

OCT 04 2021

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No. _____

21-7255

IN THE

SUPREME COURT OF THE UNITED STATES

JAMES ROBERT HOPE — PETITIONER
(Your Name)

VS.

SECRETARY, FLDOC, ET AL. — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

ELEVENTH (11TH) CIRCUIT COURT OF APPEALS
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

JAMES ROBERT HOPE #299621-311543
(Your Name)

COLUMBIA CORRECTIONAL INSTITUTION-ANNEX
246 SE CORRECTIONS WAY
(Address)

LAKE CITY, FLORIDA 32025
(City, State, Zip Code)

N/A
(Phone Number)

ORIGINAL

QUESTION(S) PRESENTED

1) DID THE 11TH CIR. ERR IN DEFERRING TO THE LOWER COURT'S DECISION THAT MR. HOPE'S TRIAL WAS HELD IN THE PROPER COUNTY WHEN PROOF WAS PROVIDED THAT HIS CRIME OCCURRED IN ANOTHER COUNTY AND DISTRICT LONG BEFORE IT WAS DISCOVERED BY THE PROSECUTING COUNTY?

2) DID THE 11TH CIR. ERR IN DEFERRING TO THE LOWER COURT'S DECISION THAT MR. HOPE WAS NOT PREJUDICED BY HIS TRIAL COUNSEL'S FAILURE TO OBJECT TO THE TRIAL COURT'S LACK OF JURISDICTION WHEN IT WAS MADE KNOWN DURING PRETRIAL MOTION HEARING AND SENTENCING HEARING THAT THE LICENSE VIOLATION MR. HOPE WAS ARRESTED AND CHARGED WITH OCCURRED IN ANOTHER COUNTY AND DISTRICT?

3) DID THE 11TH CIR. ERR IN DEFERRING TO THE LOWER COURT'S DECISION THAT NO ABUSE OF DISCRETION WAS COMMITTED FOR ALLOWING THE STATE TO PRESENT TO THE JURY COLLATERAL CRIME EVIDENCE THAT DIDN'T SUPPORT THE CRIME CHARGED?

4) DID THE 11TH CIR. ERR IN DEFERRING TO THE LOWER COURT'S DECISION THAT MR. HOPE WAS NOT PREJUDICED BY HIS COUNSEL'S FAILURE TO OBJECT TO THE STATE'S USE OF COLLATERAL EVIDENCE WHEN COUNSEL KNEW THE OBJECTION WOULD'VE PLACED THE COURT ON NOTICE THAT ERROR WAS BEING COMMITTED?

5) DID THE 11TH CIR. ERR IN DEFERRING TO THE LOWER COURT'S DECISION THAT THIS ISSUE WASN'T PROPERLY RAISED IN POSTCONVICTION PROCEEDINGS AS MR. HOPE WAS DENIED DUE PROCESS WHEN THE TRIAL COURT FAILED TO RULE ON HIS TIMELY FILED MOTION FOR ARREST OF JUDGEMENT UNTIL 20 MONTHS LATER?

6) DID THE 11TH CIR. ERR IN DEFERRING TO THE LOWER COURT'S DECISION THAT A STATE'S WITNESS, CHARLIE PIOWARSKI, DIDN'T LIE UNDER OATH BY CLAIMING TO HOLD AN OFFICIAL POSITION WHEN HIS FAILURE TO MAINTAIN HIS OFFICER CERTIFICATION PROHIBITS HIM FROM HOLDING ANY OFFICIAL POSITION AS OUTLINED BY THE CRIMINAL JUSTICE STANDARDS AND TRAINING COMMISSION?

7) DID THE 11TH CIR. ERR IN DEFERRING TO THE LOWER COURT'S DECISION THAT NO BRANCH VIOLATION WAS COMMITTED BY THE STATE FOR WITHHOLDING COURT-ORDERED EVIDENCE BECAUSE IT WAS FABRICATED AND DIDN'T EXIST?

8) DID THE 11TH CIR. ERR IN DEFERRING TO THE LOWER COURT'S DECISION THAT THERE WAS NO

PROSECUTORIAL MISCONDUCT BY THE STATE FOR FABRICATING FALSE EVIDENCE AND FILING FALSE DOCUMENTS WHEN COURT RECORDS WILL SHOW THAT BETWEEN 12-6-13 AND 3-18-14 THERE WERE 2 CRIMES CHARGED IN THE INFORMATION BUT ONLY 1 CRIME CHARGED IN THE ARREST DOCUMENT?

9) DID THE 11TH CIR. ERR IN DEFERRING TO THE LOWER COURT'S DECISION THAT NO JUDICIAL MISCONDUCT WAS COMMITTED BY THE TRIAL JUDGE FOR FAILING TO REPORT THE MISCONDUCT OF THE STATE WHEN THE JUDGE KNEW THAT EVIDENCE WAS FABRICATED TO OBTAIN THE CONVICTION?

10) DID THE 11TH CIR. ERR IN DEFERRING TO THE LOWER COURT'S DECISION THAT MR. HOPE WASN'T PREJUDICED BY COUNSEL'S FAILURE TO OBJECT TO THE FINAL AMENDED INFORMATION WHEN COUNSEL KNEW THE JURISDICTION ELEMENT OF THE CHARGED CRIME HAD BEEN IMPROPERLY SWITCHED?

11) DID THE 11TH CIR. ERR IN DEFERRING TO THE LOWER COURT'S DECISION THAT MR. HOPE WAS NOT CONVICTED OF AN UNCHARGED CRIME AS THIS DECISION IS IN CONFLICT WITH OTHER CIRCUITS THAT HAVE OVERTURNED AND REVERSED DECISIONS OF CONVICTIONS FOR CHARGES NOT MADE SPECIFICALLY IN THE CHARGING DOCUMENT?

12) DID THE 11TH CIR. ERR IN DEFERRING TO THE LOWER COURT'S DECISION THAT THERE WAS NO ABUSE OF JUDICIAL DISCRETION FOR NOT DISMISSING THE ENTIRE PANEL WHEN IT WAS REPORTED THAT A PROSPECTIVE JUROR HAD COMMITTED MISCONDUCT BY COACHING OTHER JURORS ON POINTS OF LAW?

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:

RELATED CASES

JAMES ROBERT HOPE V. STATE OF FLORIDA	2013-01041-CF-52
JAMES ROBERT HOPE V. STATE OF FLORIDA	5D14-1381
JAMES ROBERT HOPE V. STATE OF FLORIDA	5D15-3046
JAMES ROBERT HOPE V. STATE OF FLORIDA	5D15-4537
JAMES ROBERT HOPE V. STATE OF FLORIDA	5D16-3389
JAMES ROBERT HOPE V. STATE OF FLORIDA	5C17-1444
JAMES ROBERT HOPE V. STATE OF FLORIDA	5D17-2456
JAMES ROBERT HOPE V. STATE OF FLORIDA	5D17-1853
JAMES ROBERT HOPE V. STATE OF FLORIDA	5C17-0512
JAMES ROBERT HOPE V. STATE OF FLORIDA	5D20-1677
JAMES ROBERT HOPE V. STATE OF FLORIDA	5D20-1412
JAMES ROBERT HOPE V. STATE OF FLORIDA	5D20-2087
JAMES ROBERT HOPE V. STATE OF FLORIDA	5C21-439
JAMES ROBERT HOPE V. SECRETARY, FLDOC, ET AL.	3:17-CV-1461-J-2017
JAMES ROBERT HOPE V. SECRETARY, FLDOC, ET AL.	21-10067-A

TABLE OF CONTENTS

OPINIONS BELOW	1
JURISDICTION	2
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	3-4
STATEMENT OF THE CASE	5-7
REASONS FOR GRANTING THE WRIT	8-21
CONCLUSION	22

