

In The Supreme Court of the United States

21 - 5968

TIMOTHY W. STEMEN

Petitioner,

v.

STATE OF FLORIDA

Respondent

ORIGINAL

*On Petition for Writ of Certiorari to the
United States Supreme Court*

FILED
SEP 27 2021
OFFICE OF THE CLERK
SUPREME COURT, U.S.

PETITION FOR WRIT OF CERTORARI

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ORIGINAL

QUESTIONS PRESENTED

Petitioner was visited by deputy William Rushing of the Polk County Sheriff's Department at the Petitioners home on October 5, 2016. During the conversation, the deputy took possession of Mr. Stemens cell phone and asked, "is this your cell phone", "do you mind if I take it with me", then said "it doesn't matter, either way it's coming with me". The deputy then left the petitioners house with the petitioner's cell phone without a warrant or any voluntary signature.

After a forensic search of Mr. Stemen's cell phone and email by Jadell Jack of the Polk County Sheriffs Forensics Unit, **no** evidence was found according to the sheriff's own report. Petitioner, while incarcerated at some point, an iPad was given to the deputy by the petitioners then wife, where she had claimed to be searching the email (*previously searched by sheriff's forensic unit*). The email for the iPad and the iPhone were one in the same and therefore could NOT contain anything more than the email previously searched.

Petitioner was sent by ambulance to the Winter Haven Hospital emergency room ICU on Oct 5, 2016 and then moved to the psychiatric wing of the hospital on Oct 9, 2016 and confined there for the minimum 72 hour hold. While confined to the psychiatric hospital, the deputy again visited the petitioner.

The petitioner was led into the psychiatrist's office and asked a series of questions by the deputy without counsel present. The deputy then read the petitioner his rights and began asking another series of questions. At no time did the deputy obtain consent from the psychiatric staff or petitioner nor let it be known that he was recording any part of the conversation. It was only learned the recording had taken place when the investigator almost dropped the recorder he attempted to conceal in his hand.

While in the county jail, Mr. Stemen was visited by an attorney from the Public Defender's Office. Ms. Brianna Conway was assigned the case. Mr. Stemen explained how he believed he had been recorded by the investigator on two known occasions without his knowledge or consent. Ms. Conway refused to file *any* motions, conduct depositions, investigate the case or allow Mr. Stemen to take part in his own defense. Although Ms. Conway was privy to everything the state claimed to have in their possession as evidence, Ms. Conway chose not to review anything as she stated in an email to the prosecution.

Ms. Conway continuously pressured Mr. Stemen to accept *any* plea the state offered. Judge J Kevin Abdoney apparently never reviewed Mr. Stemens case to see the many violations of state law, judicial process, or constitutional rights violations. Upon Mr. Stemens plea and sentence, he immediately began filing his motion for Post-Conviction Relief. Judge Abdoney twice struck Mr. Stemens Post Conviction relief without prejudice.

Mr. Stemens third attempt at correcting all the issues Judge Abdoney required, was then accepted but the grounds were condensed by Judge Abdoney from 15 to 8 grounds. A show cause was ordered by Judge Abdoney. The states response to some of the grounds were not factual and were based on conjecture. Again, Judge Abdoney apparently did not review or ignored the states response to his show cause order.

The following questions are presented.

1. Did law enforcement violate the petitioners due process rights under the 14th Amendment regarding the recordings.
2. Did law enforcement violate the petitioner's 4th Amendment under illegal search and seizure regarding the cell phone.
3. Did the Circuit court err in its decision to not address the petitioners' rights under the 4th, 5th and 14th amendments of the Constitution that were denied him in his timely filed Post Conviction Relief.

