

21-6872

No. _____

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

Supreme Court, U.S.

FILED

NOV 05 2021

OFFICE OF THE CLERK

Ola Simon Perry Pro. Sr. — PETITIONER
(Your Name)

vs.

STATE OF FLORIDA — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

5th District Court of Appeals

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Ola Simon Perry # E-19241
(Your Name)

35 Appalachee Dr
(Address)

Seeds FL 32460
(City, State, Zip Code)

NA
(Phone Number)

QUESTION(S) PRESENTED

1. Is there any difference when the state fails to file formal charges on a defendant within the time periods of Florida Rules 3.191, or when the state timely file charges, but does not begin the process that proceeds a conviction within the time periods of Florida Rules 3.191, while a defendant remains immobile in the states custody.

2. Is it a breach in the judicial code of conduct for a judge to turn a blind eye to the kind of corruptness that has occurred and revealed regarding this issue?

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:

RESPONDENTS

HONORABLE KENNETH LESTER JR., HONORABLE SOUTO, JUDGE OLVA,
ASSISTANT STATE ATTORNEY JAMES CARTER FOR THE EIGHTEENTH
JUDICIARY IN AND FOR SEMINOLE COUNTY, CARMEN F. CORRENTE,
APPEARING FOR THE OFFICE OF THE ATTORNEY GENERAL

PETITIONER; OLATUWON PERRY, PRO, SE

RELATED CASES

STATE V. GEE, 632 So.2d 473 (Fla 1993)
BORN SUNIAGA V. STATE, 256 So.3d 783 (2018)
PUZIO V. STATE, 969 So.2d 1197 (Fla 1st DCA)
STATE V. DRAKE, 209 So.3d 650 (Fla 2nd DCA 2017)
BRADY V. MARYLAND, 373 U.S. 831 (1963)

TABLE OF CONTENTS

OPINIONS BELOW	1
JURISDICTION.....	
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	
STATEMENT OF THE CASE	
REASONS FOR GRANTING THE WRIT	
CONCLUSION.....	

INDEX TO APPENDICES

APPENDIX A

APPENDIX B

APPENDIX C

APPENDIX D

APPENDIX E

APPENDIX F

TABLE OF AUTHORITIES CITED

Cases

PG

Thompson v. Thompson, 635 So. 2d 1064 (Fla. 5th DCA 1994)..... 1.

Doss v. Florida Department Of Corrections 730 So. 2d 316 (Fla 4th DCA 1999)..... 1-2

Born-Suniaga v. State, 256 So. 3d 783 (2018)..... 5, 15
17, 20

United States v. Morrison, 499 U.S. 363-364, 101 S. CT. 665, 66 L. Ed. 2d 564 (1981)..... 6

Jackson v. Virginia, 443 U.S. 307, 314, 99 S. CT. 278, 61 L. Ed. 2d 560... 6

Moore v. Dempsey, 261 U.S. 86, 43 S. CT. 265, 67 L. Ed. 543..... 6

United States v. Oshimi, 932 F. 2d 643 (7th CIR 1991)..... 7

Rochin v. California, 342 U.S. 165, 172, 96 L. Ed. 183, 72 S. CT. 205..... 7, 15

Palko v. Connecticut, 302 U.S. 319, 325-326, 82 L. Ed. 288, 58 S. CT. 149 (1937)..... 7

Chambers v. Florida, 309 U.S. 227, 235-236, 60 S. CT. 472-477, 84 L. Ed. 716 (1940)..... 7

