ORIGINAL



21-5497

NO. _____

**IN THE SUPREME COURT OF THE UNITED STATES**

**JOSÉ YEYILLE**

**Petitioner,**

**v.**

**ARMANDINA ACOSTA-LEON; *et al***

**Respondents.**

# PETITION FOR A WRIT OF CERTIORARI TO THE FLORIDA SUPREME COURT

**José Yeyille**
**5505 SW 135th Court**
**Miami, Florida 33175**

**(August 23, 2021)**

## LIST OF PARTIES

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:

Armandina Acosta Leon

Lisa Robertson

Asuncion Valdes

Egna Rivas

Alberto Carvalho

The School Board of Miami-Dade County, Florida

## QUESTION PRESENTED

Whether **Florida Constitution Article V, Sections 3(b)(3), 3(b)(7), and 3(b)(8), *Jenkins v. State*, 385 So. 2d 1356 (1980),** and ***Grate v. State*, 750 So. 2d 625 (Fla. 1999)** intentionally bar discretionary review for Petitions for **Writs of Prohibition, MANDAMVS, CERTIORARI, and any other writ** to the **Florida Supreme Court** to **indigents**, and **indigent PRO•SE Black and Hispanic parties** in violation of their **Equal Protection** and **Due Process** rights, and **Access to Courts** rights protected by **Section 1 of the Fourteenth Amendment to the Constitution of the United States** and the **Petition Clause of the First Amendment to the Constitution of the United States.**

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## OPINIONS BELOW

**1.** José Yeyille v. Armandina Acosta-Leon, *et al.*, SC21-858 (August 18, 2021). **Petition for Emergency Writ of Prohibition seeking to Disqualify Chief Judge Kevin Emas of the Third District Court of Appeal**. "To the extent Petitioner seeks a writ of prohibition, the petition is hereby dismissed as moot. To the extent Petitioner seeks review of the Third District Court of Appeal's decision in Yeyille v. Acosta-Leon, et al., 2021 WL 2134516 (Fla. 3d DCA May 26, 2021)(table), the petition is hereby dismissed for lack of jurisdiction. *See* ***Grate v. State*, 750 So. 2d 625 (Fla. 1999)**. No motion for rehearing or reinstatement will be entertained by this Court."..... **Appx 1**

**2.** José Yeyille v. Armandina Acosta-Leon, *et al.*, SC21-931 (June 21, 2021). **Invocation to the Discretionary Jurisdiction of the Florida Supreme Court for a Petition for Writ of Certiorari**. This case is hereby dismissed. This Court lacks jurisdiction to review an unelaborated decision from a district court of appeal that is issued without opinion. ***Jenkins v. State*, 385 So. 2d 1356 (Fla.1980)**..... **Appx 2**

**3.** José Yeyille v. Armandina Acosta-Leon, *et al.*, SC21-888 (June 14, 2021). **Petition for Writ of MANDAMVS to command the trial court and district court of appeal to rule on constitutionality of Florida Constitution, Article V§3(b)(3) and *Jenkins v. State*, 385 So. 2d 1356 (Fla. 1980) is *dismissed.* This Court lacks jurisdiction to review an unelaborated decision from a district court of appeal that is issued without opinion *Jenkins v. State*, 385 So. 2d 1356 (Fla. 1980)..... Appx 3**

**4.** José Yeyille v. Armandina Acosta-Leon, *et al.*, 3D20-1824 (June 2, 2021). **Appellant's Pro Se Amended Motion for the Retroactive Disqualification of Chief Judge Kevin Emas is hereby *denied.* Appellant's pro se Motion for Rehearing, Certify Question of Great Public Importance, and for Written Opinion is hereby *denied*. EMAS, C.J.**, and SCALES and GORDO, JJ., concur..... **Appx 4**

**5.** José Yeyille v. Armandina Acosta-Leon, *et al.*, 3D20-1824 (May 26, 2021). **(PER•CVRIAM *affirmance without opinion*) EMAS, C.J.,** and SCALES and GORDO, JJ..... **Appx 5**

## JURISDICTIONAL STATEMENT

The jurisdiction of this Court is invoked under **28 U.S.C. §1257(a)** and **Rule 10(C)** of the Supreme Court of the United States. **28 U.S.C. §2403(b)** and **Rule 29(4)(c)** of the Supreme Court of the United States apply because **PETITIONER** is challenging the constitutionality of a Florida statute **and** the cases of its supreme court upholding its validity. Copy of this Petition for a Writ of CERTIORARI was served to the Attorney General of the State of Florida.

Petitioner respectfully requests that a Writ of CERTIORARI issue to review the judgments of the Florida Supreme Court.

In its opinions, the Florida Supreme Court *dismissed* **PETITIONER**'s **Writ of CERTIORARI; Writ of MANDAMVS**; and **Writ of Prohibition** seeking to disqualify and recuse Third District Court Chief judge Kevin Emas on the peculiar ground that it lacked jurisdiction on account that he issued **PER•CVRIAM affirmances without opinions (hereinafter "PCA").**

In so doing, the Florida Supreme Court violated **PETITIONER**'s **Access to Courts**, **Due Process**, and **Equal Protection** rights protected by the **First** and **Fourteenth Amendment to the United States Constitution**.

## CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

**United States Constitution. First Amendment**.

> Congress shall make no law...abridging...the right of the people... to petition the government for a redress of grievances.

**United States Constitution. Fourteenth Amendment, Section 1**.

> No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

**Florida Declaratory Judgment Statutes §§86.011 through 86.111**

**Florida Constitution, Article V, §3(b)(3)**: **[The Florida Supreme Court]** May review any decision of a district court of appeal that expressly declares valid a state statute, or that expressly construes a provision of the state or federal constitution, or that expressly affects a class of constitutional or state officers, **or that *expressly* and directly conflicts with a decision of another district court of appeal or of the supreme court on the same question of law.** [**emphasis**].

**Florida Constitution, Article V, §3(b)(7)**: **[The Florida Supreme Court]** May issue writs of prohibition to courts and all writs necessary to the complete exercise of its jurisdiction.

**Florida Constitution, Article V, §3(b)(8)**: **[The Florida Supreme Court]** May issue writs of mandamus and quo warranto to state officers and state agencies.

## STATEMENT OF THE CASE AND FACTS

In 1979 all but one of the justices of the Florida Supreme Court, went to the People bearing a gift[1]. The gift was the product of a most unnatural alliance between justices and legislators.[2] Justices, who ordinarily resist any attempt by the other two branches of government to limit their power, invited legislators to forsake the potholes in their constituents' streets in favor of enacting legislation limiting the power of the Court. The ostensible pretext for the improbable covenant was to reduce the Court's "staggering case load" which "had become almost intolerable." ***Jenkins v. State*, 385 So. 2nd 1356, 1358-9 (Fla. 1980).** This pretext was recycled from ***Lake v. Lake*, 103 So. 2d 639 (Fla. 1958).**

In ***Foley v. Weaver Drugs, Inc.*, 177 So. 2d 221 (1965)** the Florida Supreme Court decided that it had lied when it proclaimed that its case load would

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1 "I fear the Greeks, even those bearing gifts." **TIMEO•DANAOS•ET• DONA•FERENTIS•P•VERGILI•MARONIS•AENEIDOS•LIBER• SECVNDVS.** Beware of justices of a Supreme Court, even those bearing gifts. **CAVE•IVDICES•ET•DONA•FERENTIS. *Jenkins v. State*, 385 So. 2nd 1356, (Fla. 1980).**

2 "[T]here is no liberty if the judiciary power be not separated from the legislative and executive. Were it joined with the legislative, the life and liberty of the subject would be exposed to arbitrary control; for the judge would be then the legislator." ***De l'esprit des loix* (1748). Livre XI, Chapitre 6. Charles de Secondat, Baron de Montesquieu.**

become staggering and intolerable.[3, 4]

Enlisting the support of The Conference of Circuit Judges of Florida and the Appellate Judges' Conference, berobed cartels who have vested interests in preventing judicial review and discriminating against the cases brought by minorities and the poor; and adopting the politician's cant, the justices went about ***personally*** hawking their Amendment to the People.[5] Their vaunted "representations" made "to the public at large" that they were just proposing

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[3] Id. at 223-224. **"It appears...that in actual practice this court has not been relieved of any substantial portion of its workload by the policy announced in Lake case respecting per curiam decisions....[n]or is there any legal distinction between the effect of a per curiam decision without opinion, so that one is not entitled to and should not given any more ""verity"" than the other."**

[4] In essence, PETITIONER's ***Amended Petition for Declaratory Judgments for Constitutional Challenges*** is a **petition** to the Florida Supreme Court to return to the ***Foley*** régime.