4. Did the Circuit court err by not addressing how the prosecution purposely misled the court in their answer to the show cause order as to ***where*** the petitioner was questioned.
5. Did the defense counsel commit an error by refusing to review the only supposed evidence submitted by the state. See **email to the prosecution dated 03/05/2017**.
6. Did the Circuit court err in not recognizing the prosecutions indirect answers the questions in the show cause but opted instead to make it Mr. Stemens responsibility to provide and describe their own evidence.
7. Did the Circuit Court err by not addressing the impossibility of the materialization of evidence in an email that had already been forensically searched by law enforcement.
8. Did defense counsel violate *Title V, Chapter 28 section 28.213 of the Florida Statute* in withholding exculpatory evidence and the petitioners right to due process.
9. Did the prosecution violate *Title V, Chapter 28 section 28.213 of the Florida Statute* in withholding evidence contradictory to their case.

10. Did the Second District Court of Appeal err in refusing to review Mr. Stemens motion and denying the petitioner a right to have his case reviewed by the Supreme Court of Florida. *See Justice Merrick Garland in Schnitzler v. United States (app. 63)*

App. 63. "Given the district court's obligation to construe a prose plaintiff's filings liberally, and to consider his filings as a whole before dismissing a complaint, see *Richardson v. United States*, 193 F.3d 545, 548 (D.C. Cir. 1999).

11. Did the defense counsel fail to litigate the fourth Amendment competently as in *Kimmelman v. Morrison (via habeas corpus)*, by refusing to file motions to suppress and the unlawful search and seizure on behalf of Mr. Stemen.
12. Did defense counsel work with the prosecution instead of providing a competent defense for Mr. Stemen as cited in *Alessi v. State*, regarding the issue of an attorney's conflict of interest.

TABLE OF CONTENTS

QUESTIONS PRESENTED	i-v
TABLE OF AUTHORITIES	ix-xi
I. PETITION FOR WRIT OF CERTIORARI	1
II. OPINIONS BELOW	1
III. JURISDICTION	1
IV. CONSTITUTIONAL PROVISIONS INVOLVED	xii-xiii
V. STATEMENT OF THE CASE	2-11
VI. REASONS FOR GRANTING THE WRIT	12-16
VII. CONCLUSION AND PRAYER FOR RELIEF	17-18
A. <i>Introduction</i>	2
B. After the petitioner was forced to accept a plea of Lewd Conduct by defense counsel from the state. The petitioner then sought post-conviction relief, alleging ineffective assistance of counsel for Constitutional Rights violations, Federal HIPPA and state law violations. After submitting extensive supporting evidence, including emails between defense counsel and prosecution and affidavits from those who have	

known the petitioner 20 plus years Judge J Kevin Abdoney ignored this evidence and the rule of law and denied Mr. Stemens final motion after the prosecution's weak response to the courts order to show cause, without a hearing.

The Second DCA affirmed the sentence on appeal from his Post-Conviction Relief despite plain errors throughout the entire case, alleging Constitutional rights violations, ineffective assistance of counsel and HIPPA Rule violations as well as Florida Statutes.

VI. REASONS FOR GRANTING THE WRIT..... 12-16

A. This Courts intervention is warranted because of the lower court's refusal to address the petitioners claims of civil rights, HIPPA rule and violations of state law that were clear and part of the record and his grounds of ineffective assistance of counsel.

B. Constitutional rights are a guarantee to every citizen of the United States and are not to be abridged or violated by any authority for their need of probable cause. If a citizen is not safe in their home or in a hospital when seeking mental health care from the overreach of the government or law enforcement, where are they safe.

VII. CONCLUSION AND PRAYER FOR RELIEF.....16-17

According to the investigating deputies report, he arrived at Mr. Stemens home initially on Oct 5, 2016. He noted a bottle of liquor on a counter in Mr. Stemens home. He also stated that he noticed Mr. Stemen had slurred speech and therefore called an ambulance, where Mr. Stemen was taken to the ICU of Winter Haven Hospital and remained in the ICU until Oct 9, 2016, when he was transferred to the Psychiatric Wing and held there under Baker Act until Oct 13, 2016, when he was then released and arrested by the same deputy.

The petitioner in this case has more than adequately provided irrefutable proof that he was denied any resemblance of a fair trial and prays this court will see the multitude of errors and discrepancies committed by the defense counsel, prosecution, and the courts in their attempt to deny the petitioner justice. The petitioner asks this court to vacate and dismiss the lower court's ruling and prevent any further malicious prosecution.