Poe v. Ullman, 367 U.S. 497, 543, 81 S. CT. 1752, 6 L. Ed. 2d (1961)..... 7

In re Winship, 397 U.S. 87 378, 90 S. CT. 1068, 25 L. Ed. 2d 368 (1970)..... 7

UNITED STATES v. SALERNO, 481 U.S. 739, 744 95 L. Ed. 2d 697, 107 S. CT. 2095 (1987) 7

BRADY v. MARYLAND, 373 U.S. 831 (1963) 11, 12

KYLES v. WHITLEY, 131 L. Ed. 2d 490, 115, ST. CT. 1555, 1565, 1567-68 (1965) 11, 12

UNITED STATES v. AGURS, 427 U.S. 97, 108-10, 49 L. Ed. 2d 342, 96 S. CT. 2392 (1976) 11

UNITED STATES v. BAGLEY, 473 U.S. 667, 105 S. CT. 3375, 87 L. Ed. 2d 481 (1985) 12

NAPUE v. ILLINOIS, 360 U.S. 264, 269, 79 S. CT. 1177, 3 L. Ed. 2d 1217 (1959) 13

MOORE v. ILLINOIS, 408 U.S. 786, 809-810, 92 S. CT. 2575-76, 33 L. Ed. 2d 706 (1972) 14

UNITED STATES v. ALZATE, 47 F. 3d 1103, 1110 (11th CIR 1995) 14

PUZIO v. STATE, 969 So. 2d 1197 (Fla. 1st DCA 2007) 15, 17, 21

STATE v. DRAKE, 209 So. 3d 650, (Fla. 2d DCA 2017) 15, 20

STATE v. McCULLERS, 932 So. 2d 373, (Fla. 2d DCA 2006) 15, 22

STATE v. JIMENEZ, 44 So. 3d 1230, (Fla. 5th DCA 2010) 16

MASSEY v. HONORABLE GAYLE GRANZIANO 25

DEMARCO V. UNITED STATES, 928 F. 2d 1074, 1076-77, (11th CIR. 1991).... 27

STATE V. JGEE, 632 So. 2d 473 (Fla. 1993)..... 28

GENDEN V. FULLER, 648 So. 2d 1183, (Fla. 1994)..... 29

STATE V. WILLIAMS, 791 So. 2d 1088, (Fla. 2001)..... 29

STATUTES AND RULES

3. 191 2-6

3. 130 5

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

☐ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix _____ to the petition and is

☐ reported at _____; or,

☐ has been designated for publication but is not yet reported; or,

☐ is unpublished.

The opinion of the United States district court appears at Appendix _____ to the petition and is

☐ reported at _____; or,

☐ has been designated for publication but is not yet reported; or,

☐ is unpublished.

☒ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix A-2 to the petition and is

☒ reported at 5 DCA; or,

☐ has been designated for publication but is not yet reported; or,

☐ is unpublished.

The opinion of the FIFTH DISTRICT court appears at Appendix 1 to the petition and is

☐ reported at _____; or,

☐ has been designated for publication but is not yet reported; or,

☐ is unpublished.

JURISDICTION

☐ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was _____.

☐ No petition for rehearing was timely filed in my case.

☐ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ____ A ____.

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

☒ For cases from **state courts**:

The date on which the highest state court decided my case was 6-29-21 5th DCA.
A copy of that decision appears at Appendix _____.

☒ A timely petition for rehearing was thereafter denied on the following date: AUGUST 05 2021, and a copy of the order denying rehearing appears at Appendix 2.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ____ A ____.

