

21-6802
No. _____

ORIGINAL

Supreme Court, U.S.
FILED

DEC 28 2021

OFFICE OF THE CLERK

IN THE SUPREME COURT OF THE United States

TARVIS MERRELL WILSON,

Petitioner,

v.

MARK S. INCH, et al.,

PROVIDED TO HARDEE CORRECTIONAL
INSTITUTION ON 12/28/21 FOR MAILING
INMATE LEGAL MAIL
12-28-21 TW

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO
THE UNITED STATES SUPREME COURT OF
APPEALS FOR THE UNITED STATES COURT OF
APPEAL, ELEVENTH CIRCUIT

PETITION FOR WRIT OF CERTIORARI

TARVIS MERRELL WILSON
B01216, Dorm-F
Hardee Correctional Institution
6901 State Road 62
Bowling Green, Florida 33834

QUESTIONS PRESENTED

1. Is it fraud practice upon the Court when an Assistant State Attorney misrepresents the facts of a Petitioner's Motion in their Response to a show cause order by the Court?
2. Is it a manifest injustice, miscarriage of justice, constitutional error and fundamental error for a State Circuit Judge to allow an attorney to change his client's plea of Not Guilty (denying all allegations), to a affirmative defense?
3. Is it a manifest injustice, miscarriage of justice, constitutional error and fundamental error for a State Circuit Judge to allow an attorney to admit his client's guilt to the jury, without stopping the trial to ask the client, does he agree to this line of defense, in a non-capital case, where the attorney is not making a plea for his life?
4. Is it a manifest injustice, miscarriage of justice, constitutional error and fundamental error for a State Circuit Judge in Florida to adopt the State's response to a Show Cause Order, the Judge gave, deeming all grounds were legally sufficient, when in fact, the State's response basically states the entire Motion is insufficient, yet the adoption was done in contrast to the Judge's prior order to show cause and without adhering to Fla.R.Crim.P. 3.850(F)(2), (3), and (6)?

LIST OF PARTIES AND CORPORATE DISCLOSURE STATEMENT

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:

Judge Stevenson	Judge B. B. Martin
Judge Damoorgian	Judge Jill Pryor
Judge Conner	Judge Lagoa
Judge John S. Kastrenakes	Clerk Marilyn Beuttenmuller
Judge Warner	Clerk Lonn Weissblum
Judge Taylor	Clerk Sharon R. Bock
Judge May	Clerk David J. Smith
Judge Patrick A. White	Lance Eric Neff

RELATED CASES

- *Wilson v. State*, 114 So.3d 290 (Fla. 4th DCA 2013), 4th District Court of Appeal for Florida. Judgment entered 4/24/2013.
- *Wilson v. State*, 183 So.3d 366 (Fla. 4th DCA 2015), 4th District Court of Appeal for Florida. Don't have the date of Judgment.
- *Wilson v. State*, 210 So.3d 67 (Fla. 4th DCA 2016), 4th District Court of Appeal for Florida. Judgment entered 2/11/2016.
- *Wilson v. Jones*, No. 16-CV-81474, U.S. District Court for the Southern District of Florida. Judgment entered 8/1/2018.
- *Wilson v. Secretary*, No. 19-10320-C, U.S. Court of Appeals for the Eleventh Circuit. Judgment entered 4/20/2020.

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CONSTITUTIONAL PROVISIONS

United States Constitution 6th Amendment: 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 accusations; 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.

United States Constitution 13th Amendment: Section 1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

Section 2. Congress shall have power to enforce this article by appropriate legislation.

United States Constitution 14th Amendment: Section 1. All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the

1 AND OF THE STATE WHEREIN THEY RESIDE, NO STATE SHALL MAKE OR ENFORCE
2 ANY LAW WHICH SHALL ABRIDGE THE PRIVILEGES OR IMMUNITIES OF CITIZENS OF
3 THE UNITED STATES

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.

Section 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice-President of the United States, Representatives in Congress, the Executive and Judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age¹, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

Section 3. No person shall be a Senator or Representative in Congress, or elector of President and Vice-President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State Legislature, or as an Executive or Judicial officer of any State, to support the

¹ Changed by Section 1 of the 26th Amendment.

Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House, remove such disability.

Section 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

Section 5. The Congress shall have the power to enforce, by appropriate legislation, the provisions of this Article.

TABLE OF AUTHORITIES CITED

Cases

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IN THE SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a Writ of Certiorari issue to review the judgment below.