INDEX OF APPEDICES:

APPENDIX 1 Tenth Circuit Court Order on Motions for relief from Judgement.
Case, 532016CF008507

APPENDIX 2 Second District Court of Appeals Order on Motions for Relief from Judgement, Timothy W. Stemen v. State of Florida. Case, 2D-20-2806

APPENDIX 3 Supreme Court of Florida case dismissed. Timothy W. Stemen v.
State of Florida. Case, SC21-1107

TABLE OF AUTHORITIES

Federal Cases

U.S. v. Matos,

905 F. 2d.30 (2nd Cir 1990) 9

Kimmelman v. Morrison,

477 U.S. at 384, 106 at 2587 91 L. Ed. 2d 305(1986)..... 16

Miller v. Singletary,

958 F. 2d. Supp. 572 (M.D. Fla. 1997).....7,8

Mc Neil v. Wisconsin,

501 U.S. 171, 177 (1991)..... 2

Brady v. Maryland,

373 U.S. 83 (1963).....7,16

Schnitzler v. United States,

App. 63.....	14
--------------	----

U.S. v. Chronic,

466 U.S. 648, 104 S. Ct. 2039, 80 L. Ed. 2d. 567 (1984).....	11
--	----

State Cases

Logan v. State,

619 So. 2d. 350 (2 nd DCA 1993).....	8
---	---

Alessi v. State,

969. So. 2d. 430, (5 th DCA 2007).....	v
---	---

Lago v. State,

975 So. 2d. 613, 614 (Fla. 3 rd . DCA 2008).....	9
---	---

Florida Statutes

Title VII, 90.104(a) Rules and Evidence.....	8
--	---

Title VII, 90.108(1) Evidence Code.....	3
---	---

Title V, Chapter 28. (28.213) Disposal of Physical Evidence filed as exhibits iv

Title 39, Chapter 394. Florida Mental Health Act (Baker Act) viii, 14, 17

EMAIL CORRESPONDANCE..... ii

IV. Constitutional Provisions Involved

United States Constitution, Amendment IV.

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated and no warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized.

United States Constitution, Amendment V:

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

United States Constitution Amendment XIV

Section 1

All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and the state in which they reside. 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 any person within its jurisdiction the equal protection of the laws

I. Petition for Writ of Certiorari

Timothy W. Stemen, a resident of the state of Florida, acting *Pro Se*, respectfully petitions this court for a writ of certiorari to review the judgement of the Second District Court of Appeal and Florida Supreme Court's dismissal.

II. Opinions Below

The decision of the Florida Second District Court of Appeals dismissing Mr. Stemens appeal is reported as Timothy W. Stemen v. State of Florida. The courts denial is attached at Appendix 2 ("App". 2) The Florida Supreme Court Dismissed Mr. Stemens petition for hearing on July 29, 2021. The court's dismissal is attached at Appendix ("App". 3)

III. Jurisdiction

The Florida Supreme Court entered an order dismissing Mr. Stemen's motion of appeal on July 29, 2021. Mr. Stemen invokes this Court's jurisdiction under 28 U.S.C. § 1257, having timely filed this petition for a writ of certiorari within ninety days of the Florida Supreme Court's judgement.

V. STATEMENT OF THE CASE

A. Introduction

This petition arises from an effort by the defendant to reopen post-conviction proceedings in his case after learning that counsel assigned to him committed errors that affected the fundamental fairness of the proceedings.

The petitioner was secretly recorded by law enforcement on multiple occasions without allowing counsel present, having his Miranda rights read or informing Mr. Stemen that the deputy was recording the conversations, to obtain a probable cause warrant (*See McNeil v. Wisconsin*). Then proceeded to only use excerpts from these recordings as voluntary statements and not admitting the entire recording because it would have cast doubt upon his entire case.

Petitioner was cajoled by defense counsel to accept a plea of 30 months incarceration and 12.6 years of felony sex offender probation in 2016 on a first offense and refused to allow a trial to take place, investigate the petitioners claims or proactively file **any** motions on behalf of Mr. Stemen.