[5] ***Jenkins* 1356-1365**. "Television appearances and radio spots were scheduled whenever possible for the ***justices supporting the amendment***..." **Id. at 1363**. Judges and justices coming to the bench by way of the ballot may not be considered politicians—***Williams-Yulee v. Florida Bar*, 135 S. Ct. 1656, 1662 (2015)**—, but Florida justices selling their spurious amendment to the People through the media and other outlets ***acted as***, and ***were*** politicians endowed with the qualities attributed to those involved in that occupation, not in their official capacities as members of the judiciary.

"to *modify* the jurisdiction of the Supreme Court"[6] were maliciously, criminally, and intentionally false. Mighty generous of these justices in Tallahassee, *then and now*, to surrender their power.[7]

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[6] ***Jenkins* at 1360-1365.** Justice Adkins, dissents with an opinion. ***The Extraordinary Remedy of Mandamus: A Creative Solution to Formidable Jurisdictional Hurdles***. David E. Wolff. Vol 90, No. 2 February 2016. Florida Bar Journal.

[7] Like Wolff, and Martin A. Dyckman, ***A Most Disorderly Court, Scandal and Reform in the Florida Judiciary* (2008 ed.), PETITIONER** discards the excuse that "ceding power to the district courts of appeal" prevented crooked Florida Supreme Court justices from "again reach[ing] down and snatch[ing] up cases," as they did on at least two occasions, "for political or monetary motives." ***The Extraordinary Remedy of Mandamus*, ibid. *Williams-Yulee v. Florida Bar*, 135 S. Ct. 1656, 1662-1663 (2015).**

Indeed, although his research is inconclusive and ongoing, and still premature to contemplate any legal recourse, **PETITIONER** has been noticing that, because trial and appellate court judges are chosen by certain ubiquitous law firms, not—according to the mythology, the People of Florida—, they are the ones now in a position "to offer improper favors" and obtain "favorable rulings on behalf" of those law firms and "political supporters."

Thus, the assumption "that an appeal to a district court of appeal" from an **indigent**, and **indigent PRO•SE Black or Hispanic party** "will receive earnest, intelligent, fearless consideration and decision" is cynical, at best. ***Lake v. Lake* at 643**. Appellate judges in Florida invariably favor the state and local governments and those law firms—who choose them for the bench—and issue them detailed ***written opinions***, and disdainfully **issue PER•CVRIAM affirmances without opinions only to the indigent, and indigent PRO•SE Black or Hispanic parties intentionally to eliminate the possibility of obtaining discretionary review for a Petition for a Writ of CERTIORARI to the Florida Supreme Court**.

But minorities and the poor knew exactly what "modifying jurisdiction" meant.

In 1957 racists Florida Supreme Court justices declared that they had "the right to exercise...sound judicial discretion"[8] to refuse to admit a Black man to the University of Florida College of Law because it would inconvenience racists.[9]

In 1980, racist and elitist Florida legislators, and Florida Supreme Court justices realized that if they omitted reference in their amendment to **fundamental rights**, and **suspect classes** like **Blacks**, **Hispanics**, other **minorities**, and the **poor**, that they would give cover to those racist and elitist justices and appellate judges ***in 1980, and since 1980***, to racist and elitist judges to bar them from discretionary jurisdiction to the Florida Supreme Court, and to allow the districts courts of appeals' judges to issue ***PER•CVRIAM affirmances without opinions***, **in the vast majority of cases**, to cases brought by **indigents**, and **indigent PRO•SE Black** and **Hispanic parties**.[10]

So, when the People of Florida went to vote in 1980 **the ballot** did not state

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[8] In ***The State of Florida Ex Rel. Virgil D. Hawkins, Relator v. Board of Control*, 93 So. 2d 354, 359-360 (Fla. 1957)**, the Florida Supreme Court's justices claimed that the United States Supreme Court did not have jurisdiction to force Florida to breach its ""fixed rules of practice and procedure."" *Id.* at 358. This is the same canard that the judiciary of Florida is employing against **PETITIONER**.

[9] ***Id.* at 359-360.**

**PRO•SE Black** and **Hispanic parties**.[11]

So, when the People of Florida went to vote in 1980 **the ballot** did not state what it really was: "**an amendment to bar access to the discretionary jurisdiction of the Supreme Court to the poor, and to poor Blacks, Hispanics**" but, "misleadingly and euphemistically": ***"Proposing an amendment to the State Constitution to modify the jurisdiction of the Supreme Court."***[12]

All but one of the justices had successfully deceived the People of Florida.[13]

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[10] "The PCA is the most common decision in the District Courts of Appeal of Florida." **Craig E., Leen. Without Explanation: Judicial Restraint, Per Curiam Affirmances, and the Written opinion Rule. FIU Law Review,** Vol. 12, Number 2 (2017), page 311. PCAs (including PCA with a citation which Also bar appeals to the Florida Supreme Court) issued by the five District Courts of Appeals of Florida average 70%. Ibid.

Just a perfunctory examination reveals that **PER•CVRIAM affirmances without opinions** (and PCAs with a citation which also bar appeals to the Florida Supreme Court) are issued **only** to **indigents**, and **indigent PRO•SE parties of Black and Hispanic descent**. The Third District Court of Appeal's website posts PCAs beginning in July 18, 2001.

[11] ***Jenkins* at 1363-5, Justice Adkins, dissenting.**

[12] ***Jenkins* at 1363-1364. *Justice Adkins*, dissenting.** "[In the Amendment] We find regression instead of progression...Given the complex nature of those procedures, few voters understand the issue."

[13] ***Jenkins* at 1359.** The justices mockingly commented: "With regard to review by conflict certiorari of per curiam decisions rendered without opinion, they were absolutely correct."

If there was any doubt about the discriminatory intent of the Amendment to **Florida Constitution Article V, §3(b)(3)** and ***Jenkins v. State*, 385 So. 2d 1356 (1980)** there was none left after a Judicial Management Council composed of ten Committee Members[14] met in 2000 to decide whether to modify or eliminate PER•CVRIAM affirmed decisions issued without opinions. The elephant in the room—the fact that minorities and the poor received the vast majority of PER• CVRIAM affirmances issued without opinions—was only addressed by the Public Defender in Exhibit H.[15, 16]

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[14] ***Judicial Management Council. Final Report and Recommendations. Committee on Per Curiam Affirmed Decisions, May 2000***. The Members were five District Court judges, one State Attorney, and one Assistant State Attorney, and one Assistant Public Defender, one Public Defender, and one Private Attorney. Seven gubmint officials deciding against three defenders of the indigent and minorities. It was going to be a close vote count.

