No. 21-5577 ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES

TERRY DARNELL ANDERSON – PETITIONER

vs.

SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS; and
ATTORNEY GENERAL, STATE OF FLORIDA – RESPONDENTS

On Petition for Writ of Certiorari to
The United States Court of Appeals for the 11th Circuit

PETITION FOR WRIT OF CERTIORARI

Submitted by:

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QUESTION PRESENTED

1. Does the cumulative error doctrine in the context of an ineffective assistance of counsel claim apply whereby individual errors, insufficient to necessitate a new trial, may in the aggregate deny a petitioner his right to a fair trial and his right to the effective assistance of counsel (Sixth Amendment) and to due process of law (Fourteenth Amendment)?

   Various Circuit Courts of Appeal claim that this Honorable Court has never addressed this particular claim, making it an issue of first impression.

   The lack of any guidance on this claim from this Court has resulted in disparate treatment of such claims by the various circuit courts, with one circuit court holding this claim is not cognizable in a federal petition.

LIST OF PARTIES

____ All parties appear in the caption of the case on the cover page.

X 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:

Anderson, Terry	Appellant/Petitioner/Defendant
Chinquina, Donald	Reg. Conflict Counsel (Trial Attorney)
Cline, Susan D.	Asst. Public Defender (Direct Appeal)
Day, Jennifer	Asst. State Attorney (Trial Prosecutor)
Harrison, Bruce	Asst. State Attorney (3.850 Response)
Hernandez, Marc B.	Asst. Attorney General (Fed Habe)
Hunt, Alan	Asst. Public Defender (Pre-Trial Counsel)
Kenny, Sue-Ellen	Asst. Attorney General (Direct Appeal)
Reid, Hon. Lisette	U.S. Magistrate Judge (Fed Habe)
Rosenberg, Hon. Robin	U.S. District Judge (Fed. Habe)
Sweet, Hon. Gary L.	Judge (3.850 Motion)
Tringali, Joseph A.	Asst. Attorney General (Direct Appeal)
Vaughn, Hon. Dan	Judge (Trial/Sentencing)
Volpi, James	Reg. Conflict Counsel (Trial Attorney)

RELATED CASES

- *Anderson v. State of Florida*, No. 56-2009-CF-001510-A, 19th Judicial Circuit Court, in and for St. Lucie County, Florida. Judgment entered November 18, 2010. (Trial).

- *Anderson v. State of Florida*, No. 4D10-5011, Fourth District Court of Appeal, West Palm Beach, Florida. Opinion entered January 16, 2013. Mandate issued February 15, 2013. (Direct Appeal).

- *Anderson v. State of Florida*, No. 4D10-5011, Fourth District Court of Appeal, West Palm Beach, Florida. Summary denial order on the merits entered September 6, 2013. (Rule 9.141(d) Petition Alleging Ineffective Assistance of Appellate Counsel).

- *Anderson v. State of Florida*, No. 56-2009-CF-001510-A, 19th Judicial Circuit Court, in and for St. Lucie County, Florida. Summary denial order on the merits entered December 7, 2017. (Rule 3.850 Motion for Postconviction Relief).

- *Anderson v. State of Florida*, No. 4D18-0281, Fourth District Court of Appeal, West Palm Beach, Florida. Opinion entered June 7, 2018. Rehearing denied July 27, 2018. Mandate issued August 17, 2018. (3.850 Motion Appeal).

- *Anderson v. Secretary, Florida Department of Corrections, et al.*. No. 2:18-cv-14288-LR-RLR, U.S. District Court for the Southern District of Florida. Magistrate's Report issued March 18, 2020. Judgment adopting Magistrate's Report entered on June 5, 2020. (Petition for Writ of Federal Habeas Corpus).

- *Anderson v. Secretary, Florida Department of Corrections, et al.*, No. 20-12451-G, U.S. Court of Appeals for the Eleventh Circuit. COA denied February 12, 2021. Motion for Reconsideration denied March 31, 2021.

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X For cases from **Federal** courts:

The opinion of the 11th U.S. Circuit Court of Appeals appears at **Appendix A-B** to the petition and:

[ ] reported at _____.

[ ] has been designated for publication but is not yet reported; or

[**X**] is unpublished.