INDEX TO APPENDICES

APPENDIX A DECISION OF 11TH CIRCUIT COURT OF APPEALS FILED MAY 27, 2021

APPENDIX B DECISION OF 11TH CIRCUIT COURT OF APPEALS (RECONSIDERATION)
FILED JULY 9, 2021

APPENDIX C DECISION OF U.S. DISTRICT COURT FILED DECEMBER 7, 2020

APPENDIX D DECISION OF 5TH DCA FILED NOVEMBER 14, 2017

APPENDIX E DECISION OF 5TH DCA (REHEARING) FILED DECEMBER 20, 2017

APPENDIX F DECISION OF TRIAL COURT FILED JULY 12, 2017

APPENDIX G DECISION OF TRIAL COURT FILED MAY 15, 2017 FOR HABEAS COMPLAINT

TABLE OF AUTHORITIES CITED

CASES

PAGES

ADAMS V. STATE, 957 So.2d 1183 (FLA. 3d DCA 2006)	4
AGATHIAS V. STATE, 77 F.3d 1232 (2011)	11
AMOROS V. STATE, 531 So.2d 1254 (FLA. 1988)	10
ARZUMAN V. SAUD, 843 So.2d 950 (FLA. 4 DCA 2003)	17
BAHL V. STATE, 730 So.2d 296 (FLA. 2d DCA 1999)	9
BELLER V. U.S., 712 F.3d 543 (11th Cir. 2013)	8
BERMUDEZ V. STATE, 901 So.2d 981 (FLA. 4 DCA 2005)	12
BRYAN V. MARYLAND, 373 U.S. 83 (1983)	14-15
BRYAN V. STATE, 533 So.2d 744 (FLA. 1988)	10
CASOR V. STATE, 345 So.2d 701	9, 11, 19
COLE V. ARKANSAS, 333 U.S. 196, 201, 68 S.Ct. 514, 92 L.Ed. 644 (1948)	20
CUMBLE V. STATE, 345 So.2d 1061 (FLA. S.C. 1977)	14
D.R. V. STATE, 790 So.2d 1242 (FLA. 5 DCA 2001)	20
FIGUEROA V. STATE, 84 So.3d 1158 (FLA. 2d DCA 2012)	9
GREEN V. STATE, 27 So.3d 731 (FLA. 2d DCA 2010)	11
HARRIS V. STATE, 76 So.3d 1080 (FLA. 2d DCA 2011)	18
JAMES V. STATE, 51 So.3d 445 (FLA. 2010)	20
McMANN V. RICHARDSON, 379 U.S. 759, 90 S.Ct. 1441, 25 L.Ed. 2d 763 (1970)	10
MOORE V. STATE, 150 So.3d 1177 (FLA. 5 DCA 2009)	11
MORROW V. STATE, 931 So.2d 1021 (FLA. 3d DCA 2006)	10
MOSELEY V. STATE, 842 So.2d 855 (FLA. 1 DCA 2002)	19
PETERSON V. STATE, 881 So.2d 1129 (FLA. 4 DCA 2004)	12
ROGERS V. STATE, 963 So.2d 328 (FLA. 2007)	19
SCARFO V. GINSBURG, 175 F.3d 957 (11th Cir. 1999)	8
SMITH V. STATE, 521 So.2d 104 (FLA. 1988)	8-9
SOCHAR V. STATE, 619 So.2d 285 (FLA. 1993)	9
STRICKLAND V. WASHINGTON, 446 U.S. 468 (1984)	9-11, 19
THORNHILL V. ALABAMA, 310 U.S. 88, 96, 60 S.Ct. 736, 84 L.Ed. 1093 (1940)	20
TUCKER V. STATE, 406 So.2d 306 (FLA. 1984)	19
U.S. V. BENNETT, 472 F.3d 825 (11th Cir. 2006)	10
U.S. V. TURNER, 474 F.3d 1265 (11th Cir. 2007)	10

STATUTES AND RULES

79.09, FLA. STAT. (2014)	7
90.403, FLA. STAT. (2014)	11
918.04, FLA. STAT. (2013)	8
943.0435(2)(A), FLA. STAT. (2013)	5, 10, 20
943.0435(4)(A), FLA. STAT. (2013)	5, 17
RULE 1.630, FLA. R. CIV. PROC. (2015)	7
RULE 3.140(J), FLA. R. CRIM. PROC. (2014)	17
RULE 3.220(J), FLA. R. CRIM. PROC. (2014)	14
RULE 3.580, FLA. R. CRIM. PROC. (2014)	6, 12
RULE 3.590, FLA. R. CRIM. PROC. (2014)	6, 12
RULE 3.600(3)(b)(5)(8)(c), FLA. R. CRIM. PROC. (2014)	6, 12
RULE 3.800(A), FLA. R. CRIM. PROC. (2015)	6, 7
RULE 3.850, FLA. R. CRIM. PROC. (2016)	6, 7, 12
RULE 4-3.8(c), RULES OF PROFESSIONAL CONDUCT (2015)	14
RULE 9.141(d), FLA. R. APP. PROC. (2015)	6
RULE 11B-27.002(1), FLA. ADMIN. CODE	13
RULE 11B-27.002(1)-(5), FLA. ADMIN. CODE	13
RULE 11B-27.002(6), FLA. ADMIN. CODE	13
RULE 11B-27.002(10), FLA. ADMIN. CODE	13
CANON 3(C)(1), CODE OF JUDICIAL CONDUCT (2014)	18
CANON 3(D)(2), CODE OF JUDICIAL CONDUCT (2014)	18

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 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 United States district court appears at Appendix C 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 D 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 SEVENTH JUDICIAL CIRCUIT court appears at Appendix F 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 5-27-21.

☐ 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: 7-9-21, and a copy of the order denying rehearing appears at Appendix B.

☐ 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 12-14-17. A copy of that decision appears at Appendix D.

☐ A timely petition for rehearing was thereafter denied on the following date: 12-20-17, and a copy of the order denying rehearing appears at Appendix E.

☐ 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

AMENDMENT IV, U.S. CONSTITUTION

THE RIGHT OF THE PEOPLE TO BE SECURE IN THEIR PERSONS, HOUSES, PAPERS, AND EFFECTS, AGAINST UNREASONABLE SEARCHES AND SEIZURES, SHALL NOT BE VIOLATED, AND NO WARRANTS SHALL ISSUE, BUT UPON PROBABLE CAUSE, SUPPORTED BY OATH OR AFFIRMATION, AND PARTICULARLY DESCRIBING THE PLACE TO BE SEARCHED, AND THE PERSONS OR THINGS TO BE SEIZED.

AMENDMENT V, U.S. CONSTITUTION

NOR PERSON SHALL BE HELD TO ANSWER FOR A CAPITAL, OR OTHERWISE INFAMOUS CRIME, UNLESS ON A PRESENTMENT OR INDICTMENT OF A GRAND JURY, EXCEPT IN CASES ARISING IN THE LANDS OR NAVAL FORCES, OR IN THE MILITIA, WHEN IN ACTUAL SERVICE IN TIME OF WAR, OR PUBLIC DANGER, NOR SHALL ANY PERSON BE SUBJECT FOR THE SAME OFFENCE TO BE TWICE PUT IN JEOPARDY OF LIFE OR LIMB; NOR SHALL BE COMPELLED IN ANY CRIMINAL CASE TO BE A WITNESS AGAINST HIMSELF, NOR BE DEPRIVED OF LIFE, LIBERTY, OR PROPERTY, WITHOUT DUE PROCESS OF LAW; NOR SHALL PRIVATE PROPERTY BE TAKEN FOR PUBLIC USE, WITHOUT JUST COMPENSATION.

AMENDMENT VI, U.S. CONSTITUTION

IN ALL CRIMINAL PROSECUTIONS, THE ACCUSED SHALL ENJOY THE RIGHT TO A SPEEDY 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 ACCUSATION, TO BE CONFRONTED WITH THE WITNESSES AGAINST HIM, TO HAVE COMPELLING PROCESS FOR OBTAINING WITNESSES IN HIS FAVOR, AND TO HAVE THE ASSISTANCE OF COUNSEL FOR HIS DEFENCE.

AMENDMENT VIII, U.S. CONSTITUTION

EXCESSIVE BAIL SHALL NOT BE REQUIRED, NOR EXCESSIVE FINES IMPOSED, NOR CRUEL AND UNUSUAL PUNISHMENTS INFLICTED.

AMENDMENT XIV(1), U.S. CONSTITUTION

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 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.

ARTICLE I, SECTION 16(A), FLORIDA CONSTITUTION

IN ALL CRIMINAL PROSECUTIONS THE ACCUSED SHALL HAVE THE RIGHT TO A SPEEDY AND PUBLIC TRIAL BY AN IMPARTIAL JURY IN THE COUNTY WHERE THE CRIME WAS COMMITTED. (SEE ALSO, RULE 3.251, FLA. R. CRIM. PROC. (2014))

28 U.S.C. § 2254 (d)(1)(2)

AN APPLICATION FOR A WRIT OF HABEAS CORPUS ON BEHALF OF A PERSON IN CUSTODY PURSUANT TO THE JUDGEMENT OF A STATE COURT SHALL NOT BE GRANTED WITH RESPECT TO ANY CLAIM THAT WAS ADJUDICATED ON THE MERITS IN STATE COURT PROCEEDINGS UNLESS THE ADJUDICATION OF THE CLAIM--

1) RESULTED IN A DECISION THAT WAS CONTRARY TO, OR INVOLVED AN UNREASONABLE APPLICATION OF CLEARLY ESTABLISHED FEDERAL LAW, AS DETERMINED BY THE SUPREME COURT OF THE UNITED STATES; OR

2) RESULTED IN A DECISION THAT WAS BASED ON AN UNREASONABLE DETERMINATION OF THE FACT IN LIGHT OF THE EVIDENCE PRESENTED IN THE STATE COURT PROCEEDING.