OPINIONS BELOW

The opinion of the United States Court of Appeals appears at Appendix A to the Petition and is reported at - unpublished.

JURISDICTION

The date on which the United States Court of Appeals decided my case was April 20, 2021.

A timely Petition for Rehearing was denied by the United States Court of Appeals on the following date: October 7, 2021, and a copy of the order denying rehearing appears at Appendix G.

The Jurisdiction of this Court is invoked under 28 U.S.C. §1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

- U.S. Const. 6th Amendment - which states, and to have the assistance of counsel for his defense.
- U.S. Const. 13th Amendment - which states, except as a punishment for crime whereof the party shall have been duly convicted.
- U.S. Const. 14th Amendment - which states, nor shall any State deprive any person of life, liberty, or property without due process of law.

STATEMENT OF THE CASE

On April 20, 2020, the Eleventh Circuit of Appeals denied Certificate of Appealability. See Appendix A.

On January 3, 2018, the Magistrate gave Report and Recommendation. See Appendix B.

On June 20, 2018, the Magistrate gave Report and Recommendation. See Appendix C.

On August 1, 2018, District Judge gave an Order Adopting Report and Recommendation denying Petitioner's 2254. See Appendix D.

On December 19, 2018, the District Court denied Petitioner's rehearing. See Appendix E.

Petitioner's Application for Certificate of Appealability to the United States District Court was denied. See Appendix F.

On October 7, 2021, the Eleventh Circuit Court of Appeals denied Motion for Reconsideration. See Appendix G.

On April 10, 2015, the Trial Court adopted the State's fraudulent Response to Petitioner's Rule 3.850 Motion for Postconviction Relief. See Appendix H.

On Appeal from 3.850, the Fourth DCA Per Curiam Affirmed, without written opinion in *Wilson v. State*, 210 So.3d 67 (Fla. 4th DCA 2016). Mandate issued April 29, 2016. See Appendix I.

On January 15, 2018 Petitioner filed Objection to Report and Recommendation see Appendix J.

On July 4, 2018 Petitioner filed Objection to Report and Recommendation see Appendix K.

On August 9, 2018 Petitioner date stamped filed Motion for Rehearing see Appendix L.

Petitioner filed Notice of Appeal and Application for Certificate of Appealability to U.S. District Court see Appendix M.

On June 11, 2019 Petitioner filed Application for Certificate of Appealability to the United States court of Appeal, the Eleventh Circuit see Appendix N.

On May 12, 2020 Petitioner date stamped filed Motion to Vacate / Set Aside and Reverse Judgment in objection to the order of 04/20/2020, that was construed as motion for reconsideration see Appendix O.

On October 18, 2013 the Petitioner filed a rule 3.850 Motion for Post Conviction Relief ground 24 see Appendix P.

On March 24, 2015 state filed a fraudulent response to the Petitioner rule 3.850 Motion for Post Conviction Relief see Appendix Q.

On August 25, 2008 the state filed a (10) ten count felony Information under case No.: 2008CF012010AMBXXX.

On Sepember 12, 2008 first appearance was held (26) twenty-six days after Petitioner was arrested August 17, 2008.

On March 31, 2009 Petitioner filed motion to with draw, and appoint other counsel for cause during an Attorney visit court appointed counsel told the Petitioner he was guilty of all charges.

On March 10, 2011 Hearing event scheduled 5-13-11, 9:15 MH – Motion Hearing Nelson Hearing pro so Motion to Dismiss Counsel, was filed cause counsel said he was going to admit Petitioner guilt to the jury at jury trial and Petitioner disagreed. Counsel wasn't removed.

On October 21, 2011 Petitioner objected to counsel agreeing to States motion in Limine to not present any exculpatory evidence at Petitioners up and coming jury trial.

On October 25, 2011 Petitioner was forced to go to jury trial with an ineffective counsel with a irreparable conflict whom forced Petitioner to jury trial with a insanity defense of Petitioner and during trial admitted Petitioner's guilt to the jury against the Petitioners will and two objections via motion to discharge counsel, which Petitioner declared his innocence all the way through the court proceedings that Petitioner was not guilty.

On November 1, 2011 Petitioner was maliciously prosecuted and convicted of (7) seven charges due to a list of constitutional violations to the U.S.C. mainly

Ineffective Assistance of Counsel.

On November 4, 2011 Petitioner was sentenced to life plus 67 years on unconstitutional convictions. Counsel filed direct appeal.

On February 14, 2014 the trial court gave an order, directing State to respond to Petitioner's motion for post conviction relief deeming all grounds were legally sufficient.