Mc Neil v. Wisconsin, 501 U.S. 171 (1991)

Instead, this counselor advised Mr. Stemen that he should not proceed with a suppression motion because these recordings “*were my defense*” and, “a motion to suppress is *rarely granted in Florida*” and “*there are too many hurdles to jump through*”. Defense counsel neglected her basic duties as defense attorney by not following Mr. Stemen’s request to file a suppression motion but also failed to obtain and submit any other part of these recordings into defense record. (As quoted in Fla. Stat. 90.108 (1) “*introduce any other part or any other writing or recorded statement that in fairness ought to be considered contemporaneously.*”)

Mr. Stemen also asked Ms. Conway about a motion for bond reduction. On every subsequent meeting with Mr. Stemen, she claimed that either Mr. Stemen had not told her to file one or that he stated that he would not be able to make bond and therefore she did not file the bond reduction motion. On Nov 16, 2016, Mr. Stemen filed his pro se bond reduction. Ms. Conway eventually followed up with a bond reduction on Nov 30, 2016.

Mr. Stemen believed the reason for a bond reduction would be so he *could* make bail, but it appeared as though Ms. Conway was helping the prosecution to keep Mr. Stemen incarcerated while the state searched for viable evidence. Ms. Conway constantly drew pictures on her legal pad, texted on her phone and played with her hair when Mr. Stemen met with her to give information to investigate or discuss the case.

These are examples of Ms. Conway giving false, misleading, or inaccurate advice to her client or simply failing to perform her duties, preventing Mr. Stemen from obtaining a fair trial. Mr. Stemen wrote a four-page letter to Mr. Rex Dimig (Head of 10th Circuit Public Defenders) outlining how Ms. Conway was not performing her duties or allowing Mr. Stemen to participate in his own defense. It was later discovered that Mr. Dimig was never given the letter, but it was handed to Ms. Conway and is missing from the electronic record for Mr. Stemen to utilize in subsequent appeals. Afterwards, Mr. Stemen noticed his case was fast tracked through the court system.

Mr. Stemen asked many times to go to trial but was continuously rebuffed by Ms. Conway. At one point she claimed, "I won't win" (meaning she wouldn't win). She advised Mr. Stemen that her supervisor had won cases such as this but refused Mr. Stemens request to obtain guidance from this supervisor or turn the case over to him/her.

Mr. Stemen began to feel that Ms. Conway had little or no experience in handling these types of accusations and appeared not to want to show it by asking superiors for guidance or was biased to individuals accused of this type of crime. *(Any attempt to have different counsel assigned would have been futile according to the Public Defenders staff as judges in the 10th circuit won't even allow counsel to withdraw from a case.)*

It was later found that Ms. Conway indeed had little experience, as she had just recently passed the bar less than 16 months prior to this case and left the Public Defender's Office shortly thereafter to be staff counsel for the Florida Department of Children and Family. Mr. Stemen believed there was bias on defense counsels' part the entire time because Ms. Conway constantly pushed the petitioner to accept ANY plea the state offered "or else". The petitioner gave up and took the plea under duress, which unknown to Mr. Stemen was the maximum sentence of 2.6 years' incarceration and 12.6 years sex offender probation. Mr. Stemen was given less than *Five minutes* to review the plea and Ms. Conway was not present to explain what was to be expected of Mr. Stemen during his probation.

The defendant filed the first Post-Conviction Relief 3.850 *Pro Se on 06/05/2018*, with the Circuit court for ineffective assistance of counsel amongst other grounds. This motion was struck by Judge J. Kevin Abdoney without prejudice over a Certificate of Service issue and given 60 days to correct the deficiency. Mr. Stemen had to make two more attempts to file his post-conviction relief motion before Judge Abdoney was satisfied. The judge for unknown reasons condensed the fifteen grounds into eight. Afterwards, issuing an order to show cause to the state on five of the eight grounds. The prosecution responded by stating that it was the petitioner's responsibility to tell the state "What the "CD" contained" and in another ground stated that

“It was anyone’s guess what was on the CD or if it had anything to do with the case”, moreover, the prosecution stated that *“the forensics officer would have been of no help to the defense”*. However, with there being no report submitted by the forensics officer, there was and is no way to determine where it came from or its authenticity. The Forensics officer could have testified where he found the evidence, or if it was part of the case. Which is what the prosecution expected Mr. Stemen to answer himself. These questions the only supposed physical evidence used to coerce defense counsel to force Mr. Stemen to take the plea since defense counsel never viewed the CD or questioned its validity. These answers were satisfactory for Judge Abdoney to deny the petitioners Post Conviction Relief or even grant an evidentiary hearing.