STATEMENT OF THE CASE

MR. HOPE RESPECTFULLY ASKS THIS HONORABLE COURT TO ALLOW HIM THE OPPORTUNITY TO REFERENCE DOCUMENTS FROM THE RECORDS TO SUBSTANTIATE HIS CLAIMS & SHOW THE COURT HOW HE WAS DENIED DUE PROCESS UNDER THE CONSTITUTION...

ON 6-27-13, MR. HOPE WAS ARRESTED FOR A VIOLATION OF STATUTE 943.0435(4)(A), (PG. 1-2), WHICH UNDER THE STATUTE IS A DHSMV VIOLATION OF FAILING TO UPDATE HIS LICENSE OR ID SO THAT THE ADDRESS ON THE LICENSE MATCHES THE ADDRESS SHOWN IN THE FASE DATABASE. MR. HOPE WAS EVEN GIVEN A SIGNED DOCUMENT BY THE DETECTIVE DURING VIDEO INTERROGATION OF WHAT NEEDED TO BE DONE TO PUT HIS LICENSE IN COMPLIANCE (P. 273) AND THE NEXT DAY MR. HOPE REPORTED TO DHSMV AS INSTRUCTED TO CORRECT HIS LICENSE.

THE STATE FIRES ITS INITIAL INFORMATION ON 7-19-13 (P. 7) CHARGING ONLY THE COUNT-1 DHSMV VIOLATION BUT WITHOUT REARRESTING MR. HOPE THE STATE ADDED A NEW VIOLATION TO THE CHARGING DOCUMENT ON 12-6-13 AND CHARGED IT UNDER THE SAME STATUTE SUBSECTION AS THE DHSMV VIOLATION (P. 22). THE STATE AMENDED THE INFORMATION ON 2-20-14 (P. 30) AND AGAIN 3-14-14 (P. 32) USING THE SAME INFORMATION BUT CHANGED THE OCCURRENCE DATES. THE STATE AGAIN AMENDED THE INFORMATION ON 3-17-14 (P. 33) BEFORE JURY SELECTION AND CORRECTLY CHARGED THE COUNT-1 DHSMV VIOLATION AS HAVING HAMILTON COUNTY JURISDICTION AND CHARGED COUNT-2 UNDER PUTNAM JURISDICTION WITH ITS PROPER SUBSECTION OF (2)(A), WHICH INVOLVES REGISTRY WITH THE SHERIFF'S OFFICE. COUNSEL PARK MOTIONED TO HAVE THE COUNT-1 VIOLATION DISMISSED FOR LACK OF TERRITORIAL JURISDICTION DUE TO THE LANGUAGE IN THE 3-17-14 INFORMATION, BUT JUDGE CHRISTENSEN DENIED THE MOTION WITHOUT PREJUDICE SO THE MOTION COULD BE RAISED AGAIN BEFORE THE TRIAL JUDGE (JURY SELECTION, P. 48-54).

DURING MR. HOPE'S PRETRIAL MOTION HEARING, ON 3-18-14, COUNSEL PARK AGAIN MOTIONED TO DISMISS THE COUNT-1 DHSMV VIOLATION (MOTION HEARING, P. 12) BUT INSTEAD OF JUDGE MENDOZA RULING ON THE ORAL MOTION, HE DISCUSSED WITH COUNSEL PARK AND THE STATE ABOUT PROPER JURISDICTION AND THE RAMIFICATIONS OF CONVICTING MR. HOPE WITHOUT HAVING JURISDICTION (MOTION HEARING, P. 34-35). THE STATE THEN MADE THE CLAIM OF POSSESSING CASELAW AUTHORITY, WHICH HE SAID HE RECEIVED FROM FASE IN-HOUSE COUNSEL (MOTION HEARING, P. 39-40), THAT WOULD SUPPORT PUTNAM'S POSITION FOR JURISDICTION OVER THE COUNT-1 DHSMV VIOLATION (MOTION HEARING, P. 19). JUDGE MENDOZA, UPON HEARING THIS CLAIM GAVE THE STATE AN OPEN COURT ORDER TO DISCLOSE TO THE COURT AND DEFENSE THIS ALLEGED CASELAW FOR REVIEW PRIOR TO MR. HOPE'S 3-21-14 TRIAL (MOTION HEARING, P. 33-34) TO DETERMINE PROPER JURISDICTION BUT THE DISCLOSURE WAS NEVER MADE. THE STATE, KNOWING

THAT NO SUCH CASELAW EXISTS, AGAIN AMENDED THE INFORMATION ON 3-19-14 (P.43-44) AND DELIBERATELY SWITCHED THE JURISDICTION ELEMENT OF THE COUNT-1 DASHM VIO-
TION FROM HAMILTON TO PUTNAM WITHOUT DISCLOSING THE COURT-ORDERED CASELAW
TO SUPPORT THIS AMENDMENT WHILE ALSO DISMISSING THE COUNT-2 PUTNAM VIO-
TION AS BEING IMPROPER.

MR. HOPE WAS FOUND GUILTY ON 3-21-14 DURING A 1-DAY TRIAL OF FAILING TO RE-
GISTER A TEMPORARY ADDRESS, WHICH IS UNCHARGED IN THE INFORMATION BY DESCIP-
TION OR STATUTE, AND BASED ON TESTIMONY AND EVIDENCE COLLECTED TO SUPPORT
THE COUNT-2 PUTNAM VIOLATION THAT HAD BEEN DISMISSED.

ON 3-27-14, SIX (6) DAYS AFTER TRIAL, MR. HOPE FILED TWO (2) PRO SE MOTIONS FOR REVIEW:
MOTION FOR NEW TRIAL, PURSUANT TO RULE 3.600(3)(b)(5)(8)(c), RAISING FIVE (5) GROUNDS AND A
MOTION FOR ARREST OF JUDGEMENT ADDRESSING THE JURISDICTION ISSUE BECAUSE THE ISS-
UE WAS NEVER RESOLVED BY THE COURT AT NO POINT DURING THE TRIAL (JURY TRIAL, P.294-
303). WITHOUT A HEARING BEING HELD OR EITHER MOTION BEING RULED UPON, MR. HOPE
WAS SENTENCED ON 4-8-14 TO 16.7 YEARS EVEN AFTER THE STATE CONCEDED DURING THE SEN-
TENCING HEARING THAT THE DASHM LICENSE VIOLATION WAS A "HAMILTON COUNTY JURIS-
DICTION AND WE WERE JUST HAVING HIM CORRECT IT" AND THAT "MR. HOPE WAS CON-
VICTED OF FAILING TO REGISTER A TEMPORARY ADDRESS, WHICH IS UNCHARGED IN THE
INFORMATION (SENTENCING HEARING, P.657).

MR. HOPE ADVISED HIS APPELLATE COUNSEL, STEVEN GOSNEY, TO AMEND HIS DIRECT APPEAL
TO INCLUDE THIS JURISDICTION CLAIM, BUT COUNSEL DISMISSED THIS SUGGESTION AS
"IRRELEVANT" AND AFTER THE DENIAL OF HIS DIRECT APPEAL MR. HOPE FILED A RULE 9.141(d)
AND RAISED THREE (3) ISSUES FOR REVIEW, INCLUDING THE JURISDICTION CLAIM, AND
PLACED THE 5TH SCA ON NOTICE OF THE ERROR. UPON RECEIVING THE APPEAL RECORDS, MR.
HOPE REQUESTED FROM THE TRIAL COURT COPIES OF THE RULINGS TO HIS PRO SE MOTIONS AF-
TER A REVIEW OF THE RECORDS REVEALED NO RULINGS HAD BEEN MADE TO EITHER MOTION.
ON 12-1-15, APPROXIMATELY TWENTY (20) MONTHS AFTER THE MOTIONS WERE FILED, JUDGE
CLYDE WOLFE DENIED MR. HOPE'S MOTION FOR ARREST OF JUDGEMENT BUT NEVER RULED ON
THE PRO SE MOTION FOR NEW TRIAL YET SENT MR. HOPE A COPY OF THE 4-3-14 ORDER DENYING
COUNSEL PARK'S MOTION THAT WAS FILED PURSUANT TO RULES 3.580 AND 3.590 AS ITS DENIAL
TO MR. HOPE'S PRO SE MOTION. (NOTE: JUDGE DUPONT FALSELY STATED IN HIS DENIAL TO MR.
HOPE'S RULE 3.850 (GROUND FOUR) THAT MR. HOPE'S PRO SE MOTION FOR NEW TRIAL WAS RULED
UPON ON 4-9-14, BUT LET THE RECORDS REFLECT THAT THERE IS NO SUCH ORDER EXISTING FOR
THIS DATE LISTED ANYWHERE IN THE INDEX OF THE RECORDS PROVIDED AND PREPARED BY
THE CLERK'S OFFICE.) THE 5TH SCA DENIED MR. HOPE'S RULE 9.141(d) ON 1-7-16 AND THE REHEARING
ON 2-15-16.