The opinion of the United States District Court appears at **Appendix C-D** to the petition and is:

[**X**] reported at *Anderson v. Inch, Secr. Fla. Dept. of Corr.*, 2020 U.S. Dist. LEXIS 48833 (S.D. (Fla.) 2020) (Magis. R&R Adopted).

[ ] has been designated for publication but is not yet reported; or

[ ] is unpublished.

JURISDICTION

This Honorable Court has jurisdiction under Title 28 U.S.C. §1254(1) to rule on this petition and to review the final judgment rendered on March 31, 2021 via the Eleventh U.S. Circuit Court Order Denying Petition for Reconsideration on the denial of an issuance of a Certificate of Appealability. U.S. Supreme Court Rule 13 holds that a petition for a writ of certiorari to review a judgment issued by a United States Court of Appeals in a criminal case is timely when filed with the Clerk within 90 days after entry of the judgment. A March 19, 2020 U.S. Supreme Court Order extended the filing deadline of a petition for a writ of certiorari to 150 days (in this case, on or before August 30, 2021 since August 28th falls on a Saturday).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Constitutional Issues Involved

The Sixth Amendment of the U.S. Constitution provides as follows:

> "In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defense."

The Fourteenth Amendment of the U.S. Constitution provides, in pertinent part, as follows:

> "No State shall make or enforce any law which will 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 the law; nor deny any person within its jurisdiction the equal protection of the laws."

STATEMENT OF THE CASE

The Petitioner, Terry Darnell Anderson, was charged along with co-defendant Artez Anderson with Count 1 Trafficking in Cocaine (400 grams or more), Count 2 Conspiracy to Sell or Deliver Cocaine, and Count 3 Unlawful Use of a Two-Way Communications Device. Prior to trial, the State dropped Count 2. At the September 29, 2010 trial, the jury found the Petitioner guilty of the remaining counts. On November 18, 2010, as to Count 1, the trial judge sentenced Anderson to Life in prison as a Habitual Felony Offender ("HFO") and to ten years in prison as to Count 3.

In December 2013, the Petitioner filed a timely Fla.R.Crim.P. Rule 3.850 Motion for Postconviction Relief containing four grounds of individual ineffective assistance of counsel ("IAC"), and a fifth claim of cumulative error. The four individual claims of IAC were:

1. IAC for failing to seek an expert to authenticate the videotape of the instant drug transaction presented as evidence at trial.
2. IAC for failure to impeach the Confidential Informant's trial testimony with prior inconsistent statements from his pre-trial deposition.
3. IAC for failure to investigate and present an entrapment defense at trial.
4. IAC for making closing argument for acquittal based on an entrapment defense theory whereby he presented no such evidence at trial.

In this instant case, the government used a Confidential Informant (Kenneth Pyle) that was working towards reducing his own sentencing exposure in a criminal case in exchange for setting up drug buys as part of a government sting operation. The government alleged that the Petitioner served as a "go-between" involving the sale of a trafficking amount of cocaine from co-defendant Artez Anderson to Kenneth Pyle. Police captured the drug sale on videotape. In his first 3.850 claim, Anderson claimed in his motion that he never had possession of the cocaine

as reflected in the actual videotape recording, and that the two recordings from different angles used as evidence at trial by the State was tampered with to reflect the Petitioner handling the package containing cocaine. It was the actual handling of the package that the government used to argue that Anderson was directly involved in the sale as opposed to being just a conspirator, resulting in an increased level of offense and punishment. In his second 3.850 claim, Anderson cited specific instances whereby Defense Counsel should have impeached CI Kenny Pyle's trial testimony with inconsistent statements from his pre-trial deposition. These included CI Pyle's testimony as to: (1) where the drugs were actually placed by the CI in the car (i.e. the glove box or the back seat); (2) what kind of vehicle Anderson drove to the drug transaction; and (3) who actually did what during the alleged drug transaction. Since Defense Counsel knew that Anderson was not testifying at trial, impeachment of the State's key witness testifying as to Anderson's direct involvement in this drug transaction was critical for an acquittal. Claim Three in Anderson's 3.850 motion argued that the CI in this case entrapped Anderson into this transaction by: (1) initiating and engaging Anderson in the alleged pre-deal phone conversations about "boat motors"; (2) telling Anderson to make sure he was present at Pyle's drug deal made with Co-defendant Artez Anderson; and (3) luring Anderson into the vehicle so that Pyle could also implicate Anderson's involvement in this drug transaction. However, Defense Counsel never discussed with Anderson the use of an entrapment defense theory at trial. In his fourth IAC claim in his 3.850 motion, Anderson argued that that despite presenting no evidence of an entrapment defense theory during trial, Counsel argued in closing argument that the evidence at trial proved that the CI unlawfully enticed and entrapped the Petitioner into being a participant in this drug deal. All grounds were raised as violations of Anderson's U.S. constitutional rights.