[15] "PCAs diminish the appearance of fairness and meaningful access to courts." The Supreme Court of the United States has reviewed and reversed Florida PCAs **"perceiving significant constitutional issues worthy of comment."** (**emphasis**). She cited: ***Florida v. Rodriguez*, 469 U.S. 1 (1984)**; ***Ibanez v. Florida Department of Business and Professional Regulation Bd. of Accountancy*, 512 U.S. 136 (1994)**; ***Hobbie v. Unemployment Appeals Commission of Florida*, 480 U.S. 136 (1987)**; ***Brooks v. Florida*, 389 U.S. 413, 415 (1967)**; and ***Callender v. Florida*, 380 U.S. 519 (1965)**.

[16] In the landmark case ***Gideon v. Wainwright*, 372 U.S. 335 (1963)** this Court unanimously held that **indigent** defendants in criminal trials have the fundamental right to assistance of counsel protected by the Fourteenth Amendment to the Constitution of the United States. Incidentally, Gideon's appeal to the Florida

Second district court of appeal judge Monterey Campbel, III, Chairman of the Committee, expressed his dissatisfaction of the prose employed by the attorneys during the debates.[17, 18, 19]

After serious, contentious, and robust discussions, and deep thoughts and

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Supreme Court was denied "**without an opinion.**" **Id. at 227.**

[17] "Unfortunately, there have been some caught up in the fervor of their opposition to PCAs, who have voiced their opposition with what amounts to thinly disguised accusations of laziness at best, and malevolence and/or malfeasance at worst directed toward Florida's appellate judges."

[18] Judicial laziness was noted by none other than Thomas Jefferson, a man in the best position to evaluate judges because he observed the result of their work. "[T]he practice [by judges 'of developing their opinion methodically, and even of making up an opinion at all'] is certainly convenient, for the lazy the modeft & the incompetent." [emphasis]. ***Letter from Thomas Jefferson to William Johnson, 27 October 1822.*** **Johnson was an Associate Justice of the US Supreme Court from 1804 to 1834 nominated by Jefferson.**

[19] Since he cannot see appellate judges in Florida at their tasks, PETITIONER cannot possibly opine about their working habits. However, the historical record and the data from thousands of decisions by the district courts of appeal in Florida since 1980 are undisputable. **Since 1980** all justices of the Florida Supreme Court, except one, **and all the justices since then**, have been, and are **undistinguishable from racists and elitists**; and so are judges of all the district courts of appeal in Florida. Districts courts of appeal's certainly are not lazy regarding cases brought by certain law firms; they ***actively***, and **intentionally**, issue PCA without opinions to the appeals brought by minorities and the poor. **The facts are the facts**. Occasionally, they issue them a *citation* opinion which *also* bar them from invoking the discretionary jurisdiction to the Florida Supreme Court.

profound deliberations, the PCA Committee rejected the abolishment of PCAs.[20]

In December 5, 2017 **PETITIONER** José Yeyille, an indigent PRO•SE party of Hispanic descent, submitted an appeal to the Third District Court of Appeals of Florida against Armandina Acosta-Leon, Lisa Robertson, Asuncion Valdes, Egna Rivas, Alberto Carvalho, and The School Board of Miami-Dade County, Florida.

In May 2, 2018 a panel of the Third District Court of Appeal composed of judges Lagoa, Salter, and Kevin Emas issued a **PER•CVRIAM affirmance without opinion** to PETITIONER. **José Yeyille v. Armandina Acosta-Leon; *et al.* CASE No. 3D17-2605**. (Appx. 10).

In May 22, 2018 **that panel** denied **PETITIONER**'s motions for rehearing, clarification, and issuance of written opinion. (Appx. 9).

In May 31, 2018 the Florida Supreme Court denied his invocation of its discretionary jurisdiction to petition for a Writ of CERTIORARI pursuant to the authority of ***Jenkins v. State*, 385 So. 2d 1356 (Fla. 1980)** because the Third District Court of Appeal's decision is a **PER•CVRIAM affirmance without opinion**. ***José Yeyille v. Armandina Acosta-Leon; et al.* CASE NO.: SC18-845**. (App. 8).

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[20] ***Judicial Management Council***, page ix.

Upon learning about the lamentable background and genesis of the Amendment to **Article V, Section 3(b)(3) of the Florida Constitution**, the Florida Supreme Court's villainous ***Jenkins*** decision, and the ongoing and unremitting hatred against indigents, and indigent PRO•SE Black and Hispanic parties by the justices of that Court, and the judges of all the appellate courts of Florida since 1980, despite the protests of Florida attorneys at the ***Judicial Management Council. Final Report and Recommendations. Committee on Per Curiam Affirmed Decisions,*** in May 2000; and armed with these undisputable facts and data, and glorious jurisprudence, **PETITIONER** submitted an *All Writs* petition to the Florida Supreme Court challenging the constitutionality of the 1980 Amendment to the **Florida Constitution V, §3(b)(3)** and ***Jenkins v. State*, 385 So. 2d 1356 (1980)**, and petitioning that Court to declare both unconstitutional, overrule ***Jenkins***, and reinstate his invocation of its discretionary review for his Writ of CERTIORARI to review the Third District Court of Appeal's PER•CVRIAM affirmance without opinion.

In July 6, 2018 the Florida Supreme Court dismissed **PETITIONER**'s petition for all writs "for lack of jurisdiction because the petitioner has failed to cite an **independent basis** that would allow the Court to exercise its all writs authority and no such **basis** is apparent on the face of the petition." **(emphasis). José**

**Yeyille v. Armandina Acosta-Leon; *et al.* SC NO.: SC18-937.** (App. 7).

In July 9, 2018 **PETITIONER José Yeyille, an indigent PRO•SE man of Hispanic descent**, submitted in the Eleventh Circuit Court of Miami-Dade County his **Petition For Declaratory Judgments for Constitutional Challenges**, eventually amended to **Amended Petition For Declaratory Judgments For Constitutional Challenges pursuant to Florida Declaratory Judgment Statutes §§86.011 through 86.111, CASE No. 2018-22362** challenging the constitutionality of **Florida Constitution Article V, §3(b)(3)** and ***Jenkins v. State*, 385 So. 2d 1356 (1980)** because, since 1980, they have violated the *Equal Protection*, *Due Process*, and *Access to Court* rights of ***indigents***, and ***indigent* PRO•SE *Black and Hispanic parties*** protected by **Section 1 of the Fourteenth Amendment to the U.S. Constitution**, and **Article I, §§ 2, 9, and 21** of the Constitution of the state of Florida, ***and seeking injunctive and other related reliefs***:

In his **Amended Petition PETITIONER** "moved the court to take **judicial notice** of **all the opinions**—**especially all the PER•CVRIAM affirmances without opinions**—issued by **all** the District Court of Appeals of Florida, **particularly those of the Third District Court of Appeal**, since 1980.