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

THE PETITIONER 5th, 6th, 8th, 14th AMENDMENT RIGHTS PROTECTED BY THE UNITED STATES CONSTITUTION ARE BEING VIOLATED FROM THE ACTIONS OF THE STATE. SPECIFICALLY, THE PETITIONER WAS ARRESTED FOR AN OFFENSE AND NOT AFFORDED A FIRST APPEARANCE WHILE HE REMAINED IN CUSTODY, AS REQUIRED BY FLA. R. CRIM. P. 3.130. THUS, EFFECTIVELY DENYING THE PETITIONER OF HIS 6th AMENDMENT RIGHT PROTECTED BY THE U.S.C., WHERE THE DELAY FOR AFFORDING HIM COUNSEL WAS SUBSEQUENTLY ABSENT FOR SIX MONTHS, THEREFORE COMPLETELY DEPRIVING HIM OF THIS RIGHT. SECONDLY, THE ACTIONS OF THE STATE COMMITTING BRADY AND GIGLIO ERRORS DENIED PETITIONER OF HIS 5th AND 14th AMENDMENT RIGHTS PROTECTED BY THE U.S.C. THE STATE DELIBERATELY SUPPRESSED RELEVANT DOCUMENTS AND PROVIDED ON FALSE INFORMATION TO THE COURTS, CAPITALIZING ON THE FALSITY, VIOLATES PETITIONER'S DUE PROCESS RIGHTS CODIFIED WITHIN THE 5th, 14th AMENDMENT U.S.C. DESPITE THE TIME OF DISCLOSURE PERTAINING TO THE FALSITY. THIRD THE CIRCUMSTANCES HERE EFFECTED THE STATUTORY PROVISION FLA. R. CRIM. P. 3.191. THE PETITIONER WAS NOT NOTIFIED OF CHARGES AGAINST HIM, THUS DENYING HIM A MEANINGFUL OPPORTUNITY TO CHALLENGE THE STATES CASE WITHIN THE TIME PERIODS OF FLORIDA RULES 3.191. FURTHERMORE, PETITIONER'S 8th AMENDMENT RIGHT IS BEING IMPEDED WHERE A BLIND EYE HAS BEEN TURNED TO THIS SORT OF CORRUPTNESS AND ALLOWED TO FAISELY IMPRISONMENT THE PETITIONER.

STATEMENT OF CASE

THIS PETITION SOLELY PERTAINS TO WHETHER OR NOT THE PETITIONER WAS DENIED THE ABILITY TO INVOKE HIS RIGHTS TO A SPEEDY TRIAL PURSUANT TO FLA. R. CRIM. P. 3.191, AND WHETHER OR NOT THE STATE DELIBERATELY DECEIVED THE COURTS WHEN IT PRODUCED FALSE DOCUMENTS IN PLACE OF THE CORRECT PAPER WORK, "THAT WAS IN THE STATES POSSESSION" AT THE TIME THE FALSITY PERTAINING TO THE ARRESTING PAPERWORK WAS PROVIDED. Most importantly, THE PROSECUTOR MISREPRESENTED THE TRUTH ABOUT THE ARRESTING PAPERWORK AT EVERY HEARING INREGARDS TO THE MOTION FOR DISCHARGE,

REASON FOR GRANTING PETITION

THE SIGNIFICANCE FOR GRANTING THE PETITION IS THAT THE PETITIONER WAS NOT AFFORDED AN OPPORTUNITY TO INVOKE HIS RIGHT TO A SPEEDY TRIAL AT NO FAULT OF HIS OWN. THE STATES ACTIONS UNILATERALLY TOLLED THE RUNNING OF THE SPEEDY TRIAL CLOCK, WHEN THE PETITIONER WAS ARRESTED AND NOTHING FURTHER WAS DONE UNTIL THE SPEEDY TRIAL CLOCK EXPIRED. ESSENTIALLY, THE PETITIONER WAS NOT AFFORDED A FIRST APPEARANCE UNTIL AFTER THE SPEEDY TRIAL CLOCK EXPIRED, THUS DEPRIVING HIM OF COUNSEL AND A MEANINGFUL OPPORTUNITY TO CHALLENGE THE STATE CASE WITHIN THE TIME PERIODS PURSUANT TO Fla. R. CRIM. P. 3.191.

