

IN THE SUPREME COURT OF THE UNTIED STATES  
WASHINGTON, D.C. 20543-0001

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NO. 21-7123

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JOHN J. WILSON, JR.,  
*PETITIONER*

v.

STATE OF FLORIDA,  
*RESPONDENT*

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Provided To: Moore Haven C.F.

MAY 05 2022

By:

For Mailing  


**MOTION FOR REINSTATEMENT BASED ON PLAIN ERROR:**  
**THIS PETITION FOR WRIT OF CERTIORARI IS FOR REVIEW**  
**OF A STATE CRIMINAL PROCEEDING, RESPONSIBLE FOR**  
**HIS FALSE IMPRISONMENT AND NOT A CIVIL COMPLAINT**

IN FURTHER support of the Court to correct this error, *petitioner* attaches the court's APRIL 18th, 2022 ORDER referencing Rule 33.1, which is only applicable to indigent *petitioner*'s filing for review by the court of a civil matter.

Petitioner again respectfully cites the fact that the underlying case is for review of his criminal case responsible for his false imprisonment.

COMES NOW, *petitioner*, JOHN J. WILSON, JR. pursuant to Rule 44 to notify the court of its error in misconstruence of his criminal rule 3.800 (a) Fla. R.Crm. P appeal as a civil matter, and hereby respectfully moves the court to correct this error through GRANTING his application to proceed *in forma pauperis*. To wit, the legal matter petitioned to be reviewed is for a Rule 3.800 (a) Fla. R. Crm.P. appeal, responsible for his false detainment by the state of Florida, and not a federal civil rights complaint.

Petitioner respectfully herewith encloses the body of the petition for a writ of certiorari to the Supreme Court of Florida, based on jurisdictional flaws related to Rule 9.120 (d) of Fla. R. App. P. Petitioner would further cite the fact through enclosure of the attached that his petition for review of inherent Florida jurisdictional conflict is in no way malicious, or frivolous, as is documental by the extensive evidence submitted through appendix of the instant writ.

#### NATURE OF RELIEF REQUESTED

*Petitioner* respectfully asks the court to GRANT his application to proceed for his criminal appeal to be heard. *Petitioner would further respectfully state* all indigent criminal defendants are guaranteed "access-

to-the-court" of the United States by and through the First Amendment of the United States Constitution. See *Bounds v. Smith*, 430 U.S. 817, 822, 97 S. Ct. 1491 (1977).

### OATH AND CERTIFICATION

*Petitioner* hereby attests under penalty of perjury the forgoing motion for rehearing is submitted in good faith, and not for delay, and in accordance with Rule 44 and of this court 28 U.S.C. § 1746.

### CERTIFICATE OF SERVICE

Petitioner hereby attests the forgoing legal document was placed into the hands of legal mail authorities at Moore Haven Correctional & Rehabilitation Facility on 1/5 Day Msy, 2022.

The Hon. Merrick Garland, U.S. Attorney General, 950 Pennsylvania Ave, N.W. 20529-001.

Respectfully Submitted,

Date 1/5/22 /s/

John J. Wilson, Jr.  
DC#M86-282  
Moore Haven Correctional &  
Rehabilitation Facility  
P.O. Box 69  
Moore Haven, FL 33471-8837

Supreme Court of the United States  
Office of the Clerk  
Washington, DC 20543-0001

Scott S. Harris  
Clerk of the Court  
(202) 479-3011

April 18, 2022

Mr. John J. Wilson, Jr.  
Prisoner ID M86232  
P.O. Box 69  
Moore Haven, FL 33471-8837

Re: John J. Wilson, Jr.  
v. Florida  
No. 21-7123

FYI  
CRIMINAL  
APPEAL

Dear Mr. Wilson:

The Court today entered the following order in the above-entitled case:

The motion of petitioner for leave to proceed *in forma pauperis* is denied, and the petition for a writ of certiorari is dismissed. See Rule 39.8. As the petitioner has repeatedly abused this Court's process, the Clerk is directed not to accept any further ~~petitions in noncriminal matters~~ from petitioner unless the docketing fee required by Rule 38(a) is paid and the petition is submitted in compliance with Rule 33.1. See *Martin v. District of Columbia Court of Appeals*, 506 U. S. 1 (1992) (*per curiam*).

Sincerely,



Scott S. Harris, Clerk

# **APPENDIX**

**'A':**

Appellant falsely  
imprisoned by the state of  
Florida lacking a record,  
trial Index, and/or  
Evidence.

No. 21-7123

IN THE  
SUPREME COURT OF THE UNITED STATES

JOHN J. WILSON, Jr. *PETITIONER*

VS.

