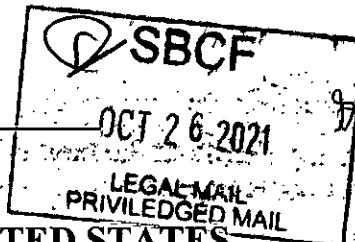


No. 21-6380



IN THE SUPREME COURT OF THE UNITED STATES

Supreme Court, U.S.  
FILED

APR 21 2021

OFFICE OF THE CLERK

SAMMY GIBBS

Vs

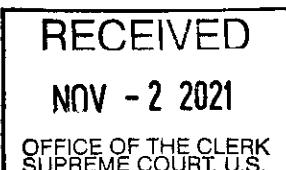
WILLIAM HAMILTON

ON PETITION FOR A WRIT OF CERTIORARI  
TO FLORIDA SUPREME COURT

PETITION FOR WRIT OF CERTIORARI

*Sammy Gibbs*  
Sammy Gibbs D/C # 580345  
South Bay Correctional Facility  
P.O. Box 7171  
South Bay, Florida 33493

**ORIGINAL**



**Certificate of Interested Persons  
And Corporate Disclosure Statement**

Supreme Court Rule 29.6 requires that a certificate of interested persons and Corporate Disclosure Statement must be filed.

Honorable Donald Hafele and Honorable Howard K. Coates, Jr. of the Fifteenth Judicial Circuit in Palm Beach County, Florida.

Honorable Shonna Young Gay of the Fourteenth Judicial Circuit in Blountstown, Florida. Honorable Lonn Weissman, Clerk, Forth District Court of Appeal, Palm Beach, Florida. Honorable Celia Terenzio, Assistant Attorney General, Palm Beach, Florida. Honorable John A. Tomasion, Clerk, Florida Supreme Court, Tallahassee, Florida.

## TABLE OF AUTHORITIES CITED

### **Castro v. United States** 540 U.S. 375 (2003)

- First Amendment United States Constitution  
Fifth Amendment United States Constitution  
Fourteenth Amendment United States Constitution  
Art. 1 § 9, cl. 2 United States Constitution
- Art. 1 § 9, Florida Constitution  
Art. 1 § 13, Florida Constitution  
Art. 1 § 21, Florida Constitution
- 79.01 Florida Statute (2018)  
79.09 Florida Statute (2018)

## **QUESTIONS PRESENTED**

### **QUESTION ONE**

Whether Habeas Corpus Court Violated Gibbs' right to due process and access to the court under Castro v United States 540 U.S 375 by converting Habeas Corpus into a post conviction pleading to His detriment.

### **QUESTION TWO**

Whether a Writ of Habeas Corpus can be re-characterized after it has been served by the Sheriff without an opportunity to withdraw or amend the petition.

### **QUESTION THREE**

The gravamen of the issue before the court is whether the Writ of Habeas Corpus can be re-characterize to litigants demise for reasons outside of Article 1 § 9, C1.2 United States Constitution.

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**IN THE SUPREME COURT OF THE UNITED STATES  
PETITION FOR WRIT OF CERTIORARI**

Gibbs respectfully prays that a Writ of Certiorari is issued to review the judgment below.

**OPINIONS BELOW**

For cases from state court:

The opinion of the highest state court to review the merits appears at Appendix A to the petition and is reported at 2021 Fla. LEXIS 110. The Fifteenth Judicial Circuit Court is the only court to give an opinion on the merits. Which is unpublished. The Fourth District Court in Palm Beach, Florida did not reach the merits. The Supreme Court of Florida did not reach the merits.

**JURISDICTION**

For cases from state court:

The date on which the highest State Court decided my case was Monday January 25, 2021. A copy of the decision appears at Appendix B

No petition for rehearing was allowed by the order of Supreme Court of Florida.

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

## **CONSTITUTIONAL PROVISIONS INCLUDED**

First Amendment – right to petition the Government for a redress of grievances.

Fifth Amendment – due process of law. (Notice)

Fourteenth Amendment – due process of law, denial of the equal protection of the law. (deliberately overriding choice of procedural litigation).

Art 1, § 9. Cl. 2 – the privilege of the Writ of Habeas Corpus shall not be suspended - “Habeas Corpus transferred for consideration as a Post Conviction Motion.”

Florida Constitution Art. 1 § 9, 13, 21.

### **STATEMENT OF FACTS.**

Gibbs was granted a change of venue from Calhoun County, Florida to Jackson County Florida. Jury trial was held in Mariana, Jackson County Florida, where a jury found him guilty of both murder and robbery with a deadly weapon.