SECONDLY, THE PETITIONER WAS FURTHER MISLED BY THE STATES IMPROPER CONDUCT TO ELICIT KNOWN FALSE TESTIMONY AND SUPPRESS RELEVANT DOCUMENTS, DESCRIBED WITHIN THE PETITION. FURTHERMORE, THE PETITIONER CONTENDS THE JUDICIARY ACTIONS WERE COMPLICIT WITH THE STATES AT THE (06 OF MAY 2015) HEARING, WHEN HE WAS FORCED TO "REPRESENT HIS SELF" AT THIS CRITICAL HEARING. SUBSEQUENTLY HOWEVER, THE PETITIONER WAS AFFORDED A FIRST APPEARANCE ON (05 OF MAY 2015) WHERE HE INQUIRED FOR A LAWYER, AND ONE WAS APPOINTED. IRONICALLY, AFTER THE LAWYER APPOINTED TO REPRESENT THE PETITIONER WITH DROWN OFF OF THE CASE AT THE (06 OF MAY 2015) HEARING, HE WAS FORCED TO STAND ALONE AGAINST AN INTRIGUE THAT HAD KNOWN THE SPEEDY TRIAL CLOCK EXPIRED. THE PETITIONER CONTENDS ALL OF THE PROSECUTORIAL MISCONDUCT, JUDICIAL MISCONDUCT, AND DELIBERATE INEFFECTIVE ASSISTANCE OF COUNSEL DESCRIBED WITHIN THE PETITION WAS TO ASSIST THE STATE IN REGAINING A DISADVANTAGE OVER THE CASE. THIS SORT OF A "COHESION" DENIED THE PETITIONER OF HIS CONSTITUTIONAL RIGHTS PROTECTED BY THE UNITED STATES. ALL OF THE ILLIT ACTIONS DESCRIBED WITHIN THE PETITION ARE INCOMPATIBLE WITH THE RUDIMENTARY DEMANDS OF JUSTICE. THE STATES COGNITIVE INEQUITY WHETHER INTENTIONALLY OR UNINTENTIONALLY CAUSED THE LOSS OF JURISDICTION OVER THE CASE PURSUANT TO FLORIDA RULES. ALTHOUGH THE STATE MANAGED TO COVER HIS SLACK WITH THE CORRELATION OF HIS TEAM, THE PETITIONER DISPUTES NOW, THAT HE'S ENTITLED TO THE SAME RELIEF AS OTHER SITUATED DEFENDANT(S).

THIRD IT IS UNCONTESTED THAT THE PETITIONER WAS NOT NOTIFIED OF THE
HOMICIDE CHARGES AGAINST HIM WITHIN THE SPEEDY TRIAL TIME. THE PETITIONER WAS
ARRESTED FOR THE HOMICIDE CHARGES TWICE, ONCE BY VOLUSIA COUNTY SHERIFFS, AND A
SECOND TIME BY SEMINOLE COUNTY SHERIFFS. SIGNIFICANTLY, THE ARREST EFFECTUATED ON
NOVEMBER 07, 2014 FOR THE HOMICIDE CHARGES BY VOLUSIA COUNTY SHERIFFS WAS CONCEALED
FROM THE DEFENSE. THEREAFTER, AT THE HEARING HELD ON (MAY 06, 2015) THE STATE PRE-
SENTED FALSE TESTIMONY PERTAINING TO THE ARRESTING PAPERWORK IT RECEIVED FROM VOLUSIA
COUNTY WARRANT MANAGEMENT SYSTEM, AND RATHER PRODUCED FALSE DOCUMENTS WHILE SUP-
PRESSING THE RELEVANT ARRESTING PAPERWORK. PETITIONER CONTENDS THE ACTIONS DISPLAYED
HERE BY BOTH THE JUDICIARY AND THE ASSISTANT STATE PROSECUTOR AT THE HEARING (MAY
06, 2015) WHERE THE PETITIONER WAS FORCED TO STAND ALONE AGAINST A DECEPTION HE
CONTENDS WAS OVERTHROWN, WAS SO THAT THE STATE COULD ELUDE THE SPEEDY TRIAL
CLOCK HE ALLOWED TO EXPIRE. THE PETITIONER WAS NOT BROUGHT BEFORE A JUDGE ON THE
HOMICIDE CHARGES UNTIL 180 DAYS AFTER HIS ARREST. THEREFORE, THE ISSUE IS BOTH CON-
STITUTIONAL AND JURISDICTIONAL.

