, but instead argues only that counsel should have moved to have her release and that the trial court erred by denying her motion to discharge on that basis see page 8 9/17/2020 Appendix A. On the contrary, if Ms. Rosa was guilty, the state would not have moved to nolle prosequi the charges against her. The state only filed the fabricated charges as a intimidation tactic to get Ms. Rosa to testify against the very individual that the state subsequently use to fabricate the alleged tape recording conversations against Ms. Rosa after, Ms. Rosa refuse to become a false witness. The state of Florida was not looking for a murderer, they was looking for a scape goat. All the alleged overwhelming evidence that the district court described in original amended petition for a writ of habeas corpus is actually exculpatory evidence and allegations that is required by the record. The defense attorney is the prosecutor who link petitioner and the exculpatory evidence to the murder of her former employer and conceded the false testimonies as truth. base on the 11th circuit court own argument does not negate the fact that Ms. Rosa was entitled to be release from custody of the 17th judicial circuit court on 06/20/2007 when all charges and all counts was nolle prosequi. The case of State of Florida v. Charlene Rosa was close on 06/20/2007 on all counts in case no! 03-14414CF004 and is still closed there was no outstanding and, or pending case against Ms. Rosa by the state of Florida. See Exhibit d' and d². See also Exhibit H and I¹⁻⁵ that show that she consistently asserts that she is innocent. Ms. Rosa contends that, the state prosecutor in his

Closing Argument credit the prosecution to the defense attorney credibility of Truth and to not want a guilty person find innocent. See Trial Transcript Page 1346-1353 Exhibit 1. When damaging evidence is introduced by a defendant's own lawyer, it is in the nature of an admission against interest, more likely to be taken at face value. See also J² highlighted portion

The defense attorney Mr. Williams expressed to the state prosecutor Mr. Frankel that he has the interest of the adversarial system to convict Ms. Rosa as a co-conspirator implying to force her into giving a written signed statement against Dutch in order for the state to obtain evidence to prosecute Dutch. he concede that his action would cause Ms. Rosa to lose her Fifth Amendment privilege if there is a conviction. (Paraphrase) See Trial Transcript page 861 Exhibit K. show an assault on the justice system, injustice done to Ms. Rosa and is attempting to be done to Dutch, undermining the public's confidence in the judicial process, and intentionally mislead the jury.

Second Judgment Sought Review district no. 20-cv-62156 Appendix d & e

- (2). While Ms. Rosa struggle with her inadequate research skill to find the appropriate remedy to file because the counts attempts to make an adversarial decision to deny her Reliction as a successive based on the state response.

She found rule 60(b) motion remedy and filed it in the district Court. the district counts decision is as follow:

Second Judgment district court no. 20-cv-62156 Appeal numbers Appendix C.

10/30/2020, order Dismissing Case. The new Reliction.

is dismissed for Lack of subject matter jurisdiction all pending motions are Denied as moot. any demands for Evidentiary hearing are Denied Further, the court has no authority to issue a Certificate of appealability in this case. and;

12/11/2020, order denying motion to proceed In forma Pauperis on Appeal and;

12/2/2020 order granting in part and denying in part certifying all filings on the docket as the record on appeal consistent with Fed. R. App. Proc. 10(c).

Petitioner Prosa contends that the district court erred in dismissing rule 60(b) motion and to deny her motion to proceed In forma Pauperis on Appeal after she submitted her motion to proceed In forma Pauperis and Institutional Sixth Month inmate Bank Statement as required by the 11th Circuit Court rule as prove of indigent.

Petitioner asserts that the district court misunderstood her claim as she did not reargued the former resolution of the case on the merit. She argued that where the district court finds that defense counsel made a strategic decision on behalf of the Petitioner should be deem unconstitutional, and she submit supporting Documents to show that the alleged strategic decision was rather, on behalf of the state not the defendant, and strategic decision is a procedural ruling and not a merit determination. See Appendix d. She filed a timely notice of Appeal in the 11th Circuit Court of Appeal and Petition the court on motion to proceed In forma Pauperis on Appeal as follow;

On January 05, 2021 she receive notice from the 11th Circuit advising her that the district court do not allow Appeal and;

April 16, 2021 order enclose copy of dismissal and notice to file for reconsideration and;

May 19, 2021 the Court entered order denying reconsideration.

See Appendix C

Relitioner Rosa contends that the United States Court of Appeals 11th Circuit improperly deny her motion for leave to proceed In forma pauperis on Appeal and her appeal is dismissed after the court finds that she was in fact indigent because her financial affidavit reflects that she is indigent. See page 2 of date filed 04/16/2021 Appendix E.

As stated before, Ms. Rosa asserts that her third world limited Education and her foreign dialect cause her to misunderstands the Courts and the Courts misunderstands her. She is a stranger to the judicial system prior to this case therefore she is a babe learning the legal terms and clearly, it is apparent on the record that she misunderstood how to use some of the words because the district court and the 11th circuit court interpret her word as if she is making admission to some kind of guilt and/or involvement in the alleged murder of her employers.

Relitioner Rosa asserts that she is tired and just want to concentrate on the fact that it is apparent on the record that the state had no probable cause for the prosecution and instead of release her from custody after the state case was invalidated on 06/20/2007 for failure to state a claim on all counts, the state continued prosecution through the use of the defense attorney to misrepresent the invalidated case to prove truths alleging that Plaintiff Rosa and a un-charged individual name Dutch was alleged coconspirator resulted in Relitioner's former employer's death. These charges to which Ms. Rosa was tried by her defense counsel was not charged in the alleged indictment to which allegedly she was on trial. Therefore because the evidence presented show invalidated case no. 05-14414 CF104 Exhibit D and 12 the judgment and sentence in case no. 04-10827 CF104 cannot

Stand, and Mr. Rosa is Entitled to Immediately release from the Judgment and Sentence under case No. 04-10827 CF10A one Count of First degree Premeditated Murder which bolster Count one of the Invalidated case No. 05-14414 CF10A, show a double prosecution trial coupled with the fact that Standing alone Count one could not obtain a conviction absent the invalidated underlying felony of Solicit to Commit armed robbery. / Extinction Coconspirator accusation and no curative instruction could have cure the prejudice that Mr. Rosa Suffers. Compare Exhibit C and d' and d².

