

10F 117

DATE: 11-16-21

NO. TO BE ASSIGNED

NO. SC21-1356

FLORIDA

NO. 5D21-0873

FLORIDA

NO. 1991-CF001276-XXXAES-FLORIDA

21-6488

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

FILED

NOV 16 2021

CLERK OF THE COURT, ONE FIRST ST. N.E.

OFFICE OF THE CLERK
SUPREME COURT, U.S.

WASHINGTON, DC. 20543

BERTRAM S. MANN - PETITIONER

V/S

STATE OF FLORIDA - RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI

SUPREME COURT OF FLORIDA. SC.21-1356

PETITION FOR A WRIT OF CERTIORARI

BERTRAM S. MANN-585588

BLACKWATER RIVER CORRECTIONAL FACILITY

5914 JEFF ATEES RD.

MILTON, FLORIDA. 32583

RECEIVED

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OFFICE OF THE CLERK
SUPREME COURT, U.S.

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Initials

QUESTIONS PRESENTED

IN REGARDS TO THE " RELATED MOTION
AND/OR MODIFICATION OF SENTENCE
REQUEST FOR HEARING 3.800(C)" FILED
ON 12-21-20, (AND) FACTS THEREIN.

1) DID THE SHERIFFS DEPARTMENT OF VOLUSIA
COUNTY FLORIDA, VIOLATE PETITIONERS
CONSTITUTIONAL RIGHT TO DUE PROCESS, WHEN
THEY SUBMITTED A FALSE PROBABLE CAUSE
ADDENDUM TO SECURE A WARRANT?

SEE: PAGE (3) OF (10) 3.800(C) EXHIBIT "A"
(ALSO SEE:)

WARRANT NO. 91030458, ARREST REPORT 3-14-91
EXHIBIT (AND)

TRIAL TRANSCRIPTS (4-(11-13)-94) 1991-001276-CFAS
PAGES 233-242 DR. BELL

2) DID THE SHERIFFS DEPARTMENT AND
THE STATE OF FLORIDA, COMMIT A BRADY
VIOLATION, IN VIOLATION OF THE 5TH AND
14TH AMENDMENTS, BY DESTROYING AND
ALTERING PICTURES AND INVESTIGATIVE
REPORTS?

SEE: PAGE (4) OF 10 EXHIBIT "A"

QUESTIONS PRESENTED

3) DID THE TRIAL JUDGE HAVE BIAS, PREJUDICE, AND CONFLICT, THAT VIOLATED PETITIONERS CONSTITUTIONAL RIGHT TO A FAIR TRIAL?

SEE: PAGE (5) OF (10) EXHIBIT "A"

4) WAS THE JURY PREJUDICED, VIOLATING PETITIONERS CONSTITUTIONAL RIGHT TO A FAIR TRIAL, WHEN THEY HEARD HE ALREADY PLEAD NOLO CONTENDERE PREVIOUSLY?

SEE: PAGES (6,7) OF (10) EXHIBIT "A"

5) DID THE COURT, AT TRIAL, VIOLATE PETITIONERS CONSTITUTIONAL RIGHT TO A FAIR TRIAL BY NOT SEQUESTERING THE WITNESSES?

SEE: PAGE (8) OF (10) EXHIBIT "A"

6) WAS IT A VIOLATION OF PETITIONERS CONSTITUTIONAL RIGHTS TO DUE PROCESS WHEN HIS SENTENCE OF LIFE WAS TRANSFORMED INTO A POSSIBLE DEATH SENTENCE DUE TO COVID #19

SEE: FACTS ON PAGE (1) OF 10 EXHIBIT "A"

LIST OF PARTIES

ALL PARTIES APPEAR IN THE CAPTION OF
THE CASE ON THE COVER PAGE.