**Amended Petition, pages 9-11, PETITIONER** requested:

"that this Court **declare unconstitutional** the **"expressly"** provision in the Constitution of the State of Florida, **Article V, §3(b)(3) "or that expressly and directly conflicts with a decision of another district court of appeal or of the supreme court on the same question of law"**; **and/or**

that this Court **declare unconstitutional Article V, §3(b)(3)** of the Constitution of the State of Florida in its entirety; **and/or**

that this Court **declare unconstitutional** the **"expressly"** provision in Florida Rule of Appellate Procedure 9.030(a)(2)(A)(iv); **and/or**

that this Court **declare unconstitutional PCAs** issued by the district courts of Appeals of Florida; **and/or**

that this Court order the Third District Court of Appeal to issue a **written opinion** in **PETITIONER**'s case, 3D17-2605; **and/or**

that this Court order the Third District Court of Appeal to reinstate and/or rehear **PETITIONER**'s case; **and/or**

that this Court order the Florida Supreme Court to reinstate and/or rehear **PETITIONER**'s case; **and/or**

that this Court overrule/abrogate ***Jenkins v. State*, 385 So.2nd 1356 (Fla. 1980), and/or**

that this Court overrule/abrogate ***Jenkins v. State*, 385 So.2nd 1356 (Fla. 1980)**

not only regarding **PETITIONER**'s Petition, but also ***retroactively*** to the year in which the Florida Constitution's **Article V, 3§(b)(3)** was enacted and ***Jenkins*** decided. **Norton v. Shelby County, 118 U.S. 425, 442 (1886):**

**"[A]n unconstitutional act is not a law; it confers no rights; it imposes no duties; it affords no protection; it creates no office; it is, in legal contemplation, as inoperative as though it had never been passed."**

**Citizen José** moves this Court **to enjoin** all the district courts of appeals in Florida—**especially and particularly the Third District Court of Appeal**—from issuing **PCAs**, and order them to issue only **written opinions.**

**PETITIONER** demands a jury trial pursuant to Florida Statute §86.071."

Copies of the **Petition** and **Amended Petition**, and compliance required by Florida Rules of Civil Procedure, and all **motions** and **appeals** required by Florida Rules of Appellate Procedure, were duly served to the **Attorney General of Florida**.

On this occasion, the parties are identical, but nominal. The ***actual party*** is ***the government***; **specifically, the judiciary of the state of Florida**. **It is a Petition against the government** pursuant to the **First Amendment to the U.S. Const. Amendment. 1, and Fla. Const. Article I, § 5**: ***Petition Clauses*** and **Florida Declaratory Judgment Statutes §§86.011 through 86.111**.

Intending further to clarify his already plain **standing** for the inevitable

appeals, in November 20, 2020, ten days before the oral hearing, **PETITIONER** submitted a motion to ***supplement*** his Amended Petition with a paragraph: "***At all relevant times Petitioner José Yeyille was, and is, an indigent pro•se Plaintiff of Hispanic descent.***"

At the hearing in December 1 judge Antonio Arzola dismissed PETITIONER's Amended Petition with prejudice, denied his motion to supplement it because it would be "futile", and bade opposing counsel Mr. Garcia to furnish his Proposed Order. That same day Mr. Garcia sent to **PETITIONER** the Proposed Order **PETITIONER** objected at once in writing. In December 2, **PETITIONER** formally submitted **both** his objection to the proposal requesting that "**the written final Order contain the court's legal authorities**" **and** his **Motion for Reconsideration of the Proposed Order** contending, INTER•ALIA, and to the point in the present PETITION, that the trial court was bound by the Florida Declaratory Judgment statutes to exercise jurisdiction, and that the power of the Florida Supreme Court "to determine the limits of the jurisdiction of its courts... is subject to the restrictions imposed by the Federal Constitution" citing ***McKnett v. St. Louis & S. F. Ry.*, 292 U.S. 230, 233 (1934)(This case and other authorities were included in the Amended Petition)**. That same day judge Arzola denied the Motion without prejudice.

In December 4, 2020 judge Arzola copied and pasted Mr. Garcia's Proposed Order to the final Order dismissing PETITIONER's **AMENDED PETITION** with prejudice without ***any*** mention of ***any*** legal authority[21], defiantly refusing to fulfill his constitutional and statutory duty to exercise the court's jurisdiction.

> "[**PETITIONER**] fails to state a claim upon which relief may be granted [***because it***] seeks to have this Court invalidate the rulings of the Third District Court and the Florida Supreme Court and to find that these courts violated his civil rights. **[Therefore], [t]his court has no jurisdiction over Plaintiff[22]'s purported constitutional claims or to provide the requested relief. [emphasis]**[Order of Dismissal with prejudice, page 1]. (Appx. 6).

In December 6, PETITIONER submitted his second Motion for Reconsideration restating his first Motion for Reconsideration and, in addition, wielding ***Davis v. Wechsler*, 263 U.S. 22, 24-25 (1923)** and ***Brown v. Western R. Co. of Alabama*, 338 U.S. 294, 298-299 (1949)** for the proposition that the trial court did not have discretion or power to refuse to rule on **PETITIONER**'s federal claims prominently pleaded and stated in his **Amended Petition** pursuant to Florida Declaratory Judgment statutes; and did not state any binding precedent

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[21, 23] Judge Arzola's dismissal of the **Amended Petition** is also factually baseless. **PETITIONER** has **never** brought constitutional challenges against Florida **in any federal court**. His erroneous reliance on RES•IVDICATA violated the Florida Supreme Court's clear command in ***Topps v. State*, 865 So. 2d 1253, 1254 (Fla. 2004): "[U]nelaborated denials entered in connection**

for the court's RES•IVDICATA Order[23] because there is not any.

In December 7, judge Arzola denied his second Motion for Reconsideration

In December 8, PETITIONER submitted a Notice of Appeal of the Order of Dismissal (Dec. 4) **and** second Motion for Reconsideration (Dec. 7).

In December 9, **PETITIONER** submitted his **Suggestion for Certification to the Florida Supreme Court of Florida** of an appeal that "requires immediate resolution...and is of great public importance and will have a great effect on the administration of justice throughout the state."

In May 26, 2021 a panel of the Third District Court of Appeal, composed of **Chief judge Emas**, Scales, and Gordo, *denied* **PETITIONER**'s **"Suggestion for Certification"** submitted in December 9, 2020 **3D20-1824. ORDER (OR999). [APPX. 5]**; and dismissed **PETITIONER**'s appeal with a **PER•CVRIAM affirmance without opinion**. May 26, 2021. **3D20-1824**. (App. 5).

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**with all extraordinary writ petitions filed in any Florida court shall not be considered decisions on the merits which would bar the litigant from presenting the same or a substantially similar issue on appeal or by a subsequent writ petition, or by other means, in the same or a different Florida court."**

[22] The trial court erroneously refers to **PETITIONER** as Plaintiff. The **PETITIONER** label is important because it defines his constitutional standing to claim rights protected by the Petition Clauses in the United States and Florida Constitutions in his Amended Petition.

In May 28, 2021 **PETITIONER** timely submitted a Motion for Rehearing, Certification of the question posed in his Suggestion for Certification to the Florida Supreme Court, and Written Opinion.

In May 31, 2021 PETITIONER timely submitted his Amended Motion for the Retroactive Disqualification of Chief Judge Kevin Emas, who had ruled on **PETITIONER**'s case pursuant to **United States Constitution, Fourteenth Amendment, Section 1 Due Process Clause**; Florida Constitution Article I, Section 9 Due Process; and Florida Rules of Judicial Conduct **CANONS 2, 2A, AND 3E(1)(b).**

In June 2, 2021 **Chief judge Emas**, Scales, and Gordo *denied* **PETITIONER**'s Pro se Amended Motion for the Retroactive Disqualification of of **Chief Judge Kevin Emas**; and denied **PETITIONER**'s pro se Motion for Rehearing, Certify Question of Great Public Importance, and for Written Opinion. June 2, 2021. No. 3D20-1824. **ORDER (OR57).** (Appx. 4).

In June 5, 2021 **PETITIONER** submitted to the Florida Supreme Court a **Petition for Emergency Writ of Prohibition seeking the disqualification and recusal of Chief judge Emas** on ***federal*** and state due process grounds.