On April 17, 2015 the Petitioner filed a motion for rehearing, for his rule 3.850 motion for post conviction relief.

On April 21, 2015 the trial court denied Petitioner's motion for rehearing.

On August 16, 2016 Petitioner date stamped filed his petition under 28 USC § 2254 for Writ of Habeas Corpus /w Memorandum of Law and Affidavit of Truth in the United States District Court, Southern District of Florida, Miami Division.

On DECEMBER 28, 2021, Petitioner filed Writ of Certiorari to United States Supreme Court.

In Petitioner's August 16, 2016 2254 he posed the question to the United States District Court "Is it legally right and constitutionally correct for a honorable to adopt a State's response to show cause order, when the State's response states basically the entire motion is in sufficient, when in fact it is in contrast and direct conflict and contradicts the Honorable first order to show cause?"

Appendix A, D, E, F, G, H, I, all adopted the fraudulent response in

Sixth and Fourteenth Amendments rights. Petitioner's counsel had admitted Petitioner's guilt as trial tactic, but not gained Petitioner's knowing consent before the admission."

Petitioner declares that in the United States Court of Appeal for the Ninth Circuit in *U.S. v. Swanson*, 943 F.2d 1070, 1991 U.S. App. Lexis 19734, 91 Cal Daily Op. Service 6807; 91 Daily Journal Dar 10493 (filed, August 27, 1991) the case summary – procedural posture; "appellant challenged his conviction from the United States District Court for the District of Arizona for Bank Robbery. Appellant alleged that he received ineffective assistance of counsel because his court appointed attorney conceded to the jury that here was no reasonable doubt regarding the ultimate facts. Appellant's conviction was overturned because he was deprived of a fair trial and received ineffective assistance of counsel. His court appointed defense counsel concluded to the jury that there was no reasonable doubt that appellant was guilty." Outcome; the court reversed Appellant's conviction for Bank Robbery."

Petitioner declares that pursuant to this Court rule 10 (a) that this Court has the authority to give relief based on the Eleventh Circuit rule / denial on petitioners application for certificate of appealability being in part on counsel admitting Petitioners guilt to the jury without his consent, which in conflict with the Sixth and Ninth Circuit Court of Appeals.

Petitioner declares his sham like jury trial violates his 13th amendment to the U.S.C., via trial counsel admitting his guilt to the jury against his will, without his consent, therein, deeming his trial unconstitutional, see Appendix P. Which is the violation of Petitioners 13th Amendment, the simulated fraud/sham like process of his jury trial which made his jury trial unconstitutional, therein, suppressing the meaning of “Duly” in the 13th Amendment, which like a dominos effect erases “neither” and “nor” the 1st and 3rd word of section 1 for cause , “neither” is followed by “slavery” which infers a substitute or alternative, and “nor” is followed by “involuntary servitude” which is the substitute/alternative for slavery. Therein, which extends to a levy of allowance via “except as punishment for crime whereof the party shall have been duly convicted.” When a trial is held unconstitutionally the person convicted is not “Duly Convicted” for cause, when a trial is held for a criminal defendant, the defendant contracts with the State to be afforded a fair and constitutional trial. When ineffective assistance, prosecutor misconduct, and etc., commence in the trial, the contracts is broken and void. Therein, the convicted person was/has not been duly convicted. For cause, a “Duly Conviction” subjects a person to “slavery”/ “Involuntary Servitude”. Based on Petitioners unconstitutional convictions of November 1, 2011 he has been subjected to “Slavery/Involuntary Servitude” since November 28, 2011 without brake. Which is a clear violation of his 13th Amendment. Therein, the court

should remove the right to commence slavery/involuntary servitude under any circumstance in the United States of America. Due to our past history, and our prominent future, we must relieve our selves of that violent and atrocious notorious legacy. This Court has the authority to commence such relief by abolishing slavery completely via the 13th Amendment section 2. Which shall be done to stop/prevent the mentality/actions of those in power/authority that are under the agenda/propaganda that slavery should have never been semi-abolished. Therein, to stop the lasting affect and effect of “Slavery” and “Involuntary Servitude” of prisoners unconstitutionally convicted from the past, present, and future “Slavery” and “Involuntary Servitude” shall be abolished completely.