RELATED CASE(S)

1991-CF001276-XXXAES, - ORIGINAL TRIAL NUMBER

CC-14-034, Volusia County Fl. SHERIFFS
INVESTIGATION NUMBER

2014-31722-CIC1, FIRST MANDAMS TO GET
THE SHERIFFS INTERNAL AFFAIRS UNIT TO
COMPLETE THE INVESTIGATION THEY STARTED,
DENIED DUE TO LIES FROM ASSISTANT COUNTY
ATTORNEY, RESULTING IN THE FLORIDA BAR
COMPLAINT R.F.A. # 20-4295, RESULTING IN
2021-CA-000216, BERTRAM S. MANN-V- THE
FLORIDA BAR, CIRCUIT COURT LEON COUNTY, FL.

2020-30011-CIC1, SECOND MANDAMUS TO GET
SHERIFFS INTERNAL AFFAIRS UNIT TO COMPLETE
THE INVESTIGATION, RECEIVED FINAL DISPOSITION
TO PREVAILING PARTY 3-25-20, RECEIVED ORDER DENING
MANDAMUS, 6-23-20, RESULTING IN APPEAL #
5D20-1475, DENIED, RESULTING IN SUPREME COURT
OF FLORIDA # SC20-1600, DENIED RESULTING IN
PETITION FOR CERTIORARI, SUPREME COURT OF
THE UNITED STATES # SC20-7710.

5D20-2141, MANDAMUS REGARDING JUDGE CRAIG
RULING ON "CORRESPONDENCE AS PROOF OF MAILING"
NOT MOTIONS.

2021-30144-CIC1, MANDAMUS BERTRAM S. MANN
-V- STATE ATTORNEY REGARDING A INVESTIGATION
OF "FRAUD ON THE COURT" AND "OBSTRUCTION OF JUSTICE"

DENIED, RESULTING IN THE FLORIDA BAR COMPLAINT
R.F.A. 21-3014 TO NO AVAIL, RESULTING IN
2021-CA-000506, BERTRAM S. MANN-V- THE
FLORIDA BAR, DENIED. RESULTING IN
"NOTICE TO INVOKE DISCRETIONARY JURISDICTION"
SC.21-1224, TRANSFERRED TO FIRST DISTRICT
COURT OF APPEAL # 1D21-2585.

TABLE OF CONTENTS

	PAGE(S)
QUESTION(S) PRESENTED	2-3
LIST OF PARTIES	4
RELATED CASE(S)	5-6
TABLE OF CONTENTS	7
INDEX TO EXHIBITS	8-9
TABLE OF AUTHORITIES CITED	10
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	13
OPINIONS	11
JURISDICTION	12
STATEMENT OF THE CASE	15-20
REASONS FOR GRANTING THE WRIT	21-22
CONCLUSIONS	23
THERE IS NO PAGE	14

INDEX TO EXHIBITS

<u>EXHIBIT</u>	<u>DOCUMENT</u>	<u>DATE/PAGE(S)</u>
1.	NOTICE TO INVOKE DISCRETIONARY JURISDICTION	9-20-21/24-30
2.	AMENDED PETITION FOR CERTIORARI	4-22-21/31-39
A.	RELATED MOTION FOR REDUCTION AND/OR MODIFICATION OF SENTENCE, REQUEST FOR HEARING 3.800(C)	12-21-20/40-51
B.	ORDER DENYING DEFENDANT'S MOTION FOR MODIFICATION OF SENTENCE.	2-19-20/52-54
B1.	COVER LETTER TO CLERK AND JUDGE CRAIG.	
	(AND)	
	MOTION FOR REHEARING FOR 3.800(C) CASE # 1991-001276-CFAES & WRONG ADDRESS.	3-4-21/55-57
C.	ORDER DENYING DEFENDANT'S MOTION FOR REHEARING	3-9-21/58-59
D.	ORDER'S FROM THE DISTRICT COURT OF APPEAL.	4-12-21/60-65
3.	ORDER THAT RESPONDENT FILE A RESPONSE.	5-3-21/66-67