Petitioner then filed an appeal to the Second DCA. Without any decision or opinion, the appeal was denied *per curium*, (along with every case that day) although the appeal was based on constitutional rights violations, HIPPA rule and state law violations by law enforcement, misconduct by the prosecution and defense counsels.

A rehearing motion was filed, it too was denied. The petitioner then filed an appeal to the Florida Supreme Court and the following day it was dismissed because the Second DCA did not give a reason for denying the appeal.

In failing to recognize the violations by law enforcement and failing to litigate Mr. Stemens Constitutional rights competently or attempt to search for the Forensics Officer Jadell Jack outside of the one attempt that was returned. (See *Miller v. Singletary*). It is easily noted that Ms. Conway showed absolutely no interest in Mr. Stemens case and eventually went to work for the Department of Children and Family as staff counsel and simply used Mr. Stemen and similar cases for needed experience to further her career goal. Petitioner accepted the plea under duress and immediately began researching post-conviction relief proceedings and filed motions to seek relief. Upon release, petitioner obtained copies of the discovery, where he noticed that evidence that would have been beneficial to him at trial was missing or not included. (i.e., witness recorded statements, witness video recorded statements, ALL physical evidence claimed by the state, investigators recorded audio of the petitioner and depositions).

This was a violation of *Brady v. Maryland* where in *Brady* the prosecution is to turn over all evidence pertaining to either guilt or innocence.

Moreover, defense counsel refused to make any further attempt to serve the Sheriffs forensics officer (*this was the only officer who could testify to the authenticity or if there was even any evidence at all*)

when the service had been returned due to the deputy moving from Polk Sheriff's office to the Hillsboro Sheriff's office (See *Miller v. Singletary*).

The power to subpoena witnesses means that witnesses who previously may have been unavailable to speak to the defense counsel can be compelled to provide relevant testimony in open court. Here, that power is particularly necessary because the witness may well know facts that would have proven the state's case otherwise.

Mr. Stemen also noted in preparing his Post-Conviction Relief 3.850 while incarcerated that his sentence did not follow the sentencing guidelines of the scoresheet and his scoresheet had never been completed. Upon release, Mr. Stemen went to the clerk of courts website where he then found *two* separate scoresheets, whereas the copy given to Mr. Stemen from the beginning, had no writing or other information.

The second copy found on the clerks site showed simple handwriting from an unknown individual outlining the sentence of the court. In any case Mr. Stemen never scored out to a state sanction, regardless of whether the scoresheet had been completed or not. (See *Logan v. State*).

Judge Abdoney, after reviewing the Post-Conviction Relief should have noticed the lack of any preparation on the defense or the fact that the state did not have any evidence, Judge Abdoney could have then invoked Title VII, 90.104(a) but instead chose to deny Mr. Stemen relief.

Miller v. Singletary, 688 So. 2d. 448 (1997)

Brady V. Maryland, 373 U.S. 83 (1963)

Title VII 90.104(a): Rulings on Evidence; "A court may predicate error, set aside or reverse judgement, or grant a new trial on the basis of admitted or excluded evidence when a substantial right of the party is adversely affected"

Logan v. State, 619 So. 2d. 350 (2nd DCA 1993)

Petitioner filed an appeal to the Second District Court of Appeal. The appeal was affirmed by the court *per curiam*. Had the Second DCA reviewed the Petitioners Appeal, they would have noted case law they themselves had ruled on. Petitioner filed an appeal to the Florida Supreme Court. The appeal was dismissed due to the District Court of Appeal not providing a reason for the affirmation. This was not following the ruling in *Lago v. State* where it is the responsibility of the court to correct an injustice if it can. Thus, preventing the petitioner any relief or further avenue for justice.