In June 10, 2021 **PETITIONER** submitted to the Florida Supreme Court a Petition for Writ of MANDAMVS requesting that Court to command Judge

Arzola to obey his constitutional and statutory duty to rule on the constitutionality of **Florida Constitution Article V, §3(b)(3)** and ***Jenkins v. State*, 385 So. 2d 1356 (1980)**, and the Third District Court of Appeal to issue a written opinion because **PETITIONER**'s right (Petition Clause, Equal Protection, Due Process, and Access to Courts) to obtain a ruling on the constitutionality of those two provisions (which, to the best of his knowledge, may be an issue of *first impression*) had been flouted by the trial and appellate courts, and **PETITIONER** had no immediate remedy by appeal to correct their errors. His Petition for Writ of MANDAMVS was *denied* in June 14, 2021. **SC21-888.** because the appellate court had issued a **PCA**. (Appx 3).

In June 18, 2021 PETITIONER submitted a Notice of Appeal invoking the discretionary jurisdiction of the Florida Supreme Court for a petition for a Writ of CERTIORARI.

In June 21, 2021 that Court dismissed the Notice for lack of jurisdiction on account of ***Jenkins v. State*, 385 So. 2d 1356 (1980)**.(Appx2).

In August 18, 2021 the Florida Supreme Court dismissed **PETITIONER**'s **Petition for Emergency Writ of Prohibition seeking the disqualification and recusal of Chief judge Emas.**

## REASONS FOR GRANTING THE PETITION

The judiciary of the state Florida, from the trial court in the Eleventh Circuit Court, to the Third District Court of Appeal, to the Florida Supreme Court, has **refused** to decide important federal questions in a way that conflict with relevant decisions of this Court. **Sup. Ct. Rule 10(c)(2019). 28 U.S.C. §1257(a).**

From his **Amended Petition** in the trial court to the petitions and motions before the appellate court and Florida Supreme Court, **PETITIONER** José Yeyille has, **at all times, prominently and repeatedly presented his constitutional challenges to the Florida judiciary.**[24] He has duly **preserved all issues for all appeals**; and **this Petition for a Writ of CERTIORARI.**[25]

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[24] ***Webb v. Webb*, 451 U.S. 493, 501 (1981). *Bankers Life & Casualty Co. v. Crenshaw*, 486 U.S. 71, 76-82 (1988). *F. Hofpmann-La Roche, Ltd. v. Empagran, S.A.*, 542 U.S. 155, 175 (2004).**

[25] **[A] plaintiff must maintain a personal interest in the dispute *at every stage of litigation*, including when judgment is entered...and must do so ""separately for each form of relief sought."" [*emphasis*]. *Uzuegbunam, et al.v. Preczewski, et al.*, 592 U.S. ___ (2021)**, page 10.

## ARGUMENT

**PETITIONER** repeats and restates his Statement of the Case in this Petition for a Writ of CERTIORARI as if fully restated herein.

### I. ""WHATEVER SPRINGES THE STATE MAY SET FOR THOSE WHO ARE ENDEAVORING TO ASSERT RIGHTS THAT THE STATE CONFERS, THE ASSERTION OF FEDERAL RIGHTS, WHEN PLAINLY AND REASONABLY MADE, IS NOT TO BE DEFEATED UNDER THE NAME OF LOCAL PRACTICE"" [QUOTING *DAVIS V. WECHSLER*, 263 U.S. 22, 24 (1923)]. *BROWN V. WESTERN R. CO. OF ALABAMA*, 338 U.S. 294, 298-299 (1949).

PETITIONER submitted an Amended Petition for Declaratory Judgments for Constitutional Challenges under Florida Declaratory Judgment Statutes §§86.011 through 86.111[26, 27] challenging the constitutionality of **Article V, Section 3(b)(3)**

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[26] **Florida Statute §86.011** ***Jurisdiction of trial court.—The circuit*** and county ***courts have jurisdiction within their respective jurisdictional amounts to declare rights, status, and other equitable or legal relations whether or not further relief is or could be claimed.*** No action or procedure is open to objection on the ground that a ***declaratory judgment*** is demanded. ***The court's declaration may be either affirmative or negative in form and effect and such declaration has the force and effect of a final judgment.*** The court may render declaratory judgments on the existence, or nonexistence:

(1) Of any **immunity, power, privilege, or right**; or

(2) Of any fact upon which the existence or nonexistence of such ***immunity, power, privilege, or right does or may depend, whether such immunity, power, privilege, or right now exists or will arise in the future. Any person seeking a declaratory judgment may also demand additional, alternative, coercive, subsequent, or supplemental relief in the same action.***

**of the Florida Constitution** and ***Jenkins v. State*, 385 So. 2d 1356 (1980)**, and other reliefs including reinstatement of his invocation of the discretionary jurisdiction for a petition for a writ of certiorari to the Florida Supreme Court.

Trial court Antonio Arzola defiantly ***evaded*** **PETITIONER**'s constitutional challenges pursuant to the Fourteenth Amendment to the United States Constitution.[28, 29, 30] A panel of the Third District Court of Appeal

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**§86.021 Power to construe.**—***Any person*** claiming to be interested or who may be in doubt about ***his or her rights*** under a deed, will, contract, or other article, memorandum, or instrument in writing ***or whose rights, status, or other equitable or legal relations are affected by a statute, or any regulation made under statutory authority,*** or by municipal ordinance, contract, deed, will, franchise, or other article, memorandum, ***or instrument in writing may have determined any question of construction or validity arising under such statute,*** regulation, municipal ordinance, contract, deed, will, franchise, or other article, memorandum, or instrument in writing, ***or any part thereof, and obtain a declaration of rights, status, or other equitable or legal relations thereunder.*** **[*emphasis*]**

[27] "The Circuit Court is authorized to adjudicate the question of the constitutionality of a statute in a declaratory judgment proceeding." ***Rosenhouse v. 1950 Spring Term Grand Jury*, 56 So. 2d 445, 448 (Fla. 1952).**

[28] ***Amer. Ry. Exp. Co. v. Levee*, 263 U.S. 19, 21 (1923).**

[29] "[*A*] *state court whose ordinary jurisdiction as prescribed by local laws is appropriate for the occasion,* **may not refuse to entertain suits under [the Constitution of the United States]**." ***McKnett v. St. Louis & S. F. Ry.*, 292 U. S. 230, 233 (1934) [emphasis added].**

*affirmed* with a PCA without opinion, refused **PETITIONER**'s Suggestion to Certify the question of great public importance to the Florida Supreme Court, and his Motion for Rehearing, to issue a written opinion, and certify the question of great public importance.

The Florida Supreme Court *denied* **PETITIONER**'s Notice of Appeal to invoke its discretionary jurisdiction for his petitions for a Writ of CERTIORARI **because it lacked jurisdiction to review a PER•CVRIAM affirmance without opinion issued by a district court of appeal** under the authority of the case whose constitutionality **PETITIONER** is challenging: ***Jenkins v. State*, 385 So. 2d 1356 (1980)**. (José Yeyille v. Armandina Acosta-Leon, *et al.*, SC18-845 (May 31, 2018), and José Yeyille v. Armandina Acosta-Leon, *et al.*, SC21-931 (June 21, 2021).