Anderson's Postconviction Claim Involving the Cumulative Error Doctrine

Anderson's fifth and final Ground 5 of his State Rule 3.850 motion claimed that the cumulative effect of the four cited errors served to equate to constitutionally ineffective counsel. The Florida Supreme Court has held "Where multiple errors are discovered in a jury trial, a review of the cumulative effect of those errors is appropriate because even though there was competent substantial evidence to support a verdict and even though each of the alleged errors, standing alone, could be considered harmless, the cumulative effect of such errors may be such as to deny to defendant the fair and impartial trial that is the inalienable right of all litigants in Florida and the United States" (see *McDuffie v. State*, 970 So. 2d 312 (Fla. 2007)). See also *State v. Dougan*, 202 So.3d 363 (Fla. 2017) ("This Court has recognized under unique circumstances that where multiple errors are found, even if they are individually harmless, the cumulative effect of such errors can deprive a defendant of the fair and impartial trial that is the inalienable right of all litigants (citing to *Jackson v. State*, 575 So. 2d 181, 189 (Fla. 1991). Where several errors are identified, the Court "considers the cumulative effect of evidentiary errors and ineffective assistance claims together" (quoting *Suggs v. State*, 923 So. 2d 419, 441 (Fla. 2005)").

The record in this case reflects that Defense Counsel never investigated the authenticity of the State's videotapes of the drug transaction used as evidence at trial. The record reflects Counsel's ineffective cross-examination of the Confidential Informant at trial despite available impeachment of this key witness by use of his prior inconsistent statements made during Pyle's pre-trial deposition. The record reflects Counsel's use of an "attack the State's evidence" defense at trial versus the obvious and available entrapment defense theory the Petitioner would

have used at trial, had Anderson been properly consulted and advised by counsel. Finally, the record reflects that likely due to the knowledge that his defense theory used at trial was ineffective, Defense Counsel tried to argue in closing statements that the CI had entrapped Anderson despite offering no readily available evidence to support that theory. Anderson argued that while the State and Federal review courts offered rebuttals claiming the harmless effect of each error when considered individually, they denied relief on the claim that the prejudicial effect that all of these errors happening in one trial affected the confidence in the outcome.

The federal District Court in this case denied this claim with the opinion that the trial counsel's alleged errors in this case "neither individually nor cumulatively infused the proceedings with unfairness as to deny the movant a fundamentally fair trial" (see *Anderson v. Inch, Secr. Fla. Dept. of Corr.*, 2020 U.S. Dist. LEXIS 48833 * LEXIS 35 (S.D. (Fla.) 2020)). The Court cited to *Fuller v. Roe*, 182 F.3d 699, 704 (9th Cir. 1999) (holding in federal habeas corpus proceeding that where there is no single constitutional error existing, nothing can accumulate to the level of a constitutional violation). *Anderson, id.* * LEXIS 35. Anderson argues that while each of his four State postconviction grounds involving trial counsel's errors were denied individually, the errors were proven in each 3.850 motion ground but held to be harmless. There is an important differentiation between saying no errors existed, versus saying errors did exist, but each one standing alone did not rise to the level of prejudice sufficient to warrant a new trial. In the first instance, there can be no relief where there are no errors. However, in the second instance, the impact of each proven error should be considered for the cumulative impact they had on the fairness of the overall trial or legal proceeding. At some point, several little things add up to one big thing requiring a new trial. However, there has been no guidance on how to assess the cumulative error doctrine by this Honorable Court.

REASONS FOR GRANTING THE PETITION

Does the cumulative error doctrine in the context of an ineffective assistance of counsel claim apply whereby individual errors, insufficient to necessitate a new trial, may in the aggregate deny a petitioner his right to a fair trial and his right to the effective assistance of counsel (Sixth Amendment) and to due process of law (Fourteenth Amendment)?