STATE OF FLORIDA-RESPONDENT(S)  
ON PETITION FOR A WRIT OF CERTIORARI TO

SUPREME COURT OF FLORIDA  
PETITION FOR WRIT OF CERTIORARI

JOHN JOSEPH WILSON, JR.  
MOORE HAVEN C.F.  
P.O. BOX 69  
Moore Haven, FL 33471-8837

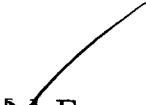
## JURISDICTION

For cases from **federal courts**:

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

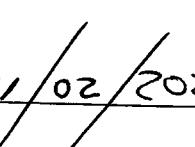
No petition for rehearing was timely filed in my case.

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 11/02/2021.  
A copy of that decision appears at Appendix A'.  


A timely petition for rehearing was thereafter denied 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. § 1257(a).

## LIST OF PARTIES

All parties appear in the caption of the case on the cover page.

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:

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' 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 THIRD DISTRICT court appears at Appendix 'B' to the petition and is

reported at \_\_\_\_\_; or,  
 has been designated for publication but is not yet reported; or,  
 is unpublished.

## **QUESTION(S) PRESENTED**

1. Can the Supreme Court of Florida Rule on whether to accept Jurisdiction on a case which has no records ?
2. Should imprisonment without any record, trial index, or evidence for an appeal constitute a basis for a fundamental constitutional violation ?
3. Is there an existing conflict between Rule 9.120 (d) of the Fla. R. APP. P. and Article V, Section 3(b) of the Florida constitution that Mandates the provision of some form of a record that this Court must step in to rectify ?

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**APPENDIX B:** Second 3rd DCA opinion granting rehearing without relief.

**APPENDIX C:** First opinion issued by the 3rd DCA citing material evidence of fraud.

**APPENDIX D:** Clerk order of reinstatement to omit evidence from the record.

**APPENDIX E:** Order Justifying failure to produce record.

**APPENDIX F:** Order granting petitioner's motion to correct and enforce the production of the record.

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## TABLE OF AUTHORITIES CITED

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## **CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED**

Fundamental 1st and 6th Amendment violations occurred relating to "access to the Court," and denial to be provided all evidence or a record for appeal, or for application to the Supreme Court of Florida to accept jurisdiction. Conflict free Counsel was denied to petitioner forcing him to represent himself.

- Fundamental 5th and 14th Amendment violations of "due process" occurred as petitioner is being falsely imprisoned without any evidence, a trial Index, or a record of any kind causing a conflict between Rule 9.120(d) of the Fla. R. APP. P. and Article V, Section 3(b) of the Florida constitution requiring the record must be provided to the court to rule.

I.

## **STATEMENT OF THE CASE**

JOHN J. WILSON, JR. herein "Petitioner", was falsely arrested at his longtime friend and business partner's home at 3667 Park Lane, in Coconut Grove, Florida, on JANUARY 15th of 2015, after being invited into the occupied property by State witness, OSCAR HERRERA, the grounds keeper, who also knew WILSON as a welcome guest at the property on previous occasions. HERRERA had testified at trial he had personally invited WILSON inside the residence to use the laptop Computer, where WILSON had remained while awaiting arrival of ALEXIS KORYBUT, the home owner to stay at the residence/("offices") following his return from overseas as a business partner and personal friend of KORYBUT dating back to 2004, at ("Plumtree Capital Management, LLC"). WILSON had stayed at the property previously, a fact established at trial. (See R. pgs. 425-444, cross-Exam., HERRERA). Upon his return to the U.S. from Argentina, WILSON had filed a criminal complaint to the Brickell regional offices of the Securities and Exchange Commission ("SEC") on behalf of his defrauded investors based throughout the U.K. and Europe, implicating the U.S. Shareholder's of the company KORYBUT was the Chief Executive Officer at the time he and WILSON were business partners, Tactical Air

Defense Services, Inc., a publicly traded ("PUBCO"), ticker Symbol: TADF. PK. These particular facts and WILSON and KORYBUT'S relationship regarding this situation were obstructed from being presented at trial and/or omitted/edited from the trial and pre-trial proceeding leading up to trial. See June 16th 2015 completely omitted from the record establishing these facts of the case, and January 20th and MAY 20th transcripts substituted for one another to make it appear WILSON was still being represented by his conflict-free Public Defender, Mr. JERFMY TRIANA after TRIANA was forced to fabricate a non-existent conflict in the case, Wilson was abandoned by conflict-free Counsel, and forced to represent himself. See Third District's 18th, 2017 show cause ORDER in case No(s). 3D17-0115, 3D15-2653 why Apex Reporting Group, Inc., at S.E. 7th Street, Suite 702, in Fort Lauderdale, Florida, "[s]hould not be held in contempt of Court for failure to prepare and file the designated transcripts in this cause in this cause as previously ordered [by] this Court." (See Appendix 'A')(Quoting 18 January 2017 ORDER: 3D15-2653, 3D17-0115, by the Third District. Case No. 3D17-0115 was treated by the Third District as "[a] motion to discharge private Court-appointed Counsel in direct appeal (case No. 3D15-2653)," the *Ultra Vires* party responsible for producing these records, (Quoting 3rd DCA's January 18th, 2017: ORDER as a result of the criminal complaint