Asserting the same ground, it *dismissed* his Petition to invoke **all writs jurisdiction** (José Yeyille v. Armandina Acosta-Leon, *et al.*, SC18-937 (July 6, 2018) relying on **Jenkins**' clone, St. Paul Title Ins. Corp. v. Davis, 392 So. 2d

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[30] **U.S. Const. Art. VI, Clauses 2-3: "Supremacy Clause".**
"[J]udges in every State shall be bound **[by federal laws]** thereby, anything in the Constitution or Laws of any State to the contrary notwithstanding." ***Howlett v. Rose*, 496 U.S. 356, 371 (1990)[emphasis]**.

1304, (Fla. 1980); his Petition for a Writ of MANDAMVS[31] to command the trial and appellate courts to rule on PETITIONER's constitutional challenges to **Article V, Section 3(b)(3) of the Florida Constitution** and ***Jenkins v. State*, 385 So. 2d 1356 (1980)**; and his **Petition for a Writ of Prohibition seeking to Disqualify Chief Judge Kevin Emas of the Third District Court of Appeal.**[32] (José Yeyille v. Armandina Acosta-Leon, *et al.*, SC21-858 (August 18, 2021).

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[31] Florida's ordinary jurisdiction (***McKnett***, SVPRA) for MANDAMVS for petitioners who are **not** issued **PCAs**, namely, those who are **not** indigent, and indigent PRO•SE Blacks and Hispanics is ***Kobayashi v. Kobayashi*, 777 So. 2d 951 (Fla. 2000)**: "To be entitled to a writ of mandamus, the petitioner must show a **clear legal right to the performance by the respondent of a particular duty**." (**emphasis**). In his Petition for the Writ of MANDAMVS, PETITIONER contended the same legal ground that he has contended since his Amended Petition for Declaratory Judgments for Constitutional Challenges in the trial court, that **no judge or justice in the State of Florida has discretion to evade ruling on constitutional challenges based on the United States Constitution**. ***Brown v. Western R. Co. of Alabama*, 338 U.S. 294, 298-299 (1949)**.

[32] Florida's ordinary jurisdiction (***Brown*** and ***McKnett***, SVPRA) to grant a Petition of Prohibition to disqualify a judge for petitioners who are **not** issued **PCAs**, namely, those who are **not** indigent, and indigent PRO•SE Blacks and Hispanics is ***Dickenson v. Parks*, 104 Fla. 577, 579 (Fla. 1932)**: **"It is settled law in this state that prohibition may be an appropriate remedy to prevent judicial action, when the judge is *disqualified*, as well as when the judge is without jurisdiction to act in the cause."** (**emphasis**). In his Petition for the Writ of Prohibition, PETITIONER contended that in ruling on the constitutionality of his previous **PCAs** issued to PETITIONER in May 2, and May 22 of 2018 (APPENDICES10 and 9) Chief Judge Kevin Emas violated PETITIONER's constitutional due process right to a fair trial. ***In re Murchison*, 349 U.S. 133, 136 (1955)**. See pages 36-39 (INFRA.).

After seceding from the United States, Florida was compelled to return to them in June 25, 1868. Since then, its judiciary has had a distinguished tradition of flouting this Court's commands and attempting to sabotage constitutional challenges on bogus grounds. In ***The State of Florida Ex Rel. Virgil D. Hawkins, Relator v. Board of Control*, 93 So. 2d 354, 358 (Fla. 1957)** the justices of the Florida Supreme Court held that the United States Supreme Court did not have jurisdiction to force Florida to breach its ""**fixed rules of practice and procedure.**"" Now it is doing it, again.

Therefore, **PETITIONER** respectfully requests that this Court order the judiciary of the State of Florida, including the Florida Supreme Court, to obey this Court's commands repeatedly stated in clear precedents, and rule on his constitutional challenges to **Article V, §§ 3(b)(3), 3(b)(7), and 3(b)(9) of the Florida Constitution** and ***Jenkins v. State*, 385 So. 2d 1356 (1980)** and **Grate v. State, 750 So. 2d 625 (Fla. 1999).**

**II.** WHETHER FLORIDA CONSTITUTION ARTICLE V, SECTION 3 (b)(3), *JENKINS V. STATE*, 385 SO. 2D 1356 (1980) AND *GRATE v. STATE*, 750 So. 2d 625 (Fla. 1999) INTENTIONALLY BAR REVIEW TO PETITIONS FOR WRITS OF CERTIORARI AND ANY OTHER WRIT TO THE FLORIDA SUPREME COURT TO **INDIGENTS AND INDIGENT PRO•SE BLACK AND HISPANIC PARTIES** IN VIOLATION OF THEIR ***EQUAL PROTECTION*** AND ***DUE PROCESS*** RIGHTS PROTECTED BY THE FOURTEENTH AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES AND ***ACCESS TO COURTS*** RIGHTS PROTECTED BY

THE FOURTEENTH AMENDMENT AND THE PETITION CLAUSE OF THE FIRST AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES.

**PETITIONER** repeats and restates his Statement of the Case in this Petition for a Writ of CERTIORARI as if fully restated herein.

**A. Whether PETITIONER can Petition the judiciary of the State of Florida to declare *unconstitutional* Florida Constitution Article V, §3(b)(3) and *Jenkins v. State*, 385 SO. 2D 1356 (1980).**

**Yes**.

"[T]he right to petition extends to all departments of the Government. The right of access to the courts is indeed but one aspect of the right of petition." ***California Transport v. Trucking Unlimited*, 404 U.S. 508, 510 (1972).** The courts are the third branch of the government. *Ibid.* In his Amended Petition submitted in the trial court, **PETITIONER** requested declaratory judgments regarding the constitutionality of **Florida Constitution Article V, §3(b)(3)** and ***Jenkins v. State*, 385 So. 2d 1356 (1980)** and injunctive reliefs.[33]

Although **PETITIONER**'s motivations in bringing these constitutional challenges to that constitutional provision and that villainous case are purely selfish, he is not unaware that their continued enforcement and the Florida

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[33] ***N.A.A.C.P. v. Button*, 371 U.S. 415 (1963).**

affect hundreds of thousands of **indigent**, and **indigent PRO•SE Black and Hispanic parties**. His advocacy is necessary, and is, and will be vigorous. [34, 35]

**Standing**

**PETITIONER** has standing to **petition**[36, 37, 38] the courts of Florida for

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[34] "[L]itigation may well be the sole practicable avenue open to a minority to petition for redress of grievances. ***Id.* at 429-430.**

[35] What was true in ***Button*** is true today. "Lawsuits attacking racial discrimination...are neither very profitable nor very popular...the problem is rather one of an apparent dearth of lawyers who are willing to undertake such litigation." *Id.* at 443. **Federal Rule of Civil Procedure 11**: **PETITIONER**'s "legal contentions are warranted by existing law... the factual contentions are warranted on the evidence."

[36] **United States Constitution, First Amendment.** "Congress shall make no law...abridging...the right of the people...to petition the Government for a redress of grievances." "[T]he Petition Clause protects the right of individuals to appeal to courts...established by the government for resolution of legal disputes. ""[T]he right of access to courts for redress of wrongs is an aspect of the First Amendment right to petition the government."" ***Borough of Duryea v. Guarneri*, 564 U.S. 379, 387 (2011). Florida Constitution, Article I, § 5.** "The people shall have the right....to petition for redress of grievances."

[37] **Florida Chapter 86 Declaratory judgments, §86.021 through §86.111.**

[38] **"The very idea of a government, republican in form, implies a right on the part of its citizens...to petition for a redress of grievances.... [T]he right is one that cannot be denied without violating those fundamental principles of liberty and justice which lie at the base of all civil and political institutions, — principles which the Fourteenth**

declaratory judgments for violations of his constitutional rights to Equal Protection, Due Process, and Access to the Courts inflicted by the Florida Supreme Court applying **Florida Constitution Article V, §§3(b)(3) and 3(b)(7)** in ***Jenkins v. State*, 385 So. 2d 1356 (1980)** and **Grate v. State, 750 So. 2d 625 (Fla. 1999)** to deny him the right to petition **any writ** to the Florida Supreme Court. ***Carney v. Adams*, 592 U.S. ___ (2020).** ***Uzuegbunam, et al. v. Preczewski, et al.*, 592 U.S. ___ (2021)**, page 10.