A. The 11th U.S. Circuit Court of Appeals has decided this important federal question in an erroneous manner due to the lack of any guidance from the U.S. Supreme Court

In their February 12, 2021 Order (see **Appx. B**), the 11th U.S. Circuit Court affirmed the U.S. District Court decision not to issue a certificate of appealability. The Appeal Court simply concluded that in each of his Federal claims involving ineffective assistance of counsel, Anderson failed to make the requisite showing for relief without ever addressing directly the Petitioner's claim of cumulative error. However, in *Forrest v. McNeil*, 342 Fed. Appx. 560, 564-565 (11th Cir. 2009) the 11th Circuit held, "The Supreme Court has not directly addressed the applicability of the cumulative error doctrine in the context of an ineffective assistance of counsel claim. However, the Supreme Court has held, in the context of an ineffective assistance of counsel claim, that 'there is generally no basis for finding a Sixth Amendment violation unless the accused can show how specific errors of counsel undermined the reliability of the finding of guilt' (citing to *United States v. Cronic*, 466 U.S. 648, 959 n.26, 104 S.Ct. 2039, 80 L.Ed.2d 657 (1984))." In *Forest, id.* at 565, the 11th Circuit relied on *Parker v. State*, 904 So.2d 370, 380 (Fla. 2005) holding "[W]here the individual claims of error are alleged ... without merit, the claim of cumulative error also necessarily fails." The 11th Circuit Court concluded, "In light of *Cronic*, and the absence of Supreme Court precedent applying the cumulative error doctrine to claims of ineffective assistance of counsel, the State court's holding is not contrary to or an

unreasonable application of clearly established federal law" (see *Forest, id.* at 565) (emphasis added).

Anderson contends that the 11th Circuit Court's citing of *Parker, id.* is too narrow in its focus and that it ignores the Florida Supreme Court in *State v. Dougan*, 202 So.3d 363 (Fla. 2017) ("This Court has recognized under unique circumstances that where multiple errors are found, even if they are individually harmless, the cumulative effect of such errors can deprive a defendant of the fair and impartial trial that is the inalienable right of all litigants (citing to *Jackson v. State*, 575 So. 2d 181, 189 (Fla. 1991). Where several errors are identified, the Court "considers the cumulative effect of evidentiary errors and ineffective assistance claims together" (quoting *Suggs v. State*, 923 So. 2d 419, 441 (Fla. 2005)").

Anderson argues that it is incorrect to hold that if individual ineffective assistance of counsel errors are proven, but do not individually merit a new trial, then "the contention of cumulative error is similarly without merit." This premise is only valid if a petitioner's individual claims are not proven to be true by the State courts. Holding otherwise denies a petitioner federal review of the cumulative error doctrine regard ineffective assistance of counsel claims that are proven, but whereby the prejudice from each error is not strong enough to warrant a new trial. In Anderson's instant case, U.S. District Court denied this claim citing *Fuller v. Roe*, 182 F.3d 699, 704 (9th Cir. 1999) (holding in federal habeas corpus proceeding that where there is no single constitutional error existing, nothing can accumulate to the level of a constitutional violation). *Anderson, id.* * LEXIS 35. For the reasons above, Anderson avers that this ruling is too narrow and in error warranting this Honorable Court to accept jurisdiction over the issue.

B. The 11th U.S. Circuit Court of Appeals has entered a decision in conflict with other United States Court of Appeals on the same important matter due to the lack of direction from this Court.

The Petitioner argues that this Court needs to accept jurisdiction over this issue not only due to the national importance of the matter at hand, but also because the various Circuit Court of Appeals across the nation are treating this issue in a widely disparate manner. The following case excerpts make Anderson's point:

First Circuit: "We have previously accepted the "theoretical underpinnings" of such a cumulative error claim – namely, 'that [i]ndividual errors, insufficient in themselves to necessitate a new trial, may in the aggregate have a more debilitating effect' (see *United States v. Sepulveda*, 15 F.3d 1161, 1195-96 (1st Cir. 1993)). In examining such claims, we weigh the trial errors 'against the background of the case as a whole, paying particular weight to factors such as the nature and number of the errors committed; their interrelationship, if any, and combined effect; how the district court dealt with the errors as they arose (including the efficacy – or lack of efficacy – of any remedial efforts); and the strength of the government's case.' *Id.* at 1196. (see *U.S. v. Delgado-Marrero*, 2014 U.S. App. LEXIS 2587 * LEXIS 119 (1st Cir. 2014)).