ON 5-31-16, MR. HOPE SUBMITTED A RULE 3.800(A) TO THE TRIAL COURT ADDRESSING THIS SU-

JURISDICTION ISSUE AND AGAIN PLACING THE TRIAL COURT ON NOTICE OF THE ERRORS, BUT THIS MOTION WAS DENIED ON 7-30-16 AS THE COURT REFERENCED THE 3-19-14 INFORMATION AS ITS REASON FOR DENYING THE MOTION AND NEVER RULED ON THE MERITS. MR. HOPE NOTIFIED THE TRIAL COURT OF HIS ADDRESS CHANGE ON 6-22-16, YET THE COURT STILL SENT ITS 7-30-16 DENIAL TO MR. HOPE'S PREVIOUS FACILITY WHICH DELAYED RECEPTION OF THE ORDER APPROXIMATELY TWO (2) WEEKS. MR. HOPE FILED HIS REHEARING ON 8-18-16 BUT RECEIVED A DENIAL TO THE REHEARING ON 8-19-16 THAT WAS DATED 8-13-16, FIVE (5) DAYS BEFORE THE REHEARING WAS FILED AND A 2ND COPY OF THE SAME ORDER ON 9-21-16. MR. HOPE TIMELY APPEARED TO THE 5TH DCA ON 9-23-16 NOT ONLY HIS JURISDICTION CLAIM BUT ALSO THE TRIAL COURT'S ABUSE OF DISCRETION IN PREMATURELY DENYING THE REHEARING, YET THE DCA STILL AFFIRMED THE TRIAL COURT'S DECISION ON 1-17-17 AND DENIED REHEARING ON 2-23-17.

MR. HOPE FILED A TIMELY RULE 3.850 RAISING ELEVEN (11) ISSUES FOR RELIEF ON 3-17-17 AND THE TRIAL COURT ISSUED A SHOW CAUSE ORDER TO THE STATE ON 4-11-17 TO ANSWER THE ALLEGATIONS OF THE MOTION. THE STATE RESPONDED ON 4-27-17 AND PROVIDED ONLY THE 3-19-14 INFORMATION AND THE 5-4-16 ORDER DENYING PRODUCTION OF DOCUMENTS TO REFUTE MR. HOPE'S ISSUES. MR. HOPE REQUESTED LEAVE TO FILE A REPLY ON 5-9-17 AND SUBMITTED HIS REPLY, ALONG WITH EXHIBITS FROM THE RECORD TO SUPPORT HIS REPLY, BUT JUDGE SCOTT DUPONT DENIED ALL ELEVEN (11) GROUNDS ON 7-15-17 WITH NO EVIDENTIARY HEARING. MR. HOPE APPEARED TO THE DCA ON 7-29-17 AND SUBMITTED HIS BRIEF ON 8-23-17, BUT THE DCA AFFIRMED THE TRIAL COURT'S DECISION ON 11-14-17 AND DENIED THE REHEARING ON 12-20-17 WITHOUT AN OPINION.

ON 4-18-17, MR. HOPE FILED A COMPLAINT FOR HABEAS CORPUS PURSUANT TO RULE 1.630, FLA. R. CIV. PROC. (2015) AND 79.09, FLA. STAT. (2014) CHALLENGING THE STATE AND FEDERAL CONSTITUTIONAL VIOLATIONS MR. HOPE INCURRED AS A RESULT OF THE STATE'S FABRICATION OF EVIDENCE AND PUTNAM COUNTY'S LACK OF TERRITORIAL JURISDICTION. JUDGE DUPONT NOT ONLY DENIED THE HABEAS COMPLAINT ON 5-17-17, BUT ALSO RECLASSIFIED THE COMPLAINT AS A SUCCESSIVE RULE 3.800(A), ACCUSED MR. HOPE OF TRYING TO "CIRCUMVENT THE APPEAL PROCESS BECAUSE IT WAS FILED AS A CIVIL PROCEEDING AND REFERENCED THE 3-19-14 INFORMATION BUT STILL DIDN'T RULE ON THE MERITS OF THE CLAIM. MR. HOPE APPEARED TO THE DCA ON 6-2-17 AND SUBMITTED THE BRIEF ON 6-22-17, BUT THE DCA AFFIRMED THE TRIAL COURT'S DECISION ON 9-5-17 AND THE REHEARING ON 10-17-17 WITH NO OPINION.

AFTER BEING DENIED A COA BY THE U.S. DISTRICT COURT ON DECEMBER 7, 2021 AND RECONSIDERATION BY THE 11TH CIRCUIT COURT OF APPEALS ON JULY 9, 2021, MR. HOPE NOW SEEKS CERTIORARI FROM THIS HONORABLE COURT.

REASONS FOR GRANTING THE PETITION

1. THE TRIAL COURT'S MISAPPLICATION OF CONSTITUTIONAL LAW CONCERNING JURISDICTION WARRANTS THIS COURT'S ATTENTION.

THE 11TH CIRCUIT COURT OF APPEALS, U.S. DISTRICT COURT AND 5TH DCA HAVE ALL DEFERRED TO THE TRIAL COURT'S CLAIM THAT MR. HOPE'S DRIVING LICENSE VIOLATION OCCURRED IN PUTNAM COUNTY BUT DOCUMENTATION FROM THE RECORDS AND THE STATE'S OWN ADMISSIONS SHOW OTHERWISE. THE 11TH CIRCUIT HAS HELD THAT "WHEN IT HAS COME TO THE ATTENTION OF THE COURT OF APPEALS THAT THERE EXISTS A SERIOUS QUESTION REGARDING THE FACTUAL PREDICATE FOR JURISDICTION, IT SHOULD REMAND FOR A FINDING TO RESOLVE THE JURISDICTION QUESTION," SEE *BENERI V. US*, 712 F3d 543 (11TH Cir. 2013) AND SINCE JURISDICTION CANNOT BE WAIVED IT CAN BE RAISED AT ANY TIME DURING LITIGATION, "SEE, *SCARFO V. GINSBERG*, 175 F3d 957, 960 (11TH Cir. 1999) BUT THE COURT OF APPEALS DIDN'T REMAND TO RESOLVE THE JURISDICTION ISSUE.

FLORIDA STATUTE 918.04 OUTLINES THE PROCEDURE WHEN OFFENSE COMMITTED IN ANOTHER COUNTY AND STATES WHEN A COURT DETERMINES THAT IT DOES NOT HAVE JURISDICTION BECAUSE THE OFFENSE CHARGED WAS COMMITTED IN ANOTHER COUNTY OF THE STATE, THE DEFENDANT SHALL BE COMMITTED TO CUSTODY AND ADMITTED TO BAIL FOR A REASONABLE TIME TO AWAIT A WARRANT FOR HIS OR HER ARREST FROM THE PROPER COUNTY. THE CLERK SHALL NOTIFY THE PROSECUTING ATTORNEY OF THE PROPER COUNTY OF THE LOCATION OF THE DEFENDANT. IF THE DEFENDANT IS NOT ARRESTED ON A WARRANT FROM THE PROPER COUNTY WITHIN A TIME SET BY THE COURT, HE OR SHE SHALL BE DISCHARGED. IF THE DEFENDANT HAS BEEN ADMITTED TO BAIL, THE COURT SHALL ORDER THE BOND CANCELLED AND ANY DEPOSIT OF MONEY OR BOND RETURNED, BUT NONE OF THIS TRANSPIRES IN MR. HOPE'S CASE AS BONDED OUT AND PROCEEDED TO DRIVE THROUGH FIVE (5) COUNTIES TO MAKE ALL COURT APPEARANCES IN A COUNTY THAT HAS BEGUN THE PROCESS OF VIOLATING MR. HOPE'S GUARANTEED CONSTITUTIONAL RIGHTS, BOTH STATE AND FEDERAL, TO TRIAL IN THE COUNTY WHERE HIS CRIME WAS COMMITTED AS WELL AS HIS RIGHT TO DUE PROCESS.