**PETITIONER** suffered an *actual* **injury in fact**[39] caused by the Florida Supreme Court when it twice denied its discretionary CERTIORARI jurisdiction to **PETITIONER** to review his case *because they are* PER•CVRIAM *affirmances without opinions* on account of **Florida Constitution Article V, §3(b)(3)** and ***Jenkins v. State*, 385 So. 2d 1356 (1980). [Amended Petition Constitutional Challenges, Appendix, Nov. 28, 2018][APPENDICES 1 and 2].**

**B. Whether the judiciary of the State of Florida can legally violate PETITIONER's federal constitutional rights to Equal Protection, Due Process, and Access to Courts.**

**No.**[40, 41, 42]

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**Amendment embodies in the general terms of its due process clause." *De Jonge v. Oregon*, 299 U.S. 353, 364 (1937).**

[39] ***Lujan v. Defs. of Wildlife*, 504 U.S. 555, 560 (1992). *Carney v. Adams*, 592 U.S. ___ (2020). *Baker v. Carr*, 369 U.S. 186, 204 (1962).**

### C. Florida Constitution Article V, §§3(b)(3), 3(b)(7), and 3(b)(8), *Jenkins v. State*, 385 So. 2d 1356 (1980) and *Grate v. State*, 750 So. 2d 625 (Fla. 1999) (Writs of CERTIORARI, MANDAMVS, and CERTIORARI) violate PETITIONER's Equal Protection, Due Process, and Access to Courts rights protected by Section 1 of the Fourteenth Amendment to the Constitution of the United States.

**PETITIONER** repeats and restates his Statement of the Case in this Petition for a Writ of CERTIORARI as if fully restated herein.

"In determining whether or not a state law violates the Equal Protection Clause, we must consider the facts and circumstances behind the law, the interests which the State claims to be protecting, and the interests of those who are disadvantaged

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[40] "The violation is none the less clear when that result is accomplished by the **state judiciary in the course of construing an otherwise valid...state statute ....The federal guaranty of due process [and equal protection] extends to state action through its judicial as well as through its legislative, executive or administrative branch of government." *Brinkerhoff-Faris Co. v. Hill*, 281 U.S. 673, 680 (1930) (emphasis)[emphasis added]**.

[41] **"The power of a State to determine the limits of the jurisdiction of its courts** and the character of the controversies which shall be heard in them **is... subject to the restrictions imposed by the Federal Constitution." *McKnett v. St. Louis & S. F. Ry.*, 292 U. S. 230, 233 (1934) (emphasis)**.

[42] "It is fundamental that state courts be left free and unfettered by us in interpreting their state constitutions. But it is equally important that ***ambiguous or obscure adjudications by state courts do not stand as barriers to a determination by this Court of the validity under the federal constitution of state action*." (*emphasis*) *Minnesota v. National Tea Co.*, 309 U.S. 551, 557 (1940)**.

by the classification." ***Williams v. Rhodes*, 393 U.S. 23, 30 (1968).**

The justices' ostensible concern about **"a staggering case load"** in the dockets of the Florida Supreme Court **was an ill-disguised, tired, and spurious pretext to achieve their true goal of closing its dockets, and those of the appellate courts, to the plight of minorities and the poor.** [Amended Petition].

The justices of the Florida Supreme Court had previously insisted

> **"that in actual practice this court has not been relieved of any substantial portion of its workload by the policy announced in Lake case respecting per curiam decisions....[n]or is there any legal distinction between the effect of a per curiam decision without opinion, so that one is not entitled to and should not given any more ""verity"" than the other." *Foley v. Weaver Drugs, Inc.*, 177 So. 2d 221, 233-224 (1965).**

The justices mocked the People ("With regard to review by conflict certiorari of per curiam decisions rendered without opinion, they [the People of Florida] were absolutely correct." ***Jenkins* at 1358-59 (1980).** This cynical and mocking statement about the gullibility of Florida voters are equivalent to the Colorado Civil Rights Commission's hostile and mocking statements against a person's religious beliefs in ***Masterpiece Cakeshop Ltd. V. Colo. Civil Rights Comm'n*, 138 S. Ct. 1719, 1729-1731 (2018).** The justices' mocking comment in ***Jenkins*** show lack of consideration for those they **intentionally** barred from the docket of the Florida Supreme Court: **minorities and the poor.**

If it was not abundantly evident then that they had planned to close the Florida Supreme Court's dockets to the minorities and the poor, **forty years** after the amendment was enacted the data **(all the opinions—especially all the PCA opinions**—issued by the District Court of Appeals of Florida, **particularly those of the Third District**, since 1980) [**Amended Petition**] establishes that the appellate courts **only PCA without opinion** the minorities and the poor.[42] It irrefutably establishes **beyond a reasonable doubt** that the justices of the Florida Supreme Court intended ***then***, and intend ***now*** for **PER•CVRIAM affirmances without opinions to be almost absolutely issued, and limited to, the parties who are poor, destitute, and minorities**.

Moreover, they intentionally ignored the objections of unfairness of **PCAs** discussed at the **Judicial Management Council: Final Report and Recommendations Committee on Per Curiam Affirmed Decisions (May, 2000).**

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[42] In his Motion for Rehearing of the District Court of Appeal's PCA without an opinion, PETITIONER ***restated*** his claims that the District Court of Appeal's PCA without opinion violated his Equal Protection and Due Process, and his Access to Courts rights. "The plaintiff seasonably filed a **petition for a rehearing in which he recited the above facts and asserted, in addition to his claims on the merits [that] in refusing relief...the court transgressed [his constitutional rights]...Already repeatedly stated, the additional federal claim thus made was timely, since it was raised at the first opportunity." *Brinkerhoff-Faris Co. v. Hill*, 281 U.S. 673, 677-678 (1930)[emphasis].**

"[A] clear pattern, ***unexplainable on grounds other than race***, emerges from the effect of the state action even when the governing legislation appears neutral on its face." ***Village of Arlington Heights v. Metropolitan Housing Development Corp.*, 429 U.S. 252, 266 (1977)(*emphasis*)**.

"Though the law itself be ***fair on its face and impartial in appearance***, yet, if it is ***applied and administered by public authority with an evil eye and unequal hand, so as practically similar circumstances, material to their rights,*** the denial of **equal justice** is still within the prohibition of the Constitution." ***Yick Wo v. Hopkins*, 118 U.S. 356, 373-374 (1886)(*emphasis*)**.

"Central both to the idea of the rule of law and to our own Constitution's guarantee of equal protection is the principle that government and each of its parts remain open on impartial terms to all who seek its assistance." 'Equal protection of the laws is not achieved through indiscriminate imposition of inequalities.'" ***Sweatt* v. *Painter*, 339 U.S. 629, 635 (1950) (quoting *Shelley v. Kraemer, 334* U. S. 1, 22(1948")). *Romer v. Evans*, 517 U.S. 620, 633 (1996).**

"A State is not required by the Federal Constitution to provide appellate courts or a right to appellate review at all... But that is not to say that a State that does grant appellate review can do so in a way that discriminates against some... defendants on account of their poverty." ***Griffin v. Illinois*, 351 U.S. 12, 18**

**(1956).**

"[D]isparate treatment has the effect of classifying appellants according to **wealth**, which, like race, is a **suspect classification**." ***Cruz v. Hauck*, 404 U.S. 59, 64-65 (1971) (emphasis)**.