**IS IT FRAUD PRACTICE UPON THE COURT
WHEN A ASSISTANCE STATE ATTORNEY
MISREPRESENT THE FACTS OF A
PETITIONERS MOTION IN THEIR RESPONSE
TO A SHOW CAUSE ORDER BY THE COURT?**

Petitioner declares it is fraud, and this is a very important question for this Court to address for the entire United States, for fact, all respondents (state actors) and (federal actors)/assistant State Attorneys, federal prosecutors, district attorneys, attorney generals and etc., are allowed to respond to prisoners/convicts pro se pleading with misrepresentation of facts every day, and the presumption that a public official is right. Denies all challenges to the misrepresentation of facts. Therein, leaving those who are innocent of the indictment or information they were charged with an unconstitutionally convicted of, in the State of Torture an involuntary suffering, due to they don't commit the alleged bad fact acts. Which is unjust and hasn't been raised in this Court to this degree. Due to this Court Supreme Court rule 10 pertinent part; "A petition for a writ of certiorari is rarely granted when the asserted error consist of erroneous factual finding or the misapplication of a properly stated rule of law." Therein, all state and federal actors are aware of this rule and are conscious of it when filing responses, yet due to no accountability for the misrepresentation of facts in a response to a pro se pleading, it is wide spread without due assessment of the countless lives as human beings that misrepresentation of the facts are affecting do to its effectiveness, of

unchallenged, and challenged unsuccessfully all the time. Which Supreme Court rule 10 really leaves no safe guard for the innocent, when erroneous factual finding are rendered.

IS IT A MANIFEST INJUSTICE, MISCARRIAGE OF JUSTICE, CONSTITUTIONAL ERROR, A FUNDAMENTAL ERROR FOR A STATE CIRCUIT JUDGE TO ALLOW AN ATTORNEY TO CHANGE HIS CLIENT'S PLEA OF NOT GUILTY (DENYING ALL ALLEGATIONS), TO A AFFIRMATIVE DEFENSE?

Petitioner declares it is a manifest injustice, miscarriage of justice, constitutional error, fundamental error, for cause, this is a very important question for this Court to address, is due to a lawyer abandons all instances of an advocate once he changes his client's plea from not guilty to guilty. And it is accepted by the trial Judge without challenge, therein, allowing by and wide through-out the United States Attorney's Public Defenders, conflict regional counsel, and etc. to make their own pleas for their clients when they feel their client's are guilty. Which is happening on a daily basis to the innocent whom are being framed with over whelming evidence that is planted and etc. To get convictions for the "wanted". Therein, this Court addressing this question will prevent future instances of lawyer's making plea's for their client's in violation of the 6th, and '14th Amendment to the U.S.C.

IS IT A MANIFEST INJUSTICE, MISCARRIAGE OF JUSTICE, CONSTITUTIONAL ERROR AND FUNDAMENTAL ERROR FOR A STATE CIRCUIT JUDGE TO ALLOW AN ATTORNEY TO ADMIT HIS CLIENT'S GUILT TO THE JURY, WITHOUT STOPPING THE TRIAL TO ASK THE CLIENT, DOES HE AGREE TO THIS LINE OF DEFENSE; IN A NON-CAPITAL CASE, WHERE THE ATTORNEY IS NOT MAKING A PLEA FOR HIS LIFE?

Petitioner declares it is a manifest injustice, miscarriage of justice, constitutional error, fundamental error, for cause, this¹⁵¹ very important question for this Court to address, is due to once an attorney concedes/admits his/her client's

ONLY
guilt to the jury, ¹⁵¹thing left to do is sentence, for conceding/admit guilt █ is more than a confession, it is a conviction. And when attorneys do that its majority time for death penalty cases, yet they do, do it for non-capital offenses as well, which is devastating for every client/defendant whom is compelled to endure a sentence from convictions on those circumstance especially the innocent. Which the Eleventh Circuit decision in this case is in conflict with the Sixth and Ninth Circuit's decision on this same issue were the Sixth Circuit ruled in Wiley v. Sowders, 647 F.2d 642, 1981 U.S. App. Lexis 13929 (decided April 24, 1981) reversing the District Court's denial of Petitioner's request for a writ of Habeas. On the grounds that the Defendant had been denied effective assistance of counsel in violation of his Sixth and Fourteenth Amendment rights. When the Petitioners counsel had admitted Petitioner's guilt as a trial tactic, but had not gained

Petitioner's knowing consent before the admission.

And the Ninth Circuit ruled in *U.S. v. Swanson*, 943 F.2d 1070, 1991 U.S. App. Lexis 19734, 91 Cal. Daily Op. Service 6907, 91 Daily Journal DAR 10493 (filed August 27, 1991) overturning appellants conviction because he was deprived of a fair trial and received ineffective assistance of counsel. Due to his court appointed defense counsel conceded to me jury that there was no reasonable doubt that appellant was guilty.