Second Circuit: "The Supreme Court has repeatedly recognized that the cumulative effect of a trial court's errors, even if they are harmless when considered singly, may amount to a violation of due process requiring reversal of a conviction" (citing to *Taylor v. Kentucky*, 436 U.S. 478, 487 n.15 (1978); and *Chambers v. Mississippi*, 410 U.S. 284, 302-03 (1973))…. The "cumulative unfairness doctrine is also firmly embedded in this Circuit's

precedents") (see *U.S. v. Al-Moayad*, 2008 U.S. App. LEXIS 20794 * LEXIS 101-02 (2nd Cir. 2008)).

Third Circuit: "Like our sister courts, we do not "simply count [ ] up the number of errors discovered' (see *Grant v. Trammell*, 727 F.3d 1006, 1025 (10th Cir. 2013). There are two ways that errors that are not individually reversible can become so cumulatively. First, *related* errors can have 'an inherent synergistic effect', in which 'they amplify each other in relation to a key contested issue in the case' (see *Cargle v. Mullin*, 317 F.3d 1196, 1221 (10th Cir. 2003); and see *Ybarra v. McDaniel*, 656 F.3d 984, 1001 (9th Cir. 2011)). Second, even if there is no synergy, 'accumulating *unrelated* errors' can still warrant reversal 'if their probabilistic sum sufficiently undermines confidence in the outcome of the trial' *Grant, id.* at 1026 (10th Cir. 2013)). In other words, even if the errors do not multiply, they can still add up to prejudice" (see *U.S. v. Greenspan*, 2019 U.S. App. LEXIS 11231 * LEXIS 31-32 (3rd Cir. 2019)).

Fourth Circuit: "Pursuant to the cumulative error doctrine, the cumulative effect of two or more individually harmless errors has the potential to prejudice a defendant to the same extent as a single reversible error (See *United States v. Hager*, 721 F.3d 167, 204 (4th Cir. 2013) cert. denied, 134 S.Ct. 1936 (2014)). Generally, if a court 'determine[s] ... that none of [a defendant's]claims warrant reversal individually,' it will 'decline to employ the unusual remedy of reversing cumulative error (see *United States v. Fields*, 483 F.3d 313, 362 (5th Cir. 2007))" (see *U.S. v. Duarte*, 2014 U.S. App. LEXIS 15614 * LEXIS 8-9 (4th Cir. 2014)).

Fifth Circuit: "Under the doctrine of cumulative error, 'an aggregation of non-reversible errors ... can yield a denial of the constitutional right to a fair trial, which calls for reversal' (see *United States v. Delgado*, 672 F.3d 320, 343-44 (5th Cir. 2012)). Reversal is justified when the errors, considered cumulatively, violate the trial's fundamental fairness. *Id.* Though this is possible in theory, arguments for cumulative error are 'practically never found persuasive" (citing *United States v. De Nieto*, 922 F.3d 669, 681 (5th Cir. 2019) (see *U.S. v. Nicholson*, 2020 U.S. App. LEXIS 16963 * LEXIS 23 (5th Cir. 2020)).

Sixth Circuit: "In any event, claims of cumulative error are not cognizable on federal habeas review (citing to *Moore v. Parker*, 425 F.3d 250, 256 (6th Cir. 2005). Jurists of reason could not disagree with the district court's dismissal of Moody's cumulative error claim" (see *Moody v. Harris*, 2020 U.S. App. LEXIS 27296 * LEXIS 10-11 (6th Cir. 2020)).

Seventh Circuit: "Cumulative errors, while individually harmless, when taken together can prejudice a defendant as much as a single reversible error and violate a defendant's due process of law (see *United States v. Allen*, 269 F.3d 842, 847 (7th Cir. 2001)). To establish cumulative error a defendant must show that '(1) at least two errors were committed in the course of a trial; and (2) considered together along with the entire record, the multiple errors so infected the jury's deliberation that they denied the petitioner a fundamentally fair trial' *Id.* at 847 (quoting *Alvarez v. Boyd*, 225 F.3d 820, 824 (7th Cir. 2000))" (see *U.S. v. Marchan*, 2019 U.S. App. LEXIS 24083 * LEXIS 14-15 (7th Cir. 2019)).