INDEX TO EXHIBITS

EXHIBIT	DOCUMENT	DATE/PAGE(S)
4.	NOTICE OF APPEARANCE BY RICHARD A. PALLAS, JR. A.A.G.	5-4-21/68-71
5.	PETITION FOR DEFAULT JUDGEMENT	5-27-21/72-77
6.	ORDER NO ACTION ON DEFAULT	6-2-21/78-79
7.	REPLY TO RESPONDENTS RESPONSE	6-2-21/80-88
8.	ORDER PETITION FOR WRIT OF CERTIORARI DENIED ON THE MERITS	8-4-21/89-90
9.	MOTION FOR REHEARING	8-17-21/91-98
10.	ORDER DENYING REHEARING	9-9-21/99-100
11.	SUPREME COURT OF FLORIDA DISMISSED - LACKS JURISDICTION	9-27-21/101-103
	PROOF OF SERVICE	11-16-21/104-105
	MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS	11-16-21/106-117

TABLE OF AUTHORITIES CITED

<u>CASES</u>	<u>PAGES</u>
A. 5TH AMENDMENT OF THE CONSTITUTION.	41-50
B. 6TH AMENDMENT OF THE CONSTITUTION.	41-50
C. 14TH AMENDMENT OF THE CONSTITUTION.	41-50
D. 18§ 241 CONSPIRACY AGAINST RIGHTS.	41-50
E. 18§ 242 DEPRIVATION OF RIGHTS UNDER THE COLOR OF LAW.	41-50
F. BRADY-V-MARYLAND, 373 U.S. 83, 87 83 S. CT. 1194, 1196-97, 10 L. ED. 2D. 215, 218 U.S.-V-AGURS 427 U.S. 97, 103-08 96 S. CT. 2392, 2397-99, 49 L. ED. 2D. 342, 349-52 (1976), U.S.-V-GARZA 435 F.3D. 73, 75-76 (1ST CIR.) (2006).	44
G. BRACY-V-GRAMLEY, 520 U.S. 899, 904 117 S. CT. 1793, 1797, 138 L. ED. 2D. 97, 104 (1997).	45
H. U.S.-V-MCGARITY 669 F.3D. 1218 (11TH CIR. 2-6-12) SENTENCE IS GROSSLY DISPROPORTIONATE TO THE OFFENCE COMMITTED.	41-50

IN THE
SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

PETITIONER RESPECTFULLY PRAYS THAT A
WRIT OF CERTIORARI TO REVIEW THE JUDGMENT
BELOW.

OPINIONS BELOW

THE OPINION OF THE HIGHEST STATE COURT
TO REVIEW THE MERITS APPEARS AT EXHIBIT
TO THE PETITION AND IS REPORTED AT
THE FLORIDA SUPREME COURT CASE NUMBER
SC 21-1356

THE OPINION OF THE FIFTH DISTRICT COURT
OF APPEALS APPEARS AT EXHIBIT
CASE NUMBER 5D21-0873

JURISDICTION

THE DATE ON WHICH THE HIGHEST STATE COURT DECIDED MY CASE WAS SEPTEMBER 27, 2021, A COPY OF THAT DECISION APPEARS AT EXHIBIT

THE JURISDICTION OF THIS COURT IS INVOKED UNDER 28 U.S.C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

- A) 5TH AMENDMENT OF THE CONSTITUTION AND 6TH
- B) 14TH AMENDMENT OF THE CONSTITUTION
- C) CONSTITUTIONAL QUESTIONS INVOLVED
- D) 18 § 241 CONSPIRACY AGAINST RIGHTS
- E) 18 § 242 DEPRIVATION OF RIGHTS UNDER THE COLOR OF LAW