filed by WILSON to the ("S.E.C.") evidenced by this missing and/or omitted record, and transcripts.

KORYBUT vindictively called the police on WILSON without ever having warned him to leave the property, leading to Wilson's false arrest on 1/15/2015, with both WILSON and HERRERA at the residence at the time. (See R.- pgs. 425-444, trial transcript). WILSON was falsely convicted of an uncharged crime. To wit: § 810. 02(3)(a) V. § 810. 02(3)(b).

WILSON was invited into the occupied property by an authorized party at the residence by State witness, OSCAR HERRERA (R. – pgs. 425-444).

WILSON was convicted of grand theft for making himself Breakfast, and opening a bottle of his own wine while he waited that he had purchased in Argentina, and had told KORYBUT to save in the U.S. The State failed to prove any of the items added up to total \$300.00, the essential element connotating [a] "grand theft."

## II.

### **LEGAL ARGUMENT**

There's fundamental conflict between Article V, Section 3(b) of the Florida Constitution, stating “[p]ortions of the record [were] [submitted to the Supreme Court of Florida] deemed necessary to reflect Jurisdiction”

(See Appendix 'A': Order), and Rule 9.120(d), stating “the record will be produced [only if] the Court issues an order accepting Jurisdiction in the case.” (See Appendix E: Conflicting Order).

No portions of the record were submitted to the Court as a direct result of this material discrepancy between Article V, Section 3(b) of the Florida Constitution, and Rule 9.120(d) of the Fla. R. APP. P., rendering statement(s) contained in the November 2nd, 2021 (Appendix 'A') ORDER issued by the Supreme Court of Florida patently false. (Appendix 'A').

These conflicts must also be reconciled with the superseding 1st, 5th, 6th, and 14th Amendments of the United States Constitution. These Constitutional Amendments ensure a criminal Defendant's right to a record and all evidence filed against him. Fraud was clearly apparent by the face of the record as was documented in *Petitioners* original notice to invoke the Supreme Court of Florida's Jurisdiction (See Appendix 'B' and 'D'), (See

also Appendix 'F' illuminating the conflict contained in the Supreme Court of Florida's own order originally GRANTING Petitioner's motion to correct the record pursuant to Rule 9.200(f) of the Fla. R. APP. P.).

Internal E-Mails filed in GRANTED motions by the State of Florida Attorney General by the Third District Court of Appeal were filed to be transferred to the Supreme Court of Florida, clearly evidencing fraud by the face of the record in the case: to wit, petitioner is being falsely imprisoned without a record or evidence. As a result of not being provided these Documents or a record of any kind, the Supreme Court of Florida declined to accept jurisdiction to hear the case that it would have certainly otherwise have accepted to hear, based on the clearly apparent fraud at issue.

See Florida case law this Court must clarify and/or overturn: *Applegate v. Barnett Bank of Tallahassee*, 377 So. 2d 1150 (Fla. 1980), and *Thornber v. City of Fort Walton Beach*, 534 So. 2d 754 (Fla. 1st DCA 1988).

These two controlling Florida cases uphold the premise that without an adequate record for appeal, review is futile. Because these cases cloak trial and appellate court orders with a presumption of correctness, the Supreme Court of Florida will not accept Jurisdiction in lieu of a record which proves prejudicial error clearly apparent by the face of the record.

How Could the Supreme Court of Florida determine whether to accept Jurisdiction based on clearly apparent prejudicial error without being provided a record documenting such error?

The record would obviously be required by the Supreme Court of Florida to determine whether to accept Jurisdiction or not, based on facial error. “[T]he record on appeal is a party’s tangible proof of prejudicial error.”