This clerical error can be corrected at any time and there is no bar on this clerical misprision, where it is apparent on the record that even if there were an alleged indictment case No. 04-10827 CF10A, charge description one. Count of First degree Murder. The evidence presented to the jury shows case No. 05-14414 CF10A charge description 1. Murder in the First degree and 2. Solicit to commit armed robbery solicitation necessary to correct the clerical misprision on the judgment and sentence from case No. 04-10827 CF10A to case No. 05-14414 CF10A and to immediately release Mr. Rosa from custody of the Department of Correction and Mr. Rosa is Entitled to have the judgment against her Reopen under Rule 60(b)(6). See Exhibit A pages 2-3 & Exhibit B pages 3-4.. Ms. Rosa contends that the United States Court of Appeals erred in failing to grant Application for a COA and instead funds Appeal was frivolous on the merit. This Court held that a litigant seeking a COA must demonstrate that a procedural ruling barring relief is itself debatable among jurist of reason, otherwise, ~~encourage~~ the appeal would not "deserve encouragement to proceed further." *Shack v. McDaniel*, 529, U.S. 473, 484, 120 S. Ct. 1595, 146 L. Ed 2d 542 (2000)

(quoting *Barrycot v. Estelle*, 463 U.S. 880, 893 n.4, 103 S.Ct. 3383, 77 L.Ed.2d 1090 (1983)).

Petitioner Rosa contends that Rule 60(b) holding her challenge should be reviewed for abuse of discretion during a merits appeal. See 11 C. Wright, A Miller, & Kane, *Federal Practice and Procedure* 2854 (3d ed. 2012), the COA question is, whether a reasonable jurist could conclude that the district court and the 11th circuit abused its discretion in declining to reopen the judgment.

Rosa asserts that she is entitled to have judgment reopen.

Further question is, whether there is a risk of injustice to Ms. Rosa.

Whether there is a risk of undermining the public confidence in the judicial process.

Whether the Applicant has shown that jurist of reason could disagree with the district court's resolution of this constitutional claims or that jurist could conclude the issues presented are adequate to deserve encouragement to proceed further. This threshold question should be decided without full consideration of the factual or legal basis adduced in support of the claims. When a Court of Appeals side steps the COA process by first deciding the merits of an appeal, and then justifying its denial of a COA based on its adjudication of the actual merits, it is in essence deciding an appeal without jurisdiction.

(Roberts, Ch. J., joined by Kennedy, Ginsburg, Breyer, Sotomayor, and Kagan J.J.)

The question is: Whether there is a departure from the normal judicial procedure in this case.

(3) The third judgment is as follow;

Case NO: 20-CV-62169-AKA order Dismissing case 10/30/2020 Appendix E.

Petitioner Rosa contends that the district court mistakenly

finds that she do not have a Immigration case pending. She asserts that she has a Immigration case pending for a un-reasonable time in the state court case no. A79191073 and no action has been taken. She asserts that she is entitled to a hearing in order to have her status corrected.

Petitioner contends that the Immigration status is Active Contact Dennis Yara, Immigration hold, Applied date 08/25/2005 case no. A79191073

Petitioner Rosa contends that the United States Court of Appeal improperly denied her motion seeking Immigration hearing and Review of the Extradition order as Frivolous and that IFP Status on appeal is Denied. See Appeal no. 20-14367-H and;

March 29, 2021 Notice To pay district Court filing fees although she filed motion to proceed In forma Pauperis and attach the Sixth Month Inmate Trust Fund Statement.

and;
April 21, 2021 order of Dismissal for failure to prosecute and;

May 19, 2021 Corrected Copy of Dismissed for want of prosecution because the appellant Charlene Terry-Ann Walker Rosa has failed to pay the filing and docketing fees.

The court also stated that upon review, Rosa's motion for reconsideration is Denied because she has offered no new evidence or arguments of merit to warrant relief.

See Appendix E

base on the foregoing show that ms. Rosa denied the relief in both the district Court and the 11th Circuit because she either is too poor to pay the filing fees or she is entirely mis understood and, or to be more accurate because she is a presumed Guilty Immigrant that does not have Equal Protection under the Law of the

Fourteenth Amendment of the United States Constitution and Treaties Act. U.S. Const. Amend. 1, 4, 5, 6, 8, 13, and 14.

The question is whether Petitioner Rosa as a citizen of Jamaica and her National Origin is Entitled to protection under the Equal Protection of the Law under the Fourteenth Amendment rights of the United States Constitution and Treaties Act.

If she does whether she as shown and, or it is apparent on the record that she has been denied Equal Protection in the Judicial System.

Petitioner Rosa assents that the 11th Circuit Court argument on Page 8 of 8 Appeal no. 20-13270-F Appendix A that held: Rosa does not appear to argue she did not commit the murder but instead argues only that Counsel should have move to have her released and that The Trial Court erred by denying her motion to discharge on that basis. More over, Rosa does not cite to any new rule of Constitutional law or any newly discovered evidence in support of this claim. Instead, she points to copies of the dockets for her Criminal Case, which she has previously attached to her applications and which, as public records, were not previously undiscoverable.