MR. HOPE'S JURISDICTION ERROR IS SO FUNDAMENTAL THAT "THE ERROR REACHES DOWN INTO THE VALIDITY OF THE TRIAL ITSELF TO THE EXTENT THAT A VERDICT OF GUILTY COULD NOT HAVE BEEN OBTAINED WITHOUT THE ASSISTANCE OF THE ALLEGED ERROR," SEE, *BROWN V. STATE*, 124 So2d 481, 484 (FLA. 1960) AND "THE FUNDAMENTAL ERROR DOCTRINE SHOULD BE APPLIED ONLY IN RARE CASES WHERE A JURISDICTIONAL ERROR APPEARS OR WHERE THE INTEREST OF JUSTICE PRESENTS A COMPELLING DEMAND FOR REVIEW, SEE, *SMITH V. STATE*,

521 So2d 106 (Fla. 1988); SOCHAR V. STATE, 619 So2d 285 (Fla. 1993); BAIN V. STATE, 730 So2d 296 (Fla. 2d DCA 1999). AS PETITIONER'S JURISDICTIONAL ERROR IS ONE OF THOSE RARE CASES AND WOULD CLEARLY ENTITLE MR. HOPE TO RELIEF AND IMMEDIATE RELEASE AS HABEAS CORPUS WILL LIE TO PREVENT A MANIFEST INJUSTICE EVEN IF THE ERROR IS ONE THAT COULD HAVE BEEN CORRECTED BY FILING A POST-CONVICTION MOTION, SEE, FIGUEROA V. STATE, 84 So3d 1158 (Fla. 2d DCA 2012); ADAMS V. STATE, 957 So2d 1183 (Fla. 3d DCA 2006).

II. TRIAL COUNSEL'S INEFFECTIVENESS AND FAILURE TO OBJECT TO THE TRIAL COURT'S LACK OF JURISDICTION WARRANTS THIS COURT'S ATTENTION.

THE 11TH CIRCUIT COURT OF APPEALS, U.S. DISTRICT COURT AND 5TH DCA ALL DEFERRED TO THE STATE COURT'S DECISION THAT MR. HOPE WAS NOT PREJUDICED BY HIS TRIAL COUNSEL'S FAILURE TO OBJECT SO THE TWO PRONGED TEST IN STRICKLAND V. WASHINGTON, 466 US 668 (1984) WASN'T MET BUT MR. HOPE WILL SHOW HOW THIS DEFICIENT PERFORMANCE PREJUDICED HIS DEFENSE.

FOUR (4) DAYS BEFORE TRIAL DURING JURY SELECTION COUNSEL MOVED TO DISMISS THE COUNT-1 ADJUV VIOLATION BECAUSE OF THE HAMILTON COUNTY LANGUAGE IN THE CHARGING DOCUMENT AND MADE THE SAME ORAL MOTION THE NEXT DAY DURING MR. HOPE'S MOTION HEARING. WHEN THE TRIAL STARTED, THE STATE MADE THE COURT AWARE THAT AN AMENDED INFORMATION HAD BEEN FILED WITH THE HAMILTON LANGUAGE NO LONGER LISTED AND THE SECOND COUNT DISMISSED AS BEING IMPROPER BUT FAILED TO STATE THAT THE JURISDICTION ELEMENT OF COUNT-1 HAD BEEN SWITCHED FROM HAMILTON TO PUTNAM JUST SO MR. HOPE COULD BE PROSECUTED IN PUTNAM COUNTY. COUNSEL KNEW THAT AN OBJECTION WOULDVE AGAIN PLACED THE TRIAL COURT ON NOTICE THAT AN ERROR OF EXTREME CONSTITUTIONAL IMPORTANCE WAS BEING COMMITTED AND AS ARGUED IN CASTOR V. STATE, 365 So2d 701, A CONTEMPORANEOUS OBJECTION IS BASED ON PRACTICAL NECESSITY AND BASIC FAIRNESS IN THE OPERATION OF A JUDICIAL SYSTEM. IT PLACES THE TRIAL JUDGE ON NOTICE THAT ERROR MAY HAVE BEEN COMMITTED AND PROVIDES HIM AN OPPORTUNITY TO CORRECT IT AT AN EARLY STAGE OF THE PROCEEDINGS. DELAY AND UNNECESSARY USE OF APPELLATE PROCESS RESULT FROM A FAILURE TO CURE EARLY THAT WHICH MUST BE CURED EVENTUALLY. HAD COUNSEL NOT FAILED TO OBJECT TO THIS ISSUE MR. HOPE'S CONSTITUTIONAL RIGHT WOULD NOT HAVE BEEN VIOLATED BUT INSTEAD HER DEFICIENT PERFORMANCE PREJUDICED MR. HOPE'S ENTIRE DEFENSE THAT IT CLEARLY AFFECTED THE FAIRNESS AND RELIABILITY OF THE PROCEED-

INGO THAT CONFIDENCE IN THE OUTCOME WAS UNDERMINED AS IT DENIED MR. HOPE OF A PROCEDURAL AND SUBSTANTIVE CONSTITUTIONAL RIGHT GUARANTEED BY THE 5TH AND 14TH AMENDMENTS OF THE CONSTITUTION. IN U.S. V. TURNER, 474 F3d 1245 (1ST CIR, 2007) IT SAYS THAT "A SUBSTANTIAL RIGHT IS AFFECTED IF... THERE IS A REASONABLE PROBABILITY THAT THERE WOULD HAVE BEEN A DIFFERENT RESULT HAD THERE BEEN NO ERROR," (QUOTING U.S. V. BENNETT, 472 F3d 825 (1ST CIR, 2006)) AND THE PROBABILITY EXISTS THAT HAD COUNSEL OBJECTED TO THE JURISDICTION ISSUE THE OUTCOME WOULD HAVE BEEN DIFFERENT.

IN SATISFYING THE TWO(2) STRICKLAND PRONG MR. HOPE HAS SHOWN THAT COUNSEL WAS DEFICIENT IN HER OBLIGATORY PERFORMANCE AND THIS DEFICIENCY PREJUDICED MR. HOPE'S RIGHT TO A FAIR TRIAL AS GOVERNED BY THE FLORIDA AND U.S. CONSTITUTIONS. "IN ALL CRIMINAL PROSECUTIONS THE ACCUSED SHALL HAVE THE ASSISTANCE OF COUNSEL FOR HIS DEFENCE," U.S. CONST. AMEND. 6, AND THE RIGHT TO COUNSEL IS THE RIGHT TO EFFECTIVE ASSISTANCE OF COUNSEL AT TRIAL AND AT SENTENCING, (QUOTING *MEMANN V. RICHARDSON*, 379 US 259, 90 S.Ct. 1441, 25 L. Ed 2d 763 (1970)) AND COUNSEL'S ASSISTANCE IN THIS SITUATION WASN'T EFFECTIVE AT ALL.

III.) IMPROPER INTRODUCTION AND USE OF COLLATERAL CRIME EVIDENCE WARRANTS THIS COURT'S ATTENTION.

THE 11TH CIRCUIT COURT OF APPEALS, U.S. DISTRICT COURT AND 5TH DCA ALL REFERRED TO THE STATE COURT'S DECISION THAT NO COLLATERAL CRIME EVIDENCE WAS USED BY THE STATE BUT ALL OF THE TESTIMONY HEARD DURING TRIAL WAS OBTAINED TO SUPPORT THE CRIME THAT WAS DROPPED FROM THE INFORMATION AND HELD NO RELEVANCE TO THE DHSMV VIOLATION MR. HOPE WAS CHARGED WITH. IN *MORROW V. STATE*, 931 So2d 1021 (FLA. 3d DCA 2006) CITING *BRYAN V. STATE*, 533 So2d 744, 746 (FLA. 1988) SAYS TO DETERMINE WHETHER COLLATERAL CRIME EVIDENCE BECAME A FEATURE OF THE TRIAL, WE DO NOT SOLELY MEASURE THE NUMBER OF REFERENCES THE PROSECUTION MADE TO SUCH EVIDENCE, AND THE STATE NOT ONLY REFERENCED THIS COLLATERAL EVIDENCE BUT ARGUED IT TO THE JURY TO ESTABLISH THAT MR. HOPE FAILED TO REGISTER A TEMPORARY ADDRESS WITH THE SHERIFF'S OFFICE WHICH IS A VIOLATION OF STATUTE 943.0435(2)(A), UNCHARGED IN THE 3-19-14 INFORMATION AND DOES NOT TRIGGER THE DHSMV REGISTRY PER STATUTE.