STATEMENT

WITHIN PETITIONERS 3.800(C) ARE THE ABOVE CONSTITUTIONAL VIOLATIONS THAT ARE IN DIRECT CONFLICT WITH STARE DECISIS OF THIS HONORABLE COURT. THE LOWER TRIBUNAL(S) HAVE BEEN NOTIFIED THAT CRIMES HAVE BEEN INFLICTED UPON PETITIONER, THAT ALSO RISE TO THE THRESHOLD OF CONSTITUTIONAL VIOLATIONS WARRANTING ARREST OF COURT AND OTHER OFFICIALS AS THEY VIOLATED PENAL LAW [CODE] 18 § 241 AND 18 § 242 OF THE FEDERAL LAWS. ALSO SEE: 191 N.Y.S. 2d 54, 57. THIS COURT'S "DISCRETIONARY REVIEW" IS NEEDED AND WARRANTED, GIVEN THE ERRONEOUS DENIALS AND ORDERS SUBMITTED IN THE LOWER TRIBUNAL THAT EFFECT THE STARE DECISIS OF THIS COURT AND EFFECT THE GENERAL PUBLIC AS A WHOLE.

STATEMENT OF THE CASE

1) THE CONCEPTION OF THIS CERTIORARI WAS THE FACT THAT PETITIONER WAS AND IS PRESENTLY EXPERIENCING A "UNEXPECTED TRANSFORMATION" OF HIS COURT IMPOSED SENTENCE OF LIFE, TO A POSSIBLE DEATH SENTENCE, DUE TO COVID #19. TODAY PETITIONER FINDS HIMSELF WITH A "CONSTITUTIONALLY DISPROPORTIONATE SENTENCE" DUE TO THE IMPACT(S) OF COVID #19 AND OTHER "CONSTITUTIONAL VIOLATIONS" INFLICTED UPON HIS CASE, SOME OF WHICH WERE NEWLY DISCOVERED DUE TO CURRENT INVESTIGATIONS AND FILINGS WHILE IN THE PROCESS OF HAVING HIS CASE EVALUATED AND MARSHALLED BY PRISON LAW LIBRARY CLERKS. THE "CONSTITUTIONAL VIOLATIONS" ARE FACTUALLY DESCRIBED AS;

FACTS WITHIN 3.800(C)

A) SHERIFFS DEPARTMENT OF VOLUSIA COUNTY "SUBMITTING FALSE PROBABLE CAUSE ADDENDUM" TO SECURE AN ARREST WARRANT.

SEE: FRAUD AND 5TH AMENDMENT OF THE U.S. CONSTITUTION, DUE PROCESS, AND FAIR PROCEDURE, AND 14TH AMENDMENT, DUE PROCESS

B) "BRADY MATERIAL VIOLATION(S)"

B) BRADY-V-MARYLAND 373 U.S. 83, 87
83 S. CT. 1194, 1196-97, 10 L. ED. 2D. 215, 218 (1963)
U.S.-V-AGURS 427 U.S. 97, 103-08
96 S. CT. 2392, 2397-99, 49 L. ED. 2D. 342, 349-52
(1976), U.S.-V-GARTIA 435 F.3D. 73, 75-76
(1ST. CIR) (2006)

C) "GLARING CONFLICT OF TRIAL JUDGE"

SEE; BRACY-V-GRAMLEY 520 U.S. 899, 904
117 S. CT. 1793, 1797, 138 L. ED. 2D. 97, 104 (1997)
5TH AMENDMENT U.S. CONSTITUTION
DUE PROCESS AND FAIR PROCEDURE

D) "PREJUDICED JURORS"

SEE; UNITED STATES CONSTITUTION 6TH
AMENDMENT (RIGHT TO A TRIAL BY A
FAIR AND IMPARTIAL JURY) AND
5TH AMENDMENT DUE PROCESS

E) "NON SEQUESTERING OF TRIAL WITNESSES"

SEE; 5TH AMENDMENT U.S. CONSTITUTION
DUE PROCESS AND A FAIR PROCEDURE

D) CONTINUATION OF STATEMENT OF CASE

GIVEN THE FACTS ABOVE REGARDING THE
COVID #19 VIRUS AND THE CONSTITUTIONAL
VIOLATIONS ABOVE, PETITIONERS SENTENCE
HAS BEEN TRANSFORMED INTO A "DISPROPORTIONIT