This argument shows that the 11th Circuit departed from the normal judicial procedure and infer that after the State of Florida v. Charlene Rosa case was Invalidated for Failure to State a Claim, in Favor of Rosa she should not be release from custody until she is able to prove that she did not commit the murder of her former employer although the original proceeding was terminated in her Favor. Petitioner assents that the 11th Circuit Court finding is Contrary

to this Court's decision in Heck that held; "one element that must be alleged and proved in a Malicious prosecution action is termination of the prior Criminal proceeding in favor of the accused." (Heck v. Humphrey, Supra, 512 U.S. at p. 484.) The 11th Circuit improperly shift the burden of proof to Petitioner after the state case was terminated in her favor.

likewise, the 11th Circuit October 22, 2019 Appeal No. 19-13909-F district court 19-cv-62335-RS Page 2-3 Appendix A held;

In the instant application, Rosa appears to seek to raise two claims in a Second or Successive § 2254 petition. First, she appears to state that, after her trial and after she was sentenced, she learned that the state amended the charge to first degree murder to "solicit" to commit armed robbery. she states that this is newly discovered evidence and that the amended charging information caused a host of issues at trial, such as ineffective assistance of trial counsel. She state that, based on this evidence, she is actually innocent.

Ms. Rosa contends that the 11th circuit Court mis understood her claim, where that particular part of the argument in her claim was to establish the Intentional Fraud committed by both the state prosecutor and the defense public defender, where although the state had no the prosequi the case to which the Evidence presented at trial by defense counsel show, charge description 1. murder in the first degree and 2. Solicit to commit Armed robbery Solicitation Case No: 05-14414 CF104, the State waited until after the defense attorney inappropriately use the Evidence to successfully obtain a conviction in the interest of the state, then the state attorneys office amend and Circuit Court

disposition order was entered.

Further, the 11th Circuit Court entirely ignore the fact that the case to which the evidence presented during the trial show 1. murder in the first degree and 2. solicit to commit armed robbery solicitation was 1) terminated in a prior proceeding in favor of Ms. Rosa and 2) was not charged in the alleged indictment which she was supposedly and, or allegedly was to be on trial see Exhibit C in contrary to Exhibit d'98 that was nolle prosequi on 06/20/2007 prior to the June 25 through July 5, 2007 Jury Trial. and 3) the judgment and sentence on alleged indictment case no. 04-10827CF10A is erroneous because, even if there was a grand jury indictment entered in case no. 04-10827CF10A, one count of first degree premeditated murder on June 30, 2004, and that the alleged trial was intended to proceed on alleged indictment. The evidence presented to the jury show information filed 08/30/2005 charge description 1. murder in the first degree and 2. solicit to commit armed robbery solicitation coconspirator accusation that was terminated in favor of the accused on 06/20/2007. Therefore there is a clerical misprision in the judgment and sentence on alleged indictment case no. 04-10827CF10A that should be corrected to information case no. 05-14414CF10A, which show that there were no and, or more accurately there is no outstanding criminal judgment against Petitioner by the State of Florida, because the case of State of Florida v. Charlene Rosa was terminated on all counts on 06/20/2007 on charges presented to the jury during the June 25 through July 5, 2007. Therefore she should be allow to proceed (Heck v. Humphrey, supra, 512 U.S. at p. 487.)

Petitioner Rosa contends that the conviction was obtained

base on her Adversarial Trial defense attorney who misrepresented her intentionally through the inappropriate use of Invalidated charge description 1. Murder in the first degree and 2. Solicit to commit armed robbery/ extortion Solicitation Coconspirator accusation, which show Case NO! 05-14414 CFCOA that was terminated in prior proceeding in favor of Ms. Rosa.

When damaging evidence such as this is introduced by a defendant's own lawyer, it is in the nature of an admission against interest, more likely to be taken at face value. See Strickland v. Washington 466 U.S., at 66 --, 197 L. Ed. 2d at 19-20.

Coupled with the fact that the state prosecutor relied on the adversarial defense attorney to misrepresent Ms. Rosa during the criminal trial through the inappropriate use of invalidated charges in order to wrongfully convicted Ms. Rosa, in his closing argument he credit the conviction to the defense attorney credibility of truth by charging the jury that the defense attorney did not lie to them or hide anything from them, and that his job is not to do what ever he can to get guilty people found innocent, if they believe that they are wrong, because the defense attorney Mr. Williams is a credible man. (paraphrase) See Exhibit J. Page 1346 line 10-21.

both the district court and the 11th circuit failed to review the prosecutor error under the Plain Error rule. 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) Moore, Moore's Federal Practice 52.02 [1981].

The question is whether Petitioner Rosa has Establish that

The Case of State of Florida v. Charlene Rosa was Invalidated in a prior proceeding in favor of the accused on 06/20/2007 and, continued prosecution, present conviction, judgment and sentence resulted from Invalidated charges is Credit to assistant public Defender Harry Dohn Williams Jr. Misrepresentation and State prosecutor David Frankel malicious prosecution on June 25 through July 5, 2007 Setting the pace for all further proceedings.

Whether Adequate relief can be obtain in any other form or 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 adopted the State response and held that the defense attorney made a Strategic Decision and that the defendant is bound by her lawyer's strategy.

Whether Strategic Decision should be deem Unconstitutional in this instant case, where it creates an un-acceptable risk that a Innocent individual could be wrongfully convicted and sentence to prison.

Whether the Judicial System has departed from the normal practice in order to wrongfully convicted the Relictiner.

In the Jury Selection, the prospective jurors request that the attorneys Tell them the truth, they need to know if the defendant is guilty, if they are going to decide some ones life they need to know truth. See Exhibit L instead of giving the Jury ~~ask~~ five instruction that truth is not the factor for them to base there decision on guilt or innocence but, it is by prove beyond a reasonable doubt presented by the state.

During closing Argument, the state prosecutor charged the Jury that the Defense attorney and himself gave them the truth, and credit the prosecution to the defense attorney credibility of truth not to let guilty people found innocent. Exhibit M. During Post conviction and habeas Corpus proceeding the State response and show cause alleged that the defense Counsel Misrepresentation of Invalidated charges was a Strategic Decision. Therefore relief should be denied. Rosa contends that a Finding of Strategic Lies in Exchange for truth show intentional deception. See Exhibit K.