EVEN AS ARGUED IN *AMOROS V. STATE*, 531 So2d 1256, 1258 (FLA. 1988) IT SAYS "THE TRIAL COURT IS OBLIGATED TO EXCLUDE EVIDENCE IN WHICH UNFAIR PREJUDICE OUTWEIGHS THE PROBATIVE VALUE IN ORDER TO AVOID THE DANGER THAT A JURY WILL CONVICT A DE-

FENPANT BASED UPON REASONS OTHER THAN EVIDENCE ESTABLISHING HIS GUILT FOR THE CRIME THAT HE WAS ARRESTED FOR, AND WHEN THE TRIAL COURT ALLOWED THE STATE TO INTRODUCE AND USE EVIDENCE FOR A CRIME NOT CHARGED IN THE INFORMATION IT PREJUDICED MR. HOPE'S RIGHT TO A FAIR TRIAL AS GOVERNED BY THE 6TH AMENDMENT AND EQUAL PROTECTION AS GOVERNED BY THE 14TH AMENDMENT.

IV. TRIAL COUNSEL INEFFECTIVENESS AND FAILURE TO OBJECT TO THE TRIAL COURT'S ABUSE OF DISCRETION IN ALLOWING THE STATE TO INTRODUCE AND USE COLLATERAL EVIDENCE WARRANTS THIS COURT'S ATTENTION.

THE 11TH CIRCUIT COURT OF APPEALS, U.S. DISTRICT COURT AND 5TH PCA ALL REFERRED TO THE TRIAL COURT DECISION THAT COUNSEL WASN'T INEFFECTIVE FOR FAILING TO OBJECT BECAUSE NO COLLATERAL EVIDENCE WAS USED BUT LET THE RECORDS REFLECT THAT THE TESTIMONY AND EVIDENCE PRESENTED BY THE STATE DURING MR. HOPE'S TRIAL WAS INTENDED TO SUPPORT THE COUNT-2 PUTNAM VIOLATION OF THE 3-17-14 INFORMATION AND WHEN THE COUNT-2 VIOLATION WAS DROPPED FROM THE 3-19-14 INFORMATION ALL EXISTING EVIDENCE THAT WAS BEING USED TO SUPPORT THIS NOW "UNCHARGED" VIOLATION SHOULD HAVE BEEN DEEMED INADMISSIBLE AND A HEARING HELD TO DETERMINE ITS RELEVANCY TO MR. HOPE'S DSMV VIOLATION. AGATHIAS V. STATE, 77 F.3d 1232 (2011) STATES THAT "EVIDENCE IS INADMISSIBLE IF ITS PROBATIVE VALUE IS SUBSTANTIALLY OUTWEIGHED BY THE DANGER OF UNFAIR PREJUDICE, CONFUSION OF ISSUES, MISLEADING THE JURY OR NEEDLESS REPRESENTATION OF CUMULATIVE EVIDENCE," 90,403 F.3., AND THIS COLLATERAL EVIDENCE ASSISTED THE STATE IN CONFUSING THE FACTS OF THE CASE AND MISLEADING THE JURY TO RENDER A GUILTY VERDICT FOR AN UNCHARGED CRIME, SEE, GREEN V. STATE, 27 503d 231 (FLA. 2d PCA 2010); MOORE V. STATE, 1503d 1177 (FLA. 5 PCA 2009).

COUNSEL'S FAILURE TO OBJECT TO THE USE OF THIS COLLATERAL EVIDENCE DENIED MR. HOPE EFFECTIVE ASSISTANCE AS GOVERNED BY 6TH AMENDMENT, AS WELL AS EQUAL PROTECTION UNDER THE 14TH AMENDMENT OF THE CONSTITUTION AS COUNSEL'S OBJECTION WOULD HAVE PLACED THE JUDGE ON NOTICE THAT ERROR WAS BEING COMMITTED. CASTOR, SUPRA. MR. HOPE HAS SATISFIED BOTH PRONGS OF STRICKLAND IN SHOWING DEFICIENT PERFORMANCE AND THE PREJUDICE IT CAUSED TO HIS CRIMINAL PROCEEDINGS.

V. TRIAL COURT FAILURE TO HOLD HEARING AT CRITICAL STAGE IN PROCEEDINGS WARRANT THIS COURT'S ATTENTION.

THE 11TH CIRCUIT COURT OF APPEAL, U.S. DISTRICT COURT AND 5TH DCA ALL DEFERRED TO THE TRIAL COURT'S DECISION THAT THIS ISSUE SHOULD HAVE BEEN RAISED ON DIRECT APPEAL BUT MR. HOPE DIDN'T DISCOVER HIS UNRULED UPON MOTIONS UNTIL AFTER THE DENIAL OF HIS DIRECT APPEAL AND HE RECEIVED THE APPEAL RECORD. LIMITED INQUIRY BY THE TRIAL COURT INTO THE ALLEGATIONS WAS REQUIRED AS THE CAUSE SHOULD HAVE BEEN STAYED AND THE MOTIONS RULED UPON IMMEDIATELY ON ITS MERITS EVEN ABSENT THE REQUEST TO DISCHARGE COUNSEL AS RULED IN *PETERSON V. STATE*, 881 S.O.2D 1129 (FLA. 4 DCA 2004) AND *BERMUDEZ V. STATE*, 901 S.O.2D 981 (FLA. 4 DCA 2005).

ON 3-27-14, SIX (6) DAYS AFTER TRIAL, MR. HOPE SUBMITTED TO THE TRIAL COURT TWO (2) PRO SE MOTIONS: MOTION FOR ARREST OF JUDGEMENT AND MOTION FOR NEW TRIAL, PURSUANT TO RULE 3.600(3)(b)(5)(8)(c), BUT NEITHER MOTION WAS STRICKEN, OPPOSED, ADOPTED OR RULED UPON BY THE COURT, STATE OR TRIAL COUNSEL BEFORE MR. HOPE'S 4-8-14 SENTENCING. EVEN THOUGH COUNSEL WAS AWARE OF BOTH MOTIONS BEFORE HAND AND COULD HAVE ADOPTED BOTH BUT INSTEAD FILED HER OWN MOTION FOR NEW TRIAL, PURSUANT TO RULES 3.580 AND 3.590, WHICH THE COURT DENIED ON 4-3-14 AS DOCUMENTED IN THE RECORDS. AFTER A REVIEW OF THE RECORD REVEALED NO ORDERS FOR EITHER MOTION MR. HOPE SENT A REQUEST AND NOTICE OF ACTION REQUESTING COPIES OF THE ORDERS TO HIS PRO SE MOTIONS AND ON 12-1-15, APPROXIMATELY TWENTY (20) MONTHS AFTER THE MOTIONS WERE FILED JUDGE CLYDE WOLFE DENIED MR. HOPE'S MOTION FOR ARREST OF JUDGEMENT. IT HAS BEEN APPROXIMATELY EIGHTY-NINE (89) MONTHS SINCE THE PRO SE MOTION FOR NEW TRIAL WAS FILED AND THE TRIAL COURT HAS YET TO RULE ON THE MOTION AS OF THE FILING OF THIS PETITION. DESPITE THE FALSE STATEMENT BY JUDGE SCOTT DUPONT IN HIS DENIAL OF MR. HOPE'S RULE 3.850 IN WHICH HE CLAIMED THAT THE MOTION WAS RULED UPON ON 4-9-14. [NOT THE RECORDS REFLECT] THAT THERE IS NO SUCH RULING MADE ON MR. HOPE'S PRO SE MOTION OR ANY MOTION IN THE COURT INDEX FOR THE DATE OF 4-9-14.

THE TRIAL COURT'S FAILURE TO GIVE MR. HOPE A PROPER HEARING OF HIS PRO SE MOTIONS AT A CRITICAL STAGE IN HIS CRIMINAL PROCEEDINGS DENIED MR. HOPE HIS 6TH AMENDMENT RIGHT TO SELF-REPRESENTATION OF HIS PRO SE MOTIONS WHICH MR. HOPE FEELS WERE SUFFICIENT TO SHOW THAT AN ADVERSARIAL RELATIONSHIP EXISTED BETWEEN MR. HOPE AND TRIAL COUNSEL WHICH PROVOKED AND NECESSITATED THE FILING OF HIS PRO SE MOTIONS AFTER COUNSEL FAILED TO ADDRESS THE ISSUES, ESPECIALLY THE JURISDICTION ISSUE, DURING THE TRIAL PROCEEDINGS.