**PETITIONER** requests that the court employ *heightened scrutiny* regarding the Florida Supreme Court's and the districts courts of appeals' intentional discrimination of **the poor** according to the criteria stated in ***Cleburne v. Cleburne Living Ctr.*, 473 U.S. 432, 442-5 (1985)**; in addition to ***strict scrutiny*** to their intentional discrimination of ***minorities***.[43, 44] **(Amended Petition)**

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[43] **Rose, Henry. The Poor as a Suspect Class under the Equal Protection Clause: An Open Constitutional Question, 34 Nova Law Review 407 (2010). (APPX. 10, Amended Petition, p. 13).**

[44] "Who are the poor?" In imagining the poor, racist stereotypes are usually not far beneath the surface. The poor are overwhelmingly assumed to be people of colour, whether African Americans or Hispanic "immigrants". The reality is that there are 8 million more poor Whites than there are poor Blacks. The face of poverty in America is not only Black or Hispanic, but also White, Asian, and many other backgrounds. According to the official poverty measures, in 2016, 12.7 percent of Americans were living in poverty, according to the supplemental poverty measure, the figure was 14 percent." **United Nations General Assembly. Human Rights Council: Report of the Special Rapporteur on Extreme Poverty and Human Rights on his mission to the United States of America (2018)**, page 6. **(APPX. 10, p. 13).**

[*Village*, *Yick Wo*, **and** *Griffin*].

"[A] provision of the Bill of Rights which is ""*fundamental and essential to a fair trial*"" is made obligatory upon the States by the Fourteenth Amendment." ***Gideon v. Wainwright*, 372 U.S. 335, 342 (1963)**. "A fair trial in a fair tribunal is a basic requirement of due process." ***In re Murchison*, 349 U.S. 133, 136 (1955)**.

***Jenkins*** and **Florida Constitution Article V, §3(b)(3)** intentionally abolished the former right of **indigent**, and **indigent PRO•SE Black and Hispanic parties** to invoke the discretionary jurisdiction for a Writ of CERTIORARI in the Florida Supreme Court for PER•CVRIAM affirmances issued without opinion. "A fair trial in a fair tribunal is a basic requirement of due process." ***In re Murchison*, 349 U.S. 133, 136 (1955)**.

Therefore, the Florida Supreme Court **violated** PETITIONER's constitutional rights to **Equal Protection, Due Process, and Access to Courts** protected by the United States Constitution when it **(APPENDICES 1 and 2)** refused to review his case on discretionary petition of CERTIORARI under the villainous authority of ***Jenkins*** and **Florida Constitution Article V, §3(b)(3)**.

**D. The Florida Supreme Court's dismissal of PETITIONER's Writ of MANDAMVS and Writ of Prohibition for lack of jurisdiction on account of the PER•CVRIAM affirmances without opinions issued by the appellate court violates PETITIONER's Equal Protection, Due Process, and Access**

**to Courts rights protected by Section 1 of the Fourteenth Amendment to the Constitution of the United States.**

The Florida Supreme Court dismissed PETITIONER's Writs of MANDAMVS (Appx. 2) and Prohibition (Appx. 1) for lack of jurisdiction on the ground that the appellate court issued **PCAs**. In addition, for reasons that cannot be understood by anyone except the Court that issued it, it dismissed PETITIONER's Writ of Prohibition because "(t)o the extent Petitioner seeks a writ of prohibition, the petition is hereby moot." (Appx. 1).

In the state of Florida "prohibition may be an appropriate remedy to prevent judicial action when the judge is disqualified." ***Dickenson v. Parks*, 104 Fla. 577, 579 (Fla. 1932).** It was for the **sole purpose of disqualifying Chief Judge Emas** on federal due process grounds that PETITIONER submitted his Writ of Prohibition.[45] It was timely and sufficient. ***In re Estate of Carlton*, 378 So. 2d 1212, 1216-17 (Fla. 1979).**[46]

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[45] ***In re Murchison*, 349 U.S. 133, 136 (1955). *William Cramp Sons v. Curtiss Turbine Co.*, 228 U.S. 645 (1913). *Rexford v. Brunswick-Balke Co.*, 228 U.S. 339 (1913). *Moran v. Dillingham*, 174 U.S. 153 (1899). *Aetna Life Insurance Co. v. Lavoie*, 475 U.S. 813, 820 (1986).**

[46] "[E]ach justice must determine for himself both the legal sufficiency of a request seeking his disqualification and the propriety of withdrawing in any particular circumstances." Id. 1216-1217.

It is a mystery what caused PETITIONER's Writ of Prohibition to become moot. "[A] case is moot when the issues presented are no longer 'live' or the parties lack a legally cognizable interest in the outcome...**[even] [w]here one of the several issues presented becomes moot, the remaining live issues supply the constitutional requirement of a case or controversy**." ***Powell v. McCormack***, 395 U.S. 486, 496-497 (1969)[**emphasis**](**emphasis**).

The Supreme Court should have been frank and stated the real reason why it refused to review PETITIONER's Writ of Prohibition, the same reason it dismissed his writs of CERTIORARI and writ of MANDAMVS, the same reason it dismisses all petitions for these writs submitted by **indigent**, and **indigent PRO•SE Black** and **Hispanic parties**, because the trial and appellate judiciary of the state of Florida exclusively afford **indigent**, and **indigent PRO•SE Black** and **Hispanic parties** the privilege of receiving **judgments without legal authorities** and **PER•CVRIAM affirmances without opinions**; because forty-one years ago racist and elitist justices decided to bar access to the Supreme Court to **indigents**, and **indigent PRO•SE Black** and **Hispanic parties** instead of confronting their felonious conduct and racism. **(*Jenkins v. State*, 385 So. 2d 1356 (1980)**. Dyckman, Martin A. A Most Disorderly Court, Scandal and Reform in the Florida Judiciary (2008 ed.). ***Williams-Yulee v. Florida Bar,***

**135 S. Ct. 1656, 1662 (2015).** ***The State of Florida Ex Rel. Virgil D. Hawkins, Relator v. Board of Control*****, 93 So. 2d 354 (Fla. 1957)).** (SVPRA).

## CONCLUSION AND RELIEF SOUGHT

In consideration of the foregoing, **PETITIONER** respectfully urges this Court:

—to grant his Petition for a Writ of CERTIORARI kindly to compel the judiciary of the state of Florida, and **the Florida Supreme Court** in particular, to rule on the constitutionality of **Florida Constitution, Article V§§3 (b)(3), 3(b)(7),** and **3(b)(8), *Jenkins v. State*, 385 So. 2d 1356 (1980),** and ***Grate v. State*, 750 So. 2d 625 (Fla. 1999)—*Jenkins*'** clone—requested in PETITIONER's Amended Petition for Declaratory Judgments for Constitutional Challenges to Florida Constitution Article V, §3(b)(3) and *Jenkins v. State*, 385 So. 2d 1356 (1980); and **this Petition for Writ of Certiorari to the United States Supreme Court**.

__to grant his Petition for a Writ of CERTIORARI kindly to compel the Florida Supreme Court to review PETITIONER's writs of CERTIORARI, Writ of MANDAMVS, and Writ of Prohibition.

—In addition, **PETITIONER** respectfully requests that this Court grant him any, and all other relief as this Court may deem just and appropriate.

**Date:** August 23, 2021

Respectfully submitted,

JY

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