REASONS FOR GRANTING THE PETITION

The Law is clear that a Petitioner may obtain federal habeas review of a procedurally defaulted claim, without a showing of cause or prejudice, if such review is necessary to correct a Fundamental miscarriage of Justice. See Edward v. Carpenter, 529 U.S. 446, 451 (2000); Henderson v. Campbell, 353 F.3d 880, 892 (11th Cir. 2003). This Exception is only available "in an Extraordinary case, where a Constitutional violation has resulted in the conviction of one who is actually innocent." Henderson, 353 F.2d at 892.

Ms. Rosa asserts that clear Miscarriage of Justice has occurred in this case, where she is not guilty and is entirely innocent of any and all alleged involvement in the murder of her former employer and is now serving the penalty for the murder because of her Trial attorney Fraudulent and Material Misrepresentation and the State prosecutor Malicious prosecution in continued prosecution after the prior criminal proceeding was terminated in favor of the accused. (Heck v. Humphrey, supra, 512 U.S. at P. 484.)

Ms. Rosa contends that the second proceeding was prosecuted by her Trial defense attorney in appropriate use of what appears to be invalidated charges of 1. murder in the first degree and 2. solicit to commit Armed robbery solicitation & conspirator accusation to prove truth that allegedly she perpetrated the murder of her former employer. See Exhibit 1

2. During the state prosecutor closing Argument he credit the prosecution to the credibility of the defense attorneys Truth of not wanting a guilty person to be found innocent. See Page 1364 Trial Transcript line 10-21 Exhibit 5; show that the state prosecutor relied on the defense attorney Misrepresentation to obtain a conviction, though the in appropriate use of invalidated charges. "The infusion of Truth as a factor for the jury to weigh in making determination violated Ms. Rosa's

Constitutional right to be convicted and sentence by prove beyond a reasonable doubt.
~~Truth as a matter of fact the jury weighed in favoring the defendant~~ (P)

MS. Rosa contends that when damaging Evidence, such as these solicit to commit Armed robbery / extortion Coconspirator accusation presented against a defendant by her own lawyer, it is in the nature of an admission against interest, more likely to be taken at face value.

The Jury find MS. Rosa guilty of First degree murder guilty of Premeditated murder, and the Trial Court entered Judgment for First degree Premeditated murder and sentenced MS. Rosa to Natural life in prison on alleged Indictment Case No. 04-10827 CF10A. See Exhibit C There is no case number on the typed script matter butitioner contends the indictment is Case No. 05-KRMCF10A. MS. Rosa asserts that she was never served any indictment and, on any charge document in this case and, on informed of any new development in this case by neither the State, the defense nor the trial court. However, After she had presently Exhausted her state remedy and her petition for a writ of Habeas Corpus was pending in the district court she discovered a number of other case numbers that was link to the case to which the judgment and sentence that she is presently confined was entered See Exhibit d' and d², which show the Evidence presented at trial.

She discovered Case No. 05-14414 CF10A charge description 1. Murder in the First degree and 2. Solicit to Commit armed robbery solicitation which supported the accusation that her defense counsel use to misrepresent her during the trial that affect her substantial rights and damage her interest. She also found that this damaging accusation that her own lawyer in Appropriately used to misrepresent her was Terminated in a prior proceeding in her Favor. See Heck v. Humphrey, supra, 512 U.S. at p. 484.) See Exhibit d' and d².

This Evidence Establish that there exist a clerical mispission on the judgment and sentence necessary to be corrected from Case No. 04-10827 CF10A To Case No. 05-14414 CF10A

because although there may be an alleged Indictment entered in case no! 04-10827 CF104, and although the alleged Trial may be intended to proceed on charge of one Count of First degree Premeditated murder, on the contrary, the Evidence presented during the Jury Trial show case no! 05-14414 CF104, charge description 1. Murder in the First degree and 2. Solicit to Commit Armed Robbery Solicitation. Therefore based on the Evidence presented it is necessary to correct the case number to which Ms. Rosa is presently confined on the judgment and sentence absent the correction of the clerical misposition there is no meaningful remedy available to petition to the Government for a redress of grievance, to be more specific remedy is non-existence because there is a conflict in the Evidence and the judgment. See McCullough v. State, the Court instructed the Trial Court to correct a scrivener's error in the judgment to clarify that McCullough's conviction leaving the scene of a crash with death was pursuant to Section 31b. 027(2)(c), not Section 31b. 027(1)(b). See also Mosely v. State, 688 So. 2d 999, 999, -1000 (Fla. 2d DCA 1997).

Petitioner Rosa filed a timely motion in the Trial Court August 2017. See Exhibit A and an Amended in 2018. pursuant to Rule of Criminal procedure a criminal's error can be corrected at any time on a motion for Post conviction relief pursuant to 3.800(a).

In response the State argued that the claim was not timely and that the only indictment filed charged Ms. Rosa with both Felony and Premeditated murder, and that no charge of Solicitation to commit armed robbery was filed in this matter and no information or indictment was filed under case no! 05-14414 CF104. See page 2-3 of Exhibit A and page 3-4 of Exhibit B in contrary to the Evidence presented during the trial of Solicit to commit armed robbery/Entertain Co-conspirator accusation establish that the State concedes that the

Petitioner was tried on charges not charge in the alleged indictment and the complexity of this case for the Interest of Justice show that exceptional circumstances Warrant the exercise of the Courts discretionary power, because adequate relief cannot be obtained in any other form or any other Court and, a Innocent individual will spend the rest of her Natural life in prison because the Fraud that was committed upon her during the criminal trial proceeding by both her trial lawyer and the state prosecutor in the second proceeding confused the record justify the granting of a writ of Certiorari, The Petitioner show that the writ will be in aid of this Court appellate jurisdiction.