VI.) STATE WITNESS COMMITTING PERJURY UNDER OATH WARRANTS THIS COURT'S ATTENTION.

THE 11TH CIRCUIT COURT OF APPEALS, U.S. DISTRICT COURT AND 5TH DCA ALL DEFERRED TO THE TRIAL COURT'S RULING THAT STATES WITNESS, CASIMIR PIOWOWARSKI, DIDN'T COMMIT PERJURY UNDER OATH DURING MR. HOPE'S TRIAL WHEN HE CLAIMED TO BE "CHIEF OF WELAKA" BUT THIS STATEMENT IS INCORRECT DUE TO HIS RE-CERTIFICATION EXPIRING ON 6-30-13, THREE DAYS AFTER MR. HOPE'S ARREST.

THIS NEW EVIDENCE WAS DISCOVERED BY MR. HOPE AFTER READING AN ARTICLE IN THE FORT MYERS DAILY NEWS 1-21-14, TWENTY-TWO (22) MONTHS AFTER MR. HOPE'S TRIAL, WHICH RETAINED THE FINDINGS MADE BY FILE FIELD SPECIALIST, KATHY MYERS, DURING A 1-5-14 AUDIT THAT REVEALED DEFICIENCIES IN MR. PIOWOWARSKI'S OFFICER FILED THAT SHOWED HE HADN'T COMPLETED HIS MANDATORY RETRAINING REQUIREMENTS BEFORE THE DEADLINE AND HIS RE-CERTIFICATION WAS CONSIDERED Lapsed AS OF 7-1-13 THUS REMOVING HIS OFFICER REGISTRATION FROM THE AUTOMATED TRAINING MANAGEMENT SYSTEM (ATMS) AS HE WAS NO LONGER EMPLOYED AS AN OFFICER. WHEN MR. PIOWOWARSKI GAVE HIS 2-10-14, HIS RE-CERTIFICATION HAD ALREADY BEEN EXPIRED SEVEN (7) MONTHS AND TEN (10) DAYS AND ALMOST NINE (9) MONTHS WHEN HE TESTIFIED ON 3-21-14 ABOUT HIS INTERACTIONS WITH MR. HOPE. IN BOTH INSTANCES WHEN ASKED "WHAT IS YOUR CURRENT JOB POSITION?", HE MADE THE FALSE CLAIMS OF BEING "CHIEF OF WELAKA". RULE 11B-27.002(2)(5), F.A.C., REQUIRES ALL FULL-TIME, PART-TIME OR AUXILIARY OFFICERS TO COMPLETE (40) HOURS OF MANDATORY RETRAINING EVERY (4) YEARS. THIS TRAINING MUST INCLUDE TRAINING IN DOMESTIC VIOLENCE, HUMAN DIVERSITY, JUVENILE SEXUAL OFFENDER, INVESTIGATIONS AND DISCRIMINATORY PROFILING AND PROFESSIONAL TRAFFIC STOPS. RULE 11B-27.002(2)(6), F.A.C., OUTLINES THE REQUIREMENTS FOR AN OFFICER WHO HAS FAILED TO COMPLY WITH THE STATUTORILY REQUIRED CONTINUED EDUCATION OR TRAINING, "AND SINCE HE HAS FAILED TO COMPLETE HIS RETRAINING CERTIFICATION, HE WAS IN VIOLATION OF THE FLORIDA ADMINISTRATIVE CODE (F.A.C.) AND THE CRIMINAL JUSTICE STANDARDS AND TRAINING COMMISSION. THE DOCUMENT CONTINUES BY STATING, IN RULE 11B-27.002(2)(6), F.A.C., THAT "ANY OFFICER WHO HAS NOT COMPLETED THE REQUIRED CONTINUING EDUCATION OR TRAINING BEFORE THE MANDATORY TRAINING DEADLINE SHALL NOT PERFORM THE DUTIES OF A SWORN OFFICER," WHICH WOULD INCLUDE GIVING SWORN DEPOSITIONS AND TESTIMONY, UNDER OATH, BEFORE A JURY USING A JOB TITLE AND POSITION HE WAS NO LONGER CERTIFIED NOR AUTHORIZED TO USE. THE COMMISSION REQUIRED COMPLIANCE WITH SUBSECTION 11B-27.002(1), F.A.C., IN ORDER TO BECOME RE-EMPLOYED AS AN OFFICER IN ATMS AND THAT REQUIREMENT WASN'T MET UNTIL ALMOST TWO (2) YEARS AFTER MR. HOPE'S TRIAL.

MR. PIOWOWARSKI KNEW THAT HIS FILE HAD DEFICIENCIES AND EVEN INFORMED WELAKA MAJOR, GORDON SANDS, OF THE MISSING DOCUMENTS DURING THE AUDIT AS BOTH SEEMED THIS FILE DEFICIENCY AN OVERSIGHT BUT SHOULD HAVE BEEN DISCOVERED

MISSING LONG BEFORE THE AUDIT. THE STATE ALSO KNEW THAT HIS TESTIMONY WOULD CARRY AND HOLD OVERWHELMING CREDIBILITY IN THE EYES OF THE JURY BASED ON HIS LONGSTANDING COMMUNITY TIES AS HIS TESTIMONY PREJUDICED MR. HOPE'S RIGHT TO A FAIR TRIAL BY A JURY THAT WAS NO LONGER IMPARTIAL AT THIS POINT AND DENIED MR. HOPE HIS 6TH AMENDMENT DUE PROCESS RIGHT.

VII. THE STATES WITHHOLDING OF EVIDENCE
AND FAILURE TO CORRECT THE RECORD WARRANTS
THIS COURT'S ATTENTION.

THE 11TH CIRCUIT COURT OF APPEALS, U.S. DISTRICT COURT AND 5TH DCA ALL DEFERRED TO THE TRIAL COURT'S DECISION THAT NO BRANN VIOLATION OCCURRED "SINCE THE STATE DROPPED COUNT-2 FROM THE 3-17-14 INFORMATION THAT DISCLOSURE WOULD BE TAKEN FROM ORDER DENYING RULE 3.850, P.3, BUT THIS MISSTATEMENT AND CONFUSION OF LEGAL FACT IS ENTIRELY INCORRECT AS A REVIEW OF THE 3-17-14 INFORMATION AND 3-18-14 HEARING TRANSCRIPTS WILL CONCLUSIVELY SHOW THAT THE JURISDICTION DISCUSSION INVOLVED THE HAMILTON COUNTY LANGUAGE OF THE COUNT-1 VIOLATION AND NOT COUNT-2 AS THE STATE AND TRIAL COURT HAVE IMPROPERLY ALLEGED, THEREFORE MAKING DISCLOSURE WARRANTED AND VERY NECESSARY.

WHEN JUDGE MENDOZA COURT-ORDERED THE DISCLOSURE OF THIS ALLEGED CASELAW AUTHORITY, THE STATE HAS AN OBLIGATORY DUTY TO ENSURE THAT THIS ORDER WAS FOLLOWED, BUT FAILED TO DO SO. PURSUANT TO RULE 3.220(3), FLA. R. CRIM. PROC. (2014) AND RULE 4-3.8(c), RULES OF PROFESSIONAL CONDUCT (2014), IT SAYS THE STATE HAS A CONTINUING DUTY TO DISCLOSE ALL RELEVANT AND MATERIAL INFORMATION, EXCLUDING WORK PRODUCT AND THE IDENTITY OF CONFIDENTIAL INFORMANTS, AND THE UNDISCLOSED INFORMATION WAS VERY RELEVANT AND MATERIAL TO MR. HOPE'S DEFENSE PREPARATIONS. AS RULED BY THE FLORIDA SUPREME COURT IN CUMBY V. STATE, 345 S.O.2D 1061 (FLA. S.C. 1977) THAT A VIOLATION OF THE RULES OF CRIMINAL PROCEDURE BY THE STATE REQUIRED THE APPELLATE COURT TO REVERSE A CONVICTION UNLESS THE TRIAL COURT MADE AN INQUIRY INTO ALL THE CIRCUMSTANCES SURROUNDING THE BREACH, WITH THE STATE HAVING THE BURDEN OF SHOWING THE TRIAL COURT THAT THERE WAS NO PREJUDICE TO THE DEFENDANT, "BUT THE TRIAL COURT NEVER CONDUCTED AN INQUIRY INTO THE DISCLOSURE VIOLATION OR THE PREJUDICE MR. HOPE INCURRED AS A RESULT WAS VERY HARMFUL. THE STATE WAS GIVEN THREE (3) DAYS FROM THE DAY THE COURT ORDER WAS GIVEN TO DISCLOSE THIS ALLEGED CASELAW INFORMATION TO THE COURT AND DEFENSE FOR REVIEW PRIOR TO MR. HOPE'S 3-21-14 TRIAL TO DETERMINE IF THE STATE HAD SUFFICIENT SUPPORTING DOCUMENTATION