SENTENCE" DUE TO MITIGATING CIRCUMSTANCES THAT HAVE NOT BEEN ADDRESSED BY THE LOWER TRIBUNALS. PETITIONER HAS EXHAUSTED ALL HIS REMEDIES BY FILING HIS 3.800(C) IN THE TRIAL COURT, 5TH DISTRICT COURT OF APPEALS, AND FINALLY IN THE FLORIDA SUPREME COURT REQUESTING DISCRETIONARY REVIEW. AS OF THE DATE OF THIS FILING THE LOWER TRIBUNALS HAVE NOT RULED OR ADDRESSED THE MERITS OF PETITIONERS 3.800(C), BUT HAVE PROCEDURALLY ISSUED ORDERS DENYING THE 3.800(C) BY STATING

F) "A MOTION FOR MODIFICATION OF SENTENCE MAY ONLY BE FILED WITHIN THE FOLLOWING PROCEDURAL GUIDELINES".

"WITHIN 60 DAYS AFTER RECEIPT BY THE COURT OF A MANDATE ISSUED BY APPELLATE COURT ON AFFIRMANCE OF THE JUDGEMENT AND/OR SENTENCE ON AN ORIGINAL APPEAL, OR WITHIN 60 DAYS AFTER RECEIPT BY THE COURT OF A CERTIFIED COPY OF AN ORDER OF THE APPELLATE COURT DISMISSING AN ORIGINAL APPEAL FROM JUDGEMENT AND/OR SENTENCE" FLA. R. CRIM. P. 3.800(C) (EMPHASIS ADDED) THE INSTANT MOTION IS EXCEEDINGLY UNTIMELY. THEREFORE, DEFENDANT'S PRO SE MOTION FOR MODIFICATION OF SENTENCE IS DENIED.

D) CONTINUATION OF STATEMENT OF CASE

THE LOWER TRIBUNAL GAVE LITTLE OR NO WEIGHT TO THE ARGUMENT PRESENTED BY PETITIONER OF "EXCUSABLE NEGLIGENCE" OR "EXIGENT CIRCUMSTANCES" PRESENTED IN HIS 3.800(C). THE ORDER WAS ERRONEOUS AT BEST.

SEE: ORDER DENYING DEFENDANT'S MOTION FOR MODIFICATION OF SENTENCE DATED 2-19-21 AT 4:15 PM

WITHIN THAT SAME ORDER OF 2-19-21 THE COURT EXPLAINS "DEFENDANT ALSO APPEARS TO ASSERT "SEVERAL GROUNDS" FOR POST-CONVICTION RELIEF..." THIS IS SIMPLY FALSE. THE MOTION IDENTIFIES UNREFUTABLE "FACTS" NOT "ISSUES" FOR MODIFICATION. THE LOWER TRIAL COURT, ATTEMPTED TO ASSERT THAT DEFENDANT SHOULD HAVE FILED A 3.850, WHICH DEFENDANT CLEARLY KNOWS WOULD BE TIME BARRED BY PROCEDURAL 3.850 RULES OF COURT. THIS ATTEMPT TO DIVERT AND REDIRECT PETITIONERS 3.800(C) WAS ALSO ERRONEOUS AND A RECORDED ATTEMPT NOT TO ADDRESS FACTS WITHIN THE 3.800(C). THE TRIAL COURT THEN STATES; "THEREFORE THE ALLEGATIONS THAT COULD BE CONSTRUED AS A RULE 3.850 MOTION, SHALL BE "DENIED WITHOUT PREJUDICE". THIS DENYAL WAS A ATTEMPT TO PERSUADE PETITIONER INTO FILING A 3.850 THAT CLEARLY IS TIME BARRED. IN REVIEWING THE 2-19-21 ORDER