Gibbs was sentenced in Calhoun County, Florida, February 13, 1987, without venue or jurisdiction. Resentenced on February 27, 1987 in Calhoun County Courthouse

On August 12, 2019 Gibbs filed in the Fifteenth Judicial Circuit Court a summons, a forty dollar check and three copies of the Petition for Writ of Habeas Corpus pursuant to 79.01-79.09 Florida Statute (2018).

On August 15, 2019 Honorable Donald Hafele, Judge, Fifteenth Judicial Circuit signed an order authorizing transfer from Circuit Civil Palm Beach County, Florida to Circuit Civil Calhoun County Florida. (App. D) As a Writ of Habeas Corpus. This order was overruled by Howard K. Coates Jr.

On August 28,, 2019 Honorable Howard K. Coates, Jr. Judge Fifteenth Judicial Circuit issued a (second) transfer order, transferring Petition for Writ of Habeas Corpus to the Fourteenth Judicial Circuit in and for Calhoun County for consideration as a Post Conviction Motion: “with further directions to the Clerk to close this case”.

## **REASONS FOR GRANTING THE PETITION**

**Question One:** Gibbs Petition for Writ of Habeas Corpus file pursuant 79.01-79.09 Florida Statute (2019) August 12, 2019 was authorized by Honorable Donald Hafele, Judge to be transferred to Calhoun County Civil Circuit Court, August 15, 2019 (See App. D) Honorable Howard K. Coates, Jr. on August 28, 2019 re-characterized the Petition for Writ of Habeas Corpus to a Post Conviction Motion transferring it to the Fourteenth Judicial Circuit Court, without notice, with no opportunity to amend or withdraw. See *Castro v. United States*, 540 US 375 (2003). This overriding of Pro se litigants choice of procedural vehicle to his detriment violates Due Process and Equal Protection guaranteed by the Fifth and Fourteenth amendment to the United States Constitution. Art. 1 § 9, 13 and 21 of the Florida Constitution. August 28, 2019 order of Honorable Howard K. Coates, Jr. overrode Honorable Donald Hafele's August 15, 2019 order. Both are Judges in the Fifteenth Judicial Circuit. The override of Gibbs procedural vehicle to his detriment has resulted in injury. Gibbs is now procedurally barred from Pro se filing in the Fourteenth Judicial Circuit Court. Re-characterizing all Petitions for Writ of Habeas Corpus as Post Conviction Motion for challenge to detention on any ground of collateral attack. *Leichman v Singletary* 674 So.2d 889.892 (Fla. 4<sup>th</sup> DCA 1996). Suspends the great "Writ" for reasons not set forth in the suspension clause of the United State Constitution Art.1, § 9, cl.2. For this reason this Petition should be granted.

**Question Two:** Florida Courts have established a practice of re-characterizing to the litigants detriment Petition for Writ of Habeas Corpus as Post Conviction Motion *Baker v. State* 878 So 2d 1236 (Fla. 2004) as a way of side stepping the Judicial obligation to exercise Habeas Corpus jurisdiction. Denying illegally detained litigants the Constitutional Right to seek redress of grievance or seek one's freedom from detention whenever the law does not otherwise provide an adequate mechanism to obtain relief from illegal detention. It is clear from the history of the Writ that the essence of Habeas Corpus is an attack by a person **in custody**, to challenge the legality of that custody. In Florida you cannot challenge your detention

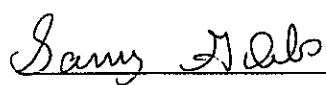
on any collateral ground. In itself, a suspension clause that prevents access to the court superseding Art. 1, §9, Cl. 2 of the U.S. Constitution as it existed in 1789.

**Question Three:** Howard K. Coates, Jr. violated the suspension clause of the United States constitution Art.1, §9, Cl.2 and Art. 1, §13 of the Florida Constitution by suspending the privilege of Habeas Corpus for reasons, other than rebellion or invasion. Stating Collateral attack of conviction or sentence cannot be present in a Writ of Habeas Corpus. Florida Statute 79.01 provides that a person detained in custody may by a Writ of Habeas Corpus show that he is detained without lawful authority entitling him to immediate release. Providing a Constitutional remedy to assure the right to seek one's freedom from detention whenever the law does not otherwise provide an adequate mechanism to obtain relief from illegal detention. Howard Coates, Jr. actions overrode litigant and fellow Fifteenth Judicial Circuit Court Judge Donald Hafele August 15, 2019 order (See App. D transferred receipt). Suspending the Great Writ for reasons the founding fathers would find appalling, as well as this court should. For this reason the court should grant this motion.

### CONCLUSION

The Petition for Writ of Certiorari should be granted. Dated this 26 day of October 2021.

Respectfully Submitted,

  
\_\_\_\_\_  
Sammy GibbsPP, DC#580345