Petitioner Rosa contends that her Lack of Knowledge of the crime, Lack of Involvement in the crime, Lack of her right and, or the denial of her right to be informed of the accusation, the Evidence, and all development in the case, and to be serve Copy of all charge documents make it almost impossible for her to adequately access to Court in this complex case, and due to Incarceration and she has no professional assistance coupled with all the adversarial decisions by the reviewing courts that presumed her guilty although it is apparent on the record that she is Entirely Innocent. It is so apparent on the record that the errors in this case is not mere oversight clerical errors. These errors are clear Intentional Frauds by professionals. and as a un-Educated and un-schooled individual to come this far and discovered the Frauds, she should be given some form of credit.

For a un-Educated individual to spend all these years digging through documents and research trying to figure out how could

a jury find a innocent person guilty, not even knowing what she is looking for yet, she finds it. she prove that that good saying that said, "If you seek you will find" it is so true. She is very discourage on the saying that if you knock the door will be open unto you. because all along she thought that the district court judge and the United States Court of Appeals 11th Circuit judge was just misunderstanding her, so she filed more and more yes it is repeated stuff trying to break it down the best that she can to make they understand what her claim is. there is nothing more to research because she has solved this wrongful conviction case now she see that the district court and 11th circuit court judges did not want to understand her. They want to confuse her in despair. See 11th circuit order in appeal no. 20-17243 page 2-3 dated 07/01/2020 it certainly make Jesus wept. I wept for the sins of my people too. how could a judge that the Lord have blessed and put in high places to do justice twisted a helpless individual that come to them looking for justice and instead of give justice, even the little hope that they have is snatch away. I know I have been mis understood before and I know that due to the fact that my Dialect is different from the judges it could not be so bad for the 11th circuit to mis understood what I am saying to the extent of being so adversarial. The argument is refuted by the record.

MS. Rosa asserts that 11th Circuit Court reasoning is contrary to her claim and is inconsistent with any statement made by her, and show entirely injustice, and a one sided adversarial system. They even denied me filing appeal because I can't afford to pay the courts fee I have been denied justice. Politician is locked up in a Florida State Institution for approximately 16 years with no gainful employment. the question is where the court expect her to possible obtain the money to pay the courts fee when she is involuntarily force to work in prison for free, that cruel and unusual

Punishment. This is just a way for the Court to tell a inmate don't file any pleading in our court your judgment and sentence is final, we are the credit ~~union~~ union members as interested persons.

You don't have any remedy here. If you enter you are un-authorized, and you will be charge and your claims will be also denied or dismiss as frivolous.

The question is whether the decision maker is from the God of Justice or the God of Injustice. Petitioner Rosa asserts that she only find two cases to which this Court could review this case, only Heck and 23praggins apply to this case.

1. Ms. Rosa has demonstrated that the First degree murder case and solicit to commit armed robber coconspirator accusation that the evidence show that she was tried on June 23 through July 3, 2007, the record show that said case on all counts was terminated on 06/20/2007 prior to the trial in her favor. See Exhibit d¹ and d² and C. See Heck v. Humphrey *supra*, 512 U.S. at pp. 478-479.]

The Evidence also show that there is no typed case number on the typed written alleged grand jury indictment one-count of First degree premeditated murder which do not negate the fact that the Petitioner claim that the alleged indictment if there was one entered would be case NO: 05-14414 CF10A compare Exhibit C, d¹ and d² among other attempted to file charge documents on record in the 14th judicial circuit court on case NO: 05-14414 CF10A.

Both the district court and the 11th circuit court failed to respond and notice the clerical misprision on the judgment and sentence, Case NO: 04-10827 CF10A. They just take the state word for it alleging that an alleged indictment was entered in case NO: 04-10827 CF10A that reflect on the judgment and sentence.

The question is whether the district court failed to ~~issue~~ a show cause for the state to produce an actual authentic copy of a grand jury indictment with case NO: 04-10827 CF10A

on the typed written matter.

also, what about the fact that case no. 05-14414 CF104 Felony docket entry charged description 1. Murder in the first degree 2. Solicit to commit armed Robbery Solicitation I identify with the Evidence that was presented in the Jury trial. See Exhibit d'. contrary to exhibit c with only count one. rather than review the fact and law of the Evidence. the district judge held that, "Ms. Rosa failed to present a copy of the alleged indictment or information of case no. 05-14414 CF104 and a Affidavit from Ms. Green attesting to the discovery of the Evidence. The question is what about issue or show cause to the State to produce the document, this abuse of discretion show a procedural defect/non-Auditor. the district court continued; given the lack of Evidence the court cannot Evaluate the Evidence to decide whether it supports petitioner Actual Innocence claim. wow.

Is that justice or Justice is a farce. See Exhibit E page 89.

(a) She was denied Justice because she is too poor to hire investigator to obtain documents.