Moreover, Petitioner submitted documentation that established defense counsels' numerous failures and what appeared to be where the defense attorney undertook little or no investigation into any evidence or information provided by the petitioner or prosecution and failed to perform *any* depositions

of those making the accusations against Mr. Stemen, including any of the state's witnesses. (*See U.S. v. Matos*).

Lago v. State, 975 So. 2d. 613, 614 (Fla. 3rd DCA 2008)

U.S. v. Matos, 905 F.2d. 30 (2nd Cir 1990)

Petitioner clearly demonstrated to the court that errors (1) had occurred on behalf of the defense, investigator, and prosecution, (2) these errors were clear or obvious and which not only (3) affected his substantial rights, but also (4) seriously impaired the fairness, integrity, or public reputation of judicial proceedings.

Further, the prosecution concealed vital evidence and continues to conceal evidence that was contradictory to their charge and intentionally misled the court in their answers to the show cause order to Judge J Kevin Abdoney by refusing to state definitively where the Sheriff's deputy had met with the petitioner and questioned him as well as what the evidence was and proffering it to the court. Instead, choosing to advise the court that the questioning took place only in the hospital and not a psychiatric wing and stating the petitioner has the responsibility of describing evidence Mr. Stemen never saw the evidence and doesn't know it to exist outside of the claims of the prosecution.

At no point did the defense counsel subject the prosecutions case to any meaningful adversarial testing process. (See *U.S. v. Chronic*)

U.S. v. Chronic, 466 U.S. 648, 104 S. Ct. 2039, 80 L. Ed. 2d. 567 (1984)

Given the wealth of evidence submitted in support of the Petitioners 3.850 Post Conviction Relief for Ineffective Assistance of Counsel, the next necessary step was a hearing. But both lower courts denied *all* motions filed by Mr. Stemen for requested relief. Also, by not providing and preserving for the record all recordings (video and audio) in their entirety that the state used for probable cause to initially charge the petitioner, not only violated *Brady* but affected the fundamental fairness of every hearing and the subsequent plea. It is also a direct violation of Florida Statute Title V Chapter 28, (28.213) wherein it states evidence is to be held for (3) three years. Mr. Stemen began his proceedings for Post-Conviction Relief well before this time and therefore all evidence should have been made available to him. Otherwise, Mr. Stemen would have been time barred.

VI. Reasons For Granting The Writ

A. This Court's intervention is necessary to resolve errors by the lower courts unwillingness to address violations of constitutional rights.

A procedural defect in the integrity of an initial Post Conviction Relief can warrant later reopening the judgement in that action on equitable grounds. Circumstances of ineffective assistance of counsel were claimed by the petitioner from the outset and throughout the case but the circuit court refused to even grant an evidentiary hearing to the petitioner.

Emails between the defense counsel and prosecution pertaining to the only evidence the state submitted from the deputy to charge the petitioner were obtained after the petitioner was released from incarceration and clearly stated in the defense counsels' own words that she had no intention of viewing the evidence unless it went to trial. Although, each time the defense counsel met with the petitioner, she continued to dissuade Mr. Stemen from pursuing a trial and opted continuously to take a plea instead.

By the defense counsel not ensuring the evidence was what the prosecution was claiming and by not investigating the authenticity or making sure that the state

released all the evidence in its entirety and not in pieces, shows not only a procedural defect but also an actionable cause where the petitioner should have been granted relief.

B. This Court's intervention is warranted because the lower court continuously failed to address the petitioners claim of ineffective assistance of counsel.

Whether or not the Petitioner would ultimately have prevailed on his challenge to his conviction motion, there can be no question that a cause of action was warranted and an evidentiary hearing at the very least. However, every single motion filed by the petitioner to the lower court was denied without cause or reason. Petitioner had submitted extensive evidence supporting his IAC claims.