THE ASSISTANT STATE FOR THE ATTORNEY GENERAL DISPUTES THAT THE PETITIONER WAS RE-
QUIRED TO FILE A NOTICE OF EXPIRATION. SIMILARLY, THE STATES DISPUTES PETITIONER'S REVENGE
ON BORN - JUNAGA V. STATE 256 50. 3d 783 (2018) IS MISPLACED BECAUSE CHARGES IN THAT
CASE WERE DISMISSED AND THEN REFILED WITHOUT NOTICE TO THE DEFENDANT. HERE THE
STATE INTENDS TO DECEIVE THE COURTS ONCE AGAIN. FIRST OF ALL THE PETITIONER CONTENDS,
THEIR ISN'T ANY DIFFERENCE FROM WHEN THE STATE INFORMS THAT IT'S DISMISSING CHARGES ON
A DEFENDANT, AND THEN FAIL TO NOTIFY THAT THE CHARGES WERE ACTUALLY FILED, OR WHEN
THE STATE JUST FAILS TO NOTIFY A DEFENDANT THAT CHARGES ARE AGAINST THEM WHILE
THE DEFENDANT IS IN THE STATES CUSTODY. IN BOTH INSTANCES THE DEFENDANT IS UNAWARE
THAT A NOTICE OF EXPIRATION NEEDS TO BE FILED IN THE APPROPRIATE TIME PERIODS. SECOND,
THE STATE ALSO MOVES THE COURT HERE TO FORCE PETITIONER TO CHOOSE BETWEEN HIS 6th AMEN-
DMENT RIGHT TO A COUNSEL, OR THE ABILITY TO INVOKE HIS RIGHT TO A SPEEDY TRIAL. SPECIFICALLY,
THE DEFENDANT WAS NOT AFFORDED COUNSEL UNTIL 180 DAYS AFTER HIS ARREST, THEREFORE
THE IMPERMISSIBLE PITCHING OF THE PETITIONER'S RIGHT TO COUNSEL, SPEEDY TRIAL, AND COM-
PULSORY PROCESS WAS TAINTED AT THE START OF THE PROCEEDING. THUS, THE CIRCUMSTANCES
BRINGS THIS CASE WITHIN THE PARAMETERS OF THE DECEIT LINE OF CASES. SEE STATE V.
DEGE, 622 SO 2d 473, 475 (FLA. 1993). IN DENYING THE STATE RECAPTURE PERIOD IN
THIS SITUATION, THIS COURT EXPLAINED TO ALLOW THE STATE TO UNILATERALLY TOLL THE
RUNNING OF THE SPEEDY TRIAL PERIOD BY ENTERING A NOT PROS WOULD EVISCERATE

THE RULE - A PROSECUTOR WITH A WEEK CASE COULD SIMPLY ENTER A NOT PROS WHILE CONTINUING TO DEVELOP THE CASE AND THEN REFILE CHARGES BASED ON THE SAME CRIMINAL EPISODE MONTH OR EVEN YEARS LATER, THUS, EFFECTIVELY DENYING AN ACCUSED THEIR RIGHT TO SPEEDY TRIAL. WHILE THE STATE STRENGTHENS ITS CASE, HERE IN THE INSTANT CASE, ALTHOUGH THE STATE TIMELY FILED CHARGES, IT DIDN'T BEGIN THE PROCESS THAT PROCEEDS A CONVICTION AFTER PETITIONER'S ARREST, UNTIL AFTER THE SPEEDY TRIAL CLOCK EXPIRED. THUS, EFFECTIVELY TOLLING THE RUNNING OF THE CLOCK, THE PETITIONER DUE PROCESS RIGHTS WERE OBTAINED AT THE START OF THE PROCEEDING HERE. THIS WAS WHY THE "PROSECUTORIAL MISCONDUCT" TOOK PLACE ON THE INSTANT CASE. HENCE, FOR THE REASONS STATED HERE, AND AMONGST OTHER REASONS, STATES WITHIN THE PETITION, THE ISSUE IS AN ATYPICAL HAPPENING, THEREFORE OF A GREAT PUBLIC IMPRO-
TANCE AND THE PETITION SHOULD BE GRANTED

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Oliver Perry

Date: _____