See *Applegate*, *Id.* and, “[C]ase law prohibits parties from referring to factual or procedural matters outside the record.” See *Thornber*, *Id.*

The State of Florida case law concerning these paradoxical conflicts illustrated in the subject cases of this petition and by *Applegate*, and *Thornber*, allowing the Supreme Court of Florida to determine its Jurisdiction without a record, must be rectified by this Court once and for all. As this Court so vociferously argued in *Jackson v. Virginia*, 443 U.S. 307, 316, 99 S. Ct. 2781, 61 L. Ed. 2d 560 (1979), all criminal convictions must be proven by “[E]vidence necessary to convince a trier of fact beyond reasonable doubt of every element of the offense,” establishment the framework for appeal in Florida under Rule 3.800(a) based on clearly apparent facial error, through Judicial review of a record.

This case provides an opportunity for this Court to affirm its landmark case and correct any ambiguity with respect to the Florida Constitution and

Rule 9.120(d) of the Fla. R. APP. P. which would allow the Florida Courts to issue declination to hear a case based on clearly apparent facial error due to lack of a record.

"Certiorari should be granted when there is a departure from the essential requirements of law resulting in a Miscarriage of Justice. "Id.

"[T]he right to access the Courts is pivotal as it hinges on and theoretically protects all the other Constitutional Rights." See *Bounds v. Smith*, 430 U.S. 817, 97 S. Ct. 1491 (1977).

"Access must be adequate, effective, and meaningful. "Id. Here, meaningful access to the Court is asking to be construed to mean "with a record."

See also *Christopher v. Harbury*, 536 U.S. 403, 414, 416 n.13, 122 S. Ct. 2179 (2002). "[A] case litigated and tried to an inadequate result due to missing or fabricated evidence in an official cover-up." (See Appendix 'A': probable cause found by the Florida Bar).

### III.

#### **REASONS FOR GRANTING THE PETITION**

This case provides a perfect example and therefore a perfect vehicle for this Court to correct existing Florida case law which condones the appointment of non-conflict free Counsel by the Circuit Court, forcing criminal Defendant to represent himself; then appointing same non-conflict free Counsel to direct appeal of same case, while also ineffectively representing same Defendant in other cases in the same trial Court. See Case F15-6748 and F15-1083, then Attorney appointed to same appeals omitting all records.

See Appendix 'A': Executive Finding of probable case by the Florida bar against same Attorney now before the Supreme Court of Florida. That same non-conflict free Counsel omitted the entire record with all Exhibits and evidence to prevent Petitioner from appealing his case to the Florida Supreme Court, pursuant to Rule 9.120(d), despite its order declaring relevant portion of the record had been submitted to the Court. This was a patently false statement due to conflicts between Rule 9.120 of the Fla. R. APP. P. and Article V Section 3(b) of the Florida Constitution. No record or evidence for the case exists for the case to be appealed, causing Petitioner

to be falsely imprisoned on an uncharged crime which would have otherwise been clearly apparent by the face of the record pursuant to Rule 3.800(a) of the Fla. R. Crim. P., if a record indeed was compiled.

The stark fact *Petitioner* is falsely imprisoned without a record or evidence introduced in a trial in which he was forced to represent himself is strong reason for the Court to accept the case for review.

The fact he cannot appeal his case to the Florida Supreme Court because that Court does not require a record due to Jurisdictional Flaws will have wide reaching consequences to not only litigants in Florida, but across the nation at large.

## CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Date: 12/26/2022

No. \_\_\_\_\_

IN THE  
SUPREME COURT OF THE UNITED STATES

John Joseph Wilson PETITIONER  
(Your Name)

VS.

STATE OF FLORIDA RESPONDENT(S)

**PROOF OF SERVICE**

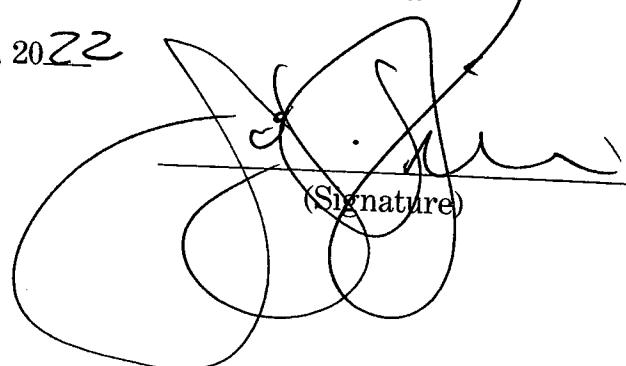
I, John Joseph Wilson, Jr., do swear or declare that on this date, 1/26, 2022, as required by Supreme Court Rule 29 I have served the enclosed MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS and PETITION FOR A WRIT OF CERTIORARI on each party to the above proceeding or that party's counsel, and on every 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:

THE Hon. Ashley Moody, Attorney General  
THE Capitol - PL-01  
Tallahassee, FL 32399-1050

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

Executed on 1/26, 2022

  
(Signature)