Certainly, reasonable jurists could conclude whether Petitioner was afforded a fair trial proceeding under the circumstances presented in this case. But the lower court seemed content with accepting the lack of evidence presented by the prosecution or due to the crime the petitioner was accused of, simply refused to scrutinize the case any further than accepting the prosecutions word and the defense accepting the prosecutions word and therefore denied the petitioner relief.

The Second District Court of Appeals has an extensive record of using "per curium" to dispose of pro se cases without any review of the facts or included case law or even take motions under consideration.

Judge Merrick Garland voiced his opinion in *Schnitzler v. United States* (at 63)

Judge Merrick Garland: *Given the District Courts obligation to construe a pro se plaintiffs' filings liberally, and to consider his filings as a whole before dismissing a complaint, see Richardson v. United States, 193 F.3d 545, 548 (D.C. Cir. 1999)*

C. This Court's intervention is warranted because the lower court continuously failed to address the petitioners claim of civil rights violations committed by the Polk County Sheriff.

The defense counsel was fully aware during attorney/client meetings that the petitioner was arrested and detained without probable cause. The Sheriff's Deputy had Mr. Stemen Baker Acted to buy more time to obtain evidence for probable cause even though the evidence obtained throughout the case would have exonerated the Petitioner and is missing from discovery.

Upon reaching the maximum time the Petitioner could be held against his will, Dep. Rushing arrested the petitioner upon his release at the psychiatric wing on Oct. 13, 2016. The deputies report stated he received an iPad on Oct 27, 2016. A CD was submitted to evidence on Oct 31, 2016, and not turned over to the defense until March 5, 2017. Upon which, the defense refused to review unless it went to trial.

(According to the email from Ms. Conway to the prosecution)

Moreover, defense failed to ensure that all audio and video evidence was on the face of the record and not just taken on the word of the prosecution as to having this evidence in their possession.

Had the entire audio and video records been submitted to the court, it would have clearly been seen that the state perjured itself when it filed its initial charge.

As well as other claims by the victim that would have exonerated the Petitioner or cast doubt on the prosecution's case. Yet the state refused to include this as part of the record. (i.e., DCF Report, Victim Statement)

In this case the defense "assumed" that everything in its entirety would be turned over to the defense. Similarly, defense counsel stated to Mr. Stemen that she had not filed the requested motion to suppress by the Petitioner because "they are too hard to get in the state of Florida". Certainly, reasonable jurists could differ about whether the Petitioner was afforded a fair trial under the circumstances presented in this case.

But the lower court seemed to be inline with the prosecution to deny Mr. Stemen his rights or a fair trial. At the end of the day, the Circuit Court analysis merely “paid lip service” to the prosecution’s answers to the show cause order. Based on its decision in this case, the rights of the citizens and standard legal proceedings required to ensure a fair trial no longer are necessary and the want of the state to convict, regardless of the evidence is paramount to justice.

See *Brady v. Maryland*, In *Brady*, the Supreme Court established that the prosecution must turn over all evidence that may exonerate the defendant to the defense.

See *Kimmelman v. Morrison*, 477 U.S. at 384, 106 S. Ct. at 2587

VII. CONCLUSION AND PRAYER FOR RELIEF

The Petitioner in this case has more than adequately provided irrefutable proof that he was denied any resemblance of a fair trial and that his Constitutional rights under the 4th, 5th, and 14th Amendments were violated by law enforcement, prosecution and even the defense. It is not a crime to purchase clothing for your family. Had at any point law enforcement or the prosecution truly felt a crime had taken place it is their job to submit proof of the allegations to the record and provide the defense a copy of this evidence. Yet there is no evidence on the face of the record. In this case for reasons only known to the state, they failed to do this most crucial step in justice. Mr. Stemen prays this court will see the multitude of errors and discrepancies committed by the defense counsel, prosecution, law enforcement and the courts in their attempt to deny the Petitioner justice. The Petitioner asks this court to vacate the lower court's ruling in the interest of justice and order no further malicious prosecution.

Respectfully Submitted,



Timothy W. Stemen, *Pro Se.*

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