2. The Second case is Spraggins. The United States District Court Northern District of Georgia in 1983 concluded that Spraggins received ineffective assistance of counsel when his trial counsel conceded his guilt as to murder at the guilt/innocence phase of his trial and concentrated on a line of argument more properly directed to the penalty phase of the trial. Having plead not guilty, Rosa like Spraggins made a statement that she seeks a verdict of not guilty. In Washington v. Strickland, 693 F. 2d 1243 (5th Cir. Unit B (1982) (en banc), cert. granted 462 U.S. 1105, 103 S. Ct. 2451, 77 L. Ed 2d 1332 (1983), the former Fifth Circuit set out the standard (1983 U.S. App. Lexis 12) for assessing a claim of ineffective assistance of counsel. The Court noted that a petitioner who seeks to overturn his conviction on the grounds of ineffective assistance of counsel must prove his entitlement

to relief by a preponderance of evidence," *id.* at 1250 (footnote omitted), and that "a habeas petitioner must show that his counsel's ineffectiveness caused actual and substantial disadvantage" to the conduct of his defense." *id.* The Court declared, "the sixth amendment guarantees to criminal defendants... effective assistance of counsel, that is, counsel reasonably likely to render and rendering reasonably effective assistance given the totality of the circumstances." *id.* (emphasis in original). Although there is a presumption of attorney competence, "this presumption can be rebutted... when certain of counsel's actions do not conform to a general pattern of a rational trial strategy." *id.* at 1257-58. Here in this petitioner Rosa case like in Spraggin case the state contends that "the argument by the defense attorneys was a logical strategy decision in light of the evidence and incriminating statements made by the petitioners, allegedly the defense attorney attempted to win sympathy from (1983 U.S. App'x 13), see district court docket page 15 Exhibit E the jury rather than taking a hypocritical point of view. - the difference with Spraggin and Rosa, Rosa was not facing the death penalty Spraggin was. therefore Ms. Rosa attorney had no possible reason explanation or right to pursue an alleged strategy to incriminate her in the murder of her former employer especially he admitted that she repeatedly told him that she is not guilty and that she had no involvement in the crime and that she stated that she did not know that the victim was dead until she was arrested. See Exhibit I¹, I², I³, I⁴, I⁵ pt and J². In his closing argument, counsel not only failed to provide meaningful advocacy on the issue of guilt, but actually urged the jury that his client was guilty, see district court page 15 Exhibit E. At one point he re-enact the alleged crime scene alleging that the victim attacked Ms. Rosa with a knife stabbed her in her hand, her blood got on a wall picture, she is the right height for that kind of thing and that allegedly at that point Dutch stabbed the victim 43 times to her death. The Court in Spraggin held: Even a prosecutor may not properly

express such a personal opinion as to the defendant's guilt. See *United States v. Morris*, 588 F.2d 396, 401-02 (5th Cir. 1978).

Given Spraggins' plea of not guilty, his denial of involvement in the crime, and his insubstantiality of his insanity defense, the court conclude that counsel conceding his client's guilt was irrational and rendered his assistance at trial ineffective.

In Rosa's instant case she denied any and all involvement, she pled not guilty, she informed defense counsel of her *Alibi* defense therefore her counsel should be deem ineffective as Spraggins' counsel.

As stated before, Ms. Rosa was not facing the death penalty. The Spraggins court held; where a capital defendant, by his testimony as well as his plea, seeks a verdict of not guilty, counsel, though faced with strong evidence against his client, may not concede the issue of guilt merely to avoid a somewhat hypocritical presentation during the sentencing phase and thereby maintain his credibility before the jury. Even though (1983 U.S. App. LEXUS 14) an adverse verdict would have the effect of precluding further argument on the issue of guilt, counsel does not have license to anticipate that effect and to concede the issue during the guilt/innocence phase simply because an adverse verdict appears likely. As the Sixth Circuit reasoned in a similar case, counsel's complete concession of the defendant's guilt nullifies his right to have the issue of his guilt or innocence presented to the jury as an adversarial issue and therefore constitutes ineffective assistance. See *Wiley v. Saunders*, (720 F.2d 1195) 647 F.2d 642, 650 (6th Cir.) cert. denied, 454 U.S. 1091, 102 S.Ct. 656, 70 L.Ed 2d 630 (1981).

In Rosa case although her lawyer made a baseless argument that allegedly she is guilty of a lesser included third degree murder. In the state prosecutor closing argument he interpret the law and the facts of the evidence of the defense case presented and informed the jury that what the defense counsel described to them is that his client committed the crime of first degree murder.

and that the law hold her responsible for everything that the defense attorney told them that allegedly Dutch did. See State closing argument Exhibit 5 line 21-23.

The Spraggins Court conclusion is consistent with that in *Young v. Zant*, 677 F.2d 792 (11th Cir. 1982). There we held that the defendant received ineffective assistance where counsel adopted the insanity defense without support, ignored obvious defenses, and conceded guilt of his client in the mistaken belief that such an action was strategically necessary in order to make a strong plea for mercy. While there is no assertion that Belcher ignored defenses to this charge or that he, like counsel (1983 U.S. App. Lexis 15) in *Young*, was unaware that the murder charge would be tried under a bifurcated procedure, the situation in *Young* is fundamentally similar to the one now presented.

In *Rosa* case counsel proceeded with a frivolous third degree murder argument that was contrary to the fact and law of the case he presented against his client of solicitation and coconspirator robbery/ extortion theory, which constitutes First degree premeditated murder and the trial judge charged the jury to follow the law and do not show sympathy to any one or else it will be a miscarriage of justice. *Rosa* counsel ignore a affirmative defense, where Ms. *Rosa* would have been found not guilty or the State would have to prosecute alleged charge of one count of First degree premeditated murder same as others that was terminated in prior proceedings in favor of Ms. *Rosa*.

The Spraggins Court held, "Although counsel at a capital trial may take steps to evoke jury sympathy prior to the sentencing hearing, again 'We can discern no possible reason for conceding the defendant's guilt' under the present bifurcated procedure. (id. at 799 (emphasis in original)). Because Spraggins same as *Rosa* 'guilt or innocence was the only issue to be decided at the earlier phase of the trial and was obviously critical, the Spraggins Court conclude that 'counsel's ineffective ness

Caused "Actual and Substantial disadvantage" to the conduct of [Spraggins] defense. Similar to Rosa's defense. Washington 693 F.2d at 1250. Hence the 11th Circuit Court of Appeals agree with the Northern district of Georgia Court that Spraggins [1983 U.S. App. Lexis 16] was deprived of his Sixth Amendment right to the effective assistance of counsel at trial and hold that the Court properly grant habeas relief. See Francis V. Spraggins, NO. 83-8338 (1983).