PAGE(2) THERE WAS ANOTHER DENYAL WITHOUT PREJUDICE, THE 3RD ORDER TO DENY WITHIN ONE ORDER. THE DENYAL CONTENT ADDRESSES NEWLY DISCOVERED EVIDENCE AS IT APPLYS TO A RULE 3.850(b) 1, NOT A 3.800(C) AS FILED, SO THAT 3RD DENIAL WITHOUT PREJUDICE IS ERRONEOUS ALSO. FOR THE SAKE OF ARGUMENT-OR-FOR DOCUMENTING THE STATEMENT OF THIS CASE PETITIONER AVERS, THAT THE LOWER TRIBUNIAL TRIAL COURTS ORDER DATED 2-19-21, WAS NOT "CLOTHED IN THE PRESUMPTION OF CORRECTNESS" AND ABSOLUTLY WAS NOT SUPPORTED BY FACTS OR LAW. CONSIDERING THE BLACKS LAW DEFINITION OF "EXCUSABLE NEGLIGENCE" OR "EXIGENCY". A "REASONABLE JURIST" AND THIS HONORABLE COURT APPLYING "COMMON SENSE" WOULD SAY ITS A FACT THAT COVAID #19 WAS A "ACT OF GOD", BY DEFINITION OF THE BARRON'S LEGAL GUIDES SIXTH EDITION "LAW DICTIONARY". COVAID #19, WAS CONSIDERED A "WORLD EMERGENCY" WITH THAT SAID, BY OUR PRESIDENT, A REASONABLE PERSON OR JURIST COULD CONCLUDE THAT THE PETITIONERS FILING OF A 3.800(C) WAS REASONABLE AND IS A FACT THAT THIS COURT SHOULD TAKE "JUDICIAL NOTICE" OF GIVEN THE VERIFYABLE FACTS ON THE 3.800(C) AND DEFINITIONS IN THE LAW DICTIONARY RECONIZED, FACTS THAT ARE CAPABLE OF BEING KNOWN TO A VERITABLE CERTAINTY BY CONSULTING SOURCES

OF INDISPUTABLE ACCURACY. IN CONCLUSION
THE 3.800(C) "ORDER DENYING DEFENDANTS
MOTION FOR MODIFICATION OF SENTENCE
3.800(C) WAS ERRONEOUS AND CONTRARY
TO LAW, FACT, AND REASON. THAT PLACES
US IN THE DISTRICT COURT OF APPEAL, OF
THE STATE OF FLORIDA, 5TH DISTRICT CASE
NUMBER [5D21-0873] PETITIONER FILED A
"WRIT OF CERTIORARI"; SUBSEQUENT THE
ERRONEOUS DENYAL ORDER OF 2-19-21, THE
CERTIORARI WAS TIMELY FILED ON 4-2-21,
AND WAS DENIED ON THE MERITS ON 8-4-21.
THE DENYAL REQUIRES THE SUPERVISORY
DISCRETIONARY REVIEW OF THIS COURT AS
IT IS CONTRARY TO ALL PRECEDENCE CASES
REGARDING THE "CONSTITUTIONAL VIOLATIONS"
CITED AS FACTS IN PETITIONERS 3.800(C)
AND CERTIORARI. PETITIONER FILED A
"MOTION FOR REHEARING" OF FACTS AND
LAW OVERLOOKED OR MISAPPREHENDED. THE
STATE OF FLORIDA FILED A RESPONSE DATED
5-24-21, BY ASSISTANT ATTORNEY GENERAL
RICHARD A. DALLAS JR. (FLORIDA BAR NUMBER
0126163) ALL DENIED.

PETITIONER THEN FILED A "NOTICE
OF DISCRETIONARY REVIEW" TO THE
"FLORIDA SUPREME COURT" ON 9-20-21
ON 9-27-21, THE NOTICE WAS DISMISSED
CASE NUMBER SC21-1356. THAT MOVES
US TO THE PRESENT INSTANT FILING OF
THIS CERTIORARI.