Eighth Circuit: "We may reverse on the basis of cumulative error only where the case as a whole presents the image of unfairness resulting in the deprivation of the defendant's

constitutional rights, even though none of the claimed errors is itself sufficient to require reversal (citing to *United States v. Baldenegro-Valdez*, 703 F.3d 1117, 1124-25 (8th Cir. 2013)) (see *U.S. v. Anderson*, 783 F.3d 727 (8th Cir. 2015)).

Ninth Circuit: "In reviewing for cumulative error, the court must review all errors preserved for appeal and all plain errors (see *U.S. v. Necoechea*, 986 F.2d 1273, 1282 (9th Cir. 1993))…. Cumulative error warrants habeas relief where the errors 'so infected the trial with unfairness,' *Donnelly v. DeChristoforo*, 416 U.S. 637, 643 (1974), as to have a 'substantial and injurious effect or influence in determining the jury's verdict' (see *Brecht v. Abrahamson*, 507 U.S. 619, 637 (1993))" (see *Clark v. Chappell*, 936 F.3d 944, 993 (9th Cir. 2019)).

Tenth Circuit: "the district court noted the absence of a Supreme Court case recognizing the concept of cumulative error, but further held that in any event, Wyatt had not established any errors that could be evaluated cumulatively. We have held that 'when a habeas petitioner raises a cumulative error argument under due process principles the argument is reviewable because Supreme Court authority clearly establishes the right to a fair trial and due process' (citing *Bush v. Carpenter*, 926. F.3d 644, 686 (10th Cir. 2019), petition for cert. filed, No. 19-7455 (U.S. Jan. 28, 2020). To be entitled to cumulative error review, however, a petitioner must establish 'two or more actual errors;' such review 'does not apply … to the cumulative effect of non-errors" (citing *Cuesta-Rodriguez v. Carpenter*, 916 F.3d 885, 915 (10th Cir. 2019)" (see *Wyatt v. Crow*, 2020 U.S. App. LEXIS 14261 * LEXIS 12 (10th Cir. 2020)).

In summary, some circuit courts believe that you have issued guidance on the concept of the cumulative error doctrine, while most cite a lack of any opinion by this Honorable Court on the issue. Some circuit courts hold that if each of a petitioner's individual claims of ineffective assistance of counsel fail there can be no cumulative effect, and they forego any review under the cumulative error doctrine. Some circuit courts divide the individual claims of ineffective assistance of counsel into "proven errors" and "unproven errors," and offer review under the cumulative error doctrine to the "proven errors." Some circuit courts further divide the proven errors into "related" to each other, and "unrelated errors," and then apply the cumulative error doctrine to each sub-category. In stark contrast to all other circuit courts, the 6th U.S. Circuit Court of Appeals hold that claims of cumulative error involving ineffective assistance of counsel claims is not cognizable in a federal habeas petition. Such holding means that petitioners in Michigan, Ohio, Kentucky, and Tennessee obtain no federal court review of their individual claims of ineffective assistance of counsel under the cumulative error doctrine.

Anderson argues that the cumulative prejudice from his four proven errors involving ineffective assistance of counsel in his petition denied him his 6th Amendment right to effective assistance of counsel and to due process of law under the 14th Amendment to the U.S. Constitution. Because the 11th U.S. Circuit Court of Appeals holds that because each of Anderson's individual claims of ineffective assistance of counsel were denied on the merits, there can be no cumulative effect of errors and no such review occurred.

CONCLUSION

Due to the importance of the issue involving the cumulative error doctrine, and the direct conflict between the U.S. Circuit Courts decisions on this important matter, this Court should grant the instant writ of certiorari.

OATH

Under penalty of perjury, I certify that all of the facts and statements contained in this document are true and correct and that on the 25th day of August, 2021, I handed this document and exhibits to a prison official for mailing out to this Court and the appropriate Respondents for mailing out U.S. mail.

/s/ Terry Anderson

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