Petitioner Rosa contends that her case so similar to Spraggins from the same 11th Circuit Court show a violation of Equal Protection under the Law under the 5th and 14th Amendment of the United States Constitution, where she was treated differently because the record show that she is a Jamaican National origin and Citizen of Jamaica, and is too poor to hire professional assistant therefore the Court appointed her an Adversarial Counsel for her defense. See Statement made by defense Counsel Exhibit K Page 861 line 12-24.

Petitioner Rosa contends that she had Adversarial Counsel for her defense during the Criminal proceeding, she was never notify that the Felony Murder Cocoonspirator Solicit to Commit armed robbery / Extortion Case misrepresented to the jury by her defense attorney was an alleged Strategic Decision. See Exhibit 3rd Page 1412 line 3-8. The State prosecutor concedes that if the defense attorney had told Mr. Rosa that it was a Strategic Decision she would not agree. See also Exhibit M. The defense attorney concede to mis informed Mr. Rosa that she was charged with Felony Murder during the Commission of a robbery and that she was not charged with Premeditated Planned murder, and;

2. Nor was she notify that the alleged Cocoonspirator Felony Murder, Solicit to Commit armed robbery / Solicitation Evidence misrepresented by defense Counsel was not the Prosequi prior to the Jury Trial.

Therefore the finding of Strategic Decision on the part of defense counsel by the district court in denying original Amended habeas corpus petition Exhibit E Page 12 & 15 show just to make this case go away and, or to prevent a merit determination. This shows exceptional circumstances warrant the exercise of this court's discretionary power, where the finding of Strategic Decision in this particular case created a conflict between "the state interest of preserving finality", "the risk of injustice to a innocent defendants interest" see Exhibit S, Page 86 lines 1-4, and "the interest of undermining the public's confidence in the judicial process. *Liljeberg v. Health Services Acquisition Corp.*, 486 U.S. 847, 863-864, 105 S.Ct. 2194, 100 Ed 855. When damaging evidence such as this nature is introduced by the defendant's own lawyer, it is in the nature of an admission against interest, more likely to be taken at face value.

(a) Relief under rule 60(b)(6) is available only in extraordinary circumstances such as this instant case (Mosas). See *Gonzalez*, 54 S.U.S., at 535, 125 S.Ct. 2641, 162 L.Ed 480. The district court dismissal of Mosas' motion rested largely upon the fact that she filed previous petition for a writ of habeas corpus and that she failed to pay filing fees, ~~coupled with~~ see Appendix A B C D E and F coupled with during the criminal trial the state prosecutor charged the jury to rely on the defense attorney credibility of truth in finding Ms. Mosas guilty. See Exhibit 3 line 12-24 page 1346. This constitutes a disturbing departure from normal rules of courts and prosecuting procedure under rules of criminal procedure. The infusion of truth of the defense attorney damaging evidence against his client as a factor for the jury to weigh in making determination on guilt violated Ms. Mosas' constitutional right to be convicted and sentence by prove beyond a reasonable doubt presented by the state prosecutor

as prosecuting attorney of the government.

Therefore, a rule 60(b) motion is appropriate where the district court found in Amended original Petition for a writ of habeas corpus that defense Counsel made a strategic decision. See Exhibit E Page 12912, coupled with the fact that Mr. Rosa was never notified of a strategic decision and the show that it was a tactical decision why she was not informed see Exhibit 32 page 1418, line 3-8.

A Rule 60(b) codifies various writs used to seek relief from a judgment at any time after the term's expiration - even after an appeal had (long since) concluded. Those mechanisms did not (as term rule did) and the trial court to collaterally attack its already completed judgment. See Advisory Committee's 1946 Notes on Amendments to Fed. Rule of Civil Procedure; Mann, Note, History and Interpretation of Federal Rule 60(b), 25 Temp. L. & 77, 78 (1951). And that the distinction was not lost on pre-AEDPA habeas courts applying a prisoner's initial petition - depending on the reason given for relief, with either a year or a more open ended "reasonable time." Fed. Rule Civ. Pro. 60(c)(1). In Gonzalez itself, the prisoner made his motion nearly three years after the habeas court's denial of relief, and more than one year after his appeal ended. See 345 U.S., at 527, 175 S.Ct. 2641, 162 L. Ed 2d 480. Under these facts the district court abuse its discretion to find that because Rosa filed a previous original Amended petition for a writ of habeas corpus the court lacked subject matter jurisdiction and dismiss as successive habeas on the state response.

Rosa has demonstrated both ineffective assistance of Counsel under Strickland and an entitlement to relief under Rule 60(b)(3)(b)(d)(2)(3), and Rule 60(b)(1)-(6).

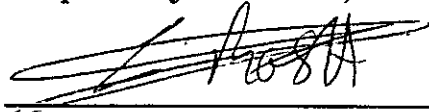
See also Exhibit N defense trial attorney Mr. Williams Jr. mailed to Ms. Rosa in 2018 alleging that he told her that he recognized the voice on the alleged Taped telephone conversations to be hers. Compare his statement made to the state prosecutor conceding his Adversarial interest against the interest of his client Ms. Rosa Appendix K transcript page 861. Show that his Adversarial interest and action to receive the damaging Taped Telephone Conversations into Evidence as Authentic was in the nature of an admission against interest and, undermining his own concession at Exhibit I and Petitioner's Statement to the court at Exhibit H ^{page 3} asserting that she did not have the alleged telephone conversations and that it is not her voice on the tapes, she requested a long time ago (at the hearing on motion to discharge counsel) for the tapes to be tested for authenticity that would prove that it is not her voice and that she did not have the alleged conversations and that the court promised her to have the tapes tested and nothing was done. She asserts that she knew she had a right! She is invoking her rights. See Exhibit H ^{page 3} transcript page 3. Establish that there exist a unresolved attorney client conflict against adversarial presentation of the alleged Taped Telephone Conversations that went uncorrected, should have prevented the trial from moving forward without a reasonable investigation into the authenticity of the alleged Taped Telephone conversations and, the grant of motion to discharge adversarial defense counsel, where counsel could not put his belief that he recognized the voice as Petitioner's aside long enough to conduct a reasonable investigation and to adequately represent her show a conflict of interest and a innocent accused was mispresented and wrongfully convicted and sentenced for murder.