REASONS FOR GRANTING PETITION

THE STATE OF FLORIDA HAS VIOLATED PETITIONERS CONSTITUTIONAL RIGHT TO DUE PROCESS UNDER THE 5TH AND 14TH AMENDMENTS OF THE CONSTITUTION BY ALL THE FACTS WITHIN HIS FILED BELATED 3.800(C), REGARDING;

A) FRAUD IANT PROBABLE CAUSE, WARRANT SUBMITTAL

B) DESTROYING EVIDENCE

C) BIAS TRIAL JUDGE

D) ALLOWING THE JURY TO HEAR HE PREVIOUSLY HAD A PLEA AGREEMENT

E) NOT SEQUESTERING WITNESSES PRE-TRIAL

F) COVID #19 IMPACT ON ISSUED SENTENCE

THESE FACTS ARE "COMPELLING REASONS" FOR THE EXERCISE OF THIS COURTS DISCRETIONARY JURISDICTION, AND TO SHOW THIS COURT THE LOWER TRIBUNALS DECISIONS WERE ERRONEOUS.

THE CONSTITUTION VIOLATIONS ABOVE ARE IN CONFLICT WITH THE UNITED STATES CONSTITUTIONAL GUARANTEE TO DUE PROCESS OF THE LAW UNDER THE 5TH AND 14TH AMENDMENTS, THE IMPORTANCE OF RESOLVING THE CONSTITUTIONAL VIOLATIONS IN THIS CASE AND MANY OTHERS

ARE SIMILARLY SITUATED REGARDING THE
SHERIFFS AND PROSECUTORS "DESTROYING
EVIDENCE" AND PETITIONERS "DISPROPORTIONATE
SENTENCE" DUE TO THE NATIONAL EMERGENCY
OF COVID #19 AND THE THREAT OF DEATH
FOR ELDERLY INMATES DUE TO POOR DESIGNS
OF PRISONS.

NEW "MITIGATION" GUIDELINES MUST
BE WRITTEN BY THIS COURT, FOR SENTENCING
WHEN PANDEMICS AND NATIONAL EMERGENCYS
EFFECT DEFENDANTS SENTENCES TO THE
DEGREE IDENTIFIED IN PETITIONERS 3,800(C).

CONCLUSION

"THE PETITION FOR WRIT OF CERTIORARI SHOULD BE GRANTED";

PETITIONERS GROUNDS ARE CONSTITUTIONAL IN NATURE THAT INDICATE THE CHARACTER OF THE REASONS THAT THIS COURT GENERALLY CONSIDERS. THE LOWER TRIBUNIAL HAS SO FAR DEPARTED FROM THE ACCEPTED AND USUAL COURSE OF THE JUDICIAL PROCEEDINGS, AS TO CALL FOR THIS HONORABLE COURT TO EXERCISE OF ITS SUPERVISORY POWERS THAT ALIGN WITH THE "STARE DECISIS" AND THE LAW OF THE LAND. PETITIONER AVERS TO THIS HONORABLE COURT THAT HIS CERTIORARI IS NOT JUST ASSERTED ERROS OR ERRONEOUS FACTUAL FINDINGS OR MISSAPPLICATION OF LAW OR RULE. THE "STARE DECISIS" OF THE U.S. SUPREME COURT, MUST BE RIGID AND CONSISTANT WITH WELL SETTLED LAW.

WHENEVER THE COURT GRANTS THIS PETITION FOR CERTIORARI, PETITIONER HUMBLY PRAYS THE CLERK WILL PREPARE, SIGN AND ENTER ORDERS TO THAT EFFECT AND NOTIFY ALL PARTIES, AND THE COURT(S) WHOSE JUDGEMENT IS TO BE REVIEWED, MOST IMPORTANTLY REQUEST THE CLERKS OF THE LOWER TRIBUNIAL TO TRANSMIT AND CERTIFY AND FORWARD THE RECORD IN QUESTION. GOD BLESS THIS HONORABLE SUPREME COURT OF THE UNITED STATES OF AMERICA.