Which the actual act of conceding the Petitioners guilt to the jury without his consent violates the 6th and 14th Amendment to the U.S.C.

IS IT A MANIFEST INJUSTICE, MISCARRIAGE OF JUSTICE, CONSTITUTIONAL ERROR, A FUNDAMENTAL ERROR FOR A STATE CIRCUIT JUDGE TO ADOPT THE STATE'S RESPONSE TO A SHOW CAUSE ORDER, THE JUDGE GAVE DEEMING ALL GROUNDS WERE LEGALLY SUFFICIENT. WHEN IN FACT THE STATE'S RESPONSE BASICALLY SEAL'S THE ENTIRE MOTION IS IN SUFFICIENT. YET THE ADOPTION WAS DONE IN CONTRAST TO THE JUDGE'S PRIOR ORDER TO SHOW CAUSE AND WITHOUT ADHERING TO FLA.R.CRIM.P. 3.850 (F), (2), (3) AND (6). SEE APPENDIX Q.

Petitioner declares it is a manifest injustice, miscarriage of justice, constitutional error, fundamental error, for cause, this is a very important question for this Court to address, which was raised in Petitioner's 2254. And is a issue by an wide throughout the State of Florida Circuit Courts is occurring when pro se litigants file post conviction relief motions 3.850 and are sufficient on some grounds yet, insufficient on others an instead of the court dismissing without prejudice pursuant to Fla.R.Crim.P. 3.850. The courts give show cause order the State whom state such motion is insufficient and the circuit court adopts it without following the state rules. Which in turn then relavatively denies a regular assessment in this Court due to this Court Supreme Court rule 10 pertinent part. "A petition for a writ of certiorari is rarely granted when the asserted error consists of meaning etc., (Para phrasing) the misapplication of a properly stated rule of law." Therein, barring justice from the act committed by judges and responders for

the state in the know of their authority and position of which they commit, to the innocent, without recourse. Therefore, by this Court properly addressing the wide spread of calamity on human life through that venture, will nullify the act.

CONCLUSION

The Petition for Writ of Certiorari should be granted.

Respectfully Submitted.
/s/ Tarris Wilson
Tarris Wilson, B01216

Date: DECEMBER 28, 2021

CERTIFICATE OF COMPLIANCE

NO.

TARVIS MERRELL WILSON,

Petitioner

V.

MARK S. INCH

Respondent

As required by Supreme Court Rule 33.1 (h), I certify that the petition for a Writ of Certiorari contains 4,590 words, excluding the parts of the petition that are exempted by Supreme Court Rule 33.1 (d).

I declare under penalty of perjury that the foregoing is true and correct.

Executed on December 28, 2021.

/s/ Travis Wilson

Travis Wilson, B01216
Hardee Correctional Institution
6901 State Road 62
Bowling Green, FL 33834

CERTIFICATE OF SERVICE

I CERTIFY that a true and correct copy of the foregoing document has been placed in the hands of prison officials for mailing to the parties listed below via first class U.S. Mail on this 28 day of DECEMBER, 2021.

Clerk of Court
Supreme Court of United States
1 First Street, N.E.
Washington, DC 20543

Attorney General
PL-01 The Capitol
Tallahassee, FL 32399-1050

/s/ Tavis Wilson
Tavis Wilson, B01216
Hardee Correctional Institution
6901 State Road 62
Bowling Green, FL 33834

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

JANIS MERRELL WILSON — PETITIONER
(Your Name)

VS.

MARK S. INCH — RESPONDENT(S)

PROOF OF SERVICE

I, JANIS MERRELL WILSON, do swear or declare that on this date, _____, 20_____, as required by Supreme Court Rule 29 I have served the enclosed MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS* and PETITION FOR A WRIT OF CERTIORARI on each party to the above proceeding or that party's counsel, and on every other person required to be served, by depositing an envelope containing the above documents in the United States mail properly addressed to each of them and with first-class postage prepaid, or by delivery to a third-party commercial carrier for delivery within 3 calendar days.

The names and addresses of those served are as follows:

ATTORNEY GENERAL

THE CAPITOL PL-01

TALLAHASSEE, FLORIDA 32399-1050

I declare under penalty of perjury that the foregoing is true and correct.

Executed on DECEMBER 28, 2021

Janis Wilson
(Signature)