CONCLUSION

The Eleventh Circuit Court of Appeals erred in denying Rosa COA, deny motion to proceed in forma pauperis, denying motion for appointment of consular officer, and dismissed Appeal require to pursue these claims on Appeal.

The petition for a writ of certiorari should be granted. The judgment of the United States Court of Appeal for the Eleventh Circuit should be reversed, and this case should be remanded for further proceeding consistent with this court's decision.

Respectfully submitted,



Date: 18th day of June 2021

Supreme Court of the United States

Charlene Rosa

V.

Mark Inch, Sec. FL. Dept of Corr.^s

Motion to proceed In Forma Pauperis In Compliance with 28 U.S.C. §1746.

1. Come Now, Petitioner Rosa in proper person and in prose file this timely motion seeking to proceed In forma pauperis in this Court.
2. Petitioner file one single Petition for a writ of Certiorari on review of three judgment from the 11th Circuit Court of Appeal with same or similar question(s), and seek to proceed In forma pauperis on all three judgment in the attach single writ of Certiorari.
3. Petitioner was not granted leave to proceed In forma pauperis in the district court nor in the 11th Circuit Court of Appeal in this issue(s).
4. However, in other prior pleadings she was granted motion to proceed In forma pauperis in both the district court and the United States Court of Appeal 11th Circuit, and maybe this Court.
5. Petitioner sought leave to proceed In Forma pauperis in these issues in both the district court and the 11th Circuit

and was denied.

6. Petitioner asserts that she is incarcerated for approximately 16 years and she has no gainful employment, no savings or checking account remaining.
7. She has no Trust Fund, and no gift. She asserts that Family or Friend may send her something to help purchase hygiene and the necessary items that she need from the inmate canteen including stationaries to assist in her prose filings but, it is not a promise or a guarantee that she would receive or when she will receive from her Family or Friend that Blessed her.
8. Petitioner asserts that a copy of her Inmate Trust Fund affidavit or declaration is attach to this motion
9. She also complete this Courts Affidavit or Declaration in support of Motion For Leave To proceed in Forma Pauperis that is include in the Petition for a Writ of Certiorari.
10. base on the foregoing Petition or Request that this honorable Court of Justice will grant her Motion to proceed Informa Pauperis.

Respectfully Submitted
Z: 140344
Charlene Rosa Lobosky
Lawell Correctional Annex
11120 NW Gainesville Road
Ocala, Florida 34482.

United States Supreme Court

Charlene Rosa

V.

Mark Inch Sec. Dept of Corr⁹

Certificate of Interested Persons And Corporate Disclosure Statement

In Accordance to this Court Rules, Petitioner Rosa asserts that to the best of her knowledge, the following persons have or may have an interest in the outcome of this case:

Altman Hoyk.	U.S. District Judge
Bettendorf, Heidi	Assistant Attorney General
Bloom, Beth	U.S. District Judge
Bondi Pamela Jo	former Attorney General
Damoorgian, Dennis K.	Fourth District Judge
Dimitrouleas, William P.	U.S. District Judge
Finkelstein, Howard	Broward Public Defender
Frankel, David	former Assistant Att State Attorney
Gerber, Tol Nathan D.	Fourth District Judge
Greeff, Ellen	relief Assistant Public Defender
Gross, Robert M.	Fourth District Judge
Haughwout, Carey	4th DCA Public Defender
Hazouri, Fred A.	former Fourth District Judge
Howaritz, Alfred	17th Judicial Circuit Judge
Inch, Mark	Secretary, Department of Correction
Jones, Julie	former Secretary, Department of Correction

Klingensmith, Mark W.		Fourth District Judge
Lazarus, Joel	retired	17th Judicial Circuit Judge
Leban, Susan		17th Judicial Circuit Judge
Lervenson, Jeffrey R.		17th Circuit Judge
May, Melanie G.		Fourth District Judge
McCarthy, Barbara		17th Judicial Circuit Judge
McCollum, Bill	former	Attorney General
Moody, Ashley		Florida Attorney General
Polen, Mark E.	former	Fourth District Judge
Reid, Libette M.		U.S. Magistrate Judge
Rosa, Charlene		Wrongful Convicted Incarcerated
Ruiz, Rodolfo		U.S. District Judge
Satz, Michael J.		Forward State Attorney
Society		Societal Interest
Silverstein, Joel		Assistant State Attorney
Swinghal, Raag	former	17th Judicial Circuit Judge
Warner, Martha L.		Fourth District Judge
White, Patrick A.		retired U.S. Magistrate Judge
Williams, Jr., H. John	former	Assistant Public Defender

Respectfully Submitted
~~Libette M. Reid~~

Charlene Rosa Lob814
 Lowell Correctional Annex
 11120 NW Gainesville Road
 Ocala, Florida 34482

Certificate of Service

I hereby certify that I have place this certificate of interested persons and corporate disclosure statement in the hand(s) of a mailroom personnel, to be mailed to:

United States Supreme Court
Office of the Clerk
One First Street
Washington, DC 20543-0001

And to

Office of the Attorney General
1515 W. Flagler Drive
West Palm Beach, Florida 33401

on this 18th day of June 2021

Charlene Rosa Lob814
Lowell Correctional Annex
11120 NW Gainesville Road
Ocala, Florida 34482.