TO AUTHORIZE PUTNAM COUNTY TO PROSECUTE MR. HOPE FOR THE COUNT-1 NYSMV VIOLATION THAT OCCURRED IN HAMILTON COUNTY, BUT INSTEAD THE STATE INTENTIONALLY AND DELIBERATELY WITHHELD THIS INFORMATION BECAUSE MR. ALEXANDER SHARP KNEW THAT NO SUCH CASELAW EXISTED AND TO CORRECT THE RECORDS BY ADMITTING THAT HE FABRICATED POSSESSING THIS NON-EXISTING CASELAW WOULD'VE MOVED THE COURT TO DISMISS THE COUNT-1 NYSMV VIOLATION FOR ITS LACK OF TERRITORIAL JURISDICTION AS MOTIONED BY TRIAL COUNSEL DURING THE 3-18-14 MOTION HEARING.

IN BRAUN V. MARYLAND, 373 U.S. 83 (1983) THERE IS A FOUR (4) PRONGED TEST THAT MUST BE SATISFIED FOR RELIEF AND MR. HOPE WILL SATISFY THESE PRONGS FOR THIS HONORABLE COURT JUST AS HE DID FOR THE LOWER COURTS. THE FIRST PRONG STATES THAT "THE EVIDENCE AT ISSUE IS FAVORABLE TO THE ACCUSED, EITHER BECAUSE IT IS EXCULPATORY OR IMPEACHING..." AND THE EVIDENCE CLAIMED TO BE POSSESSED BY MR. SHARP DURING MR. HOPE'S 3-18-14 HEARING WAS VERY MUCH EXCULPATORY AND FAVORABLE TO MR. HOPE'S BECAUSE WITHOUT THIS ALLEGED CASELAW AUTHORITY PUTNAM COUNTY WOULD NOT BE ABLE TO JUSTIFY ITS POSITION FOR JURISDICTION OVER THE COUNT-1 NYSMV VIOLATION AS THIS NONDISCLOSURE WOULD NEGATE ANY POSSIBILITY THAT THE VIOLATION OCCURRED IN PUTNAM AS ALLEGED IN THE 3-19-14 INFORMATION. THE SECOND PRONG STATES THAT "THE EVIDENCE WAS SUPPRESSED BY THE STATE, EITHER WILLFULLY OR INADVERTENTLY..." AND THIS EVIDENCE INFORMATION WAS DELIBERATELY AND INTENTIONALLY SUPPRESSED BY MR. SHARP AS HE KNEW THAT THERE IS NO SUCH CASELAW AUTHORITY EXISTING THAT WOULD RELINQUISH JURISDICTION TO PROSECUTE A VIOLATION THAT OCCURRED IN ANOTHER COUNTY AND DISTRICT. THE THIRD PRONG STATES THAT "PREJUDICE TO THE PETITIONER ENSUED..." AND MR. HOPE SUFFERED UNLAWFUL PREJUDICE BY MR. SHARP'S FRANKLINT ACTS OF FABRICATING FALSE EVIDENCE AND THEN FAILING TO CORRECT THE RECORDS FOR VENEDICTIVE REASONS THAT HAD MORE TO DO WITH MR. HOPE'S PRIOR CONVICTION THAN HIS CURRENT VIOLATION. THE FOURTH PRONG STATES THAT "HAD THE EVIDENCE BEEN DISCLOSED TO THE DEFENDANT, REASONABLE PROBABILITY EXISTS THAT OUTCOME OF PROCEEDINGS MAY HAVE BEEN DIFFERENT..." AND SINCE MR. SHARP NEVER MADE THE COURT-ORDERED DISCLOSURE TO JUSTIFY HIS POSITION FOR JURISDICTION OVER THE COUNT-1 VIOLATION MR. HOPE WAS DENIED A CONSTITUTIONALLY GUARANTEED RIGHT THAT'S GOVERNED BY THE STATE AND FEDERAL CONSTITUTIONS OF HIS RIGHT TO TRIAL IN THE COUNTY (HAMILTON) AND DISTRICT (FIRST) WHERE THE CRIME WAS COMMITTED AND DISMISSAL WAS WARRANTED.

THE ABA STANDARDS FOR CRIMINAL JUSTICE RELATING TO DISCOVERY AND PROCEDURE BEFORE TRIAL IS DIVIDED INTO FIVE (5) PARTS AND PART II PROVIDED FOR AUTOMA-

THE DISCLOSURES (AVOIDING JUDICIAL LABOR) BY THE PROSECUTOR TO THE DEFENSE OF ALMOST EVERYTHING WITHIN THE PROSECUTOR'S KNOWLEDGE, EXCEPT FOR WORK PRODUCT AND THE IDENTITY OF CONFIDENTIAL INFORMANTS, AND THE STATE'S NEW BERATE, INTENTIONAL AND WILLFUL WITHHOLDING OF THIS ALLEGED CASELAW EVIDENCE INFORMATION DENIED MR. HOPE HIS 4TH AND 6TH AMENDMENT RIGHTS.

MR. HOPE ALSO MOTIONED THE COURT FOR PRODUCTION OF DOCUMENTS FROM THE STATE OF THIS ALLEGED CASELAW INFORMATION ON 3-30-16 AFTER RECEIVING A LETTER FROM NORMA KAY WENST, DIVISION CHIEF, PUTNAM/ST. JOHN'S OFFICE OF PUBLIC DEFENDER DATED 2-15-16, ADVISING MR. HOPE THAT NO SUCH CASE LAW EXISTS IN THE FILE, BUT JUDGE DUPONT DENIED THE MOTION ON 4-30-16. MR. SHARP EVEN STATED IN HIS RESPONSE TO THE 4-11-17 SHOW CAUSE ORDER (QUOTE) "THAT ANY CASELAW WOULD HAVE BEEN PRODUCED TO SUPPORT COUNT-2" (UNQUOTE), BUT AGAIN THIS IS A CLEAR MISTATEMENT AND CONFUSION OF FACTS AS THE ALLEGED CASELAW IN QUESTION WAS COURT-ORDERED TO SUPPORT CLARIFICATION OF PUTNAM COUNTY'S POSITION TO HAVE JURISDICTION OVER THE COUNT-1 HAMILTON VIOLATION AND NOT COUNT-2 AS PUTNAM COUNTY ALREADY HAS JURISDICTION OVER THIS COUNT. WHAT WOULD BE THE NEED FOR PRODUCTION OF JURISDICTIONAL CASELAW FOR A VIOLATION THAT PUTNAM ALREADY HELD JURISDICTION OVER? MR. SHARP KNEW THAT HE COULD NOT PRODUCE THE COURT-ORDERED INFORMATION BECAUSE THERE IS NO CASE PRECEDENT, BINDING OR DECLARATORY, TO GIVE THE JURISDICTION SOUGHT TO PROSECUTE THE COUNT-1 HAMILTON COUNTY VIOLATION AS ALLEGED IN THE 3-17-14 INFORMATION. SO TO AVOID DISCLOSURE MR. SHARP SWITCHED THE JURISDICTION ELEMENT OF THE DHS MV VIOLATION FROM HAMILTON TO PUTNAM.

VIII.) STATE ATTORNEY'S CONTINUOUS AMENDING
AND FILING OF FRAUDULENT DOCUMENTS WARRANTS
THIS COURT'S ATTENTION.

THE 11TH CIRCUIT COURT OF APPEALS, U.S. DISTRICT COURT AND 5TH SCA ALL REFERRED TO THE TRIAL COURT'S RULING THAT MR. HOPE'S CLAIM IS NOT FACTUAL AS THE INFORMATION THE STATE ULTIMATELY CHARGED THE DEFENDANT WITH WAS BASED ON MATTERS THAT OCCURRED IN PUTNAM COUNTY AND REFERENCED THE 3-19-14 INFORMATION TO SUPPORT HIS DENIAL, BUT THIS STATEMENT IS TOTALLY UNSUPPORTED BY THE EVIDENCE FOR HIS CHARGED VIOLATION AND THE 3-19-14 CHARGING INFORMATION WHICH IS NOW A FRAUDULENT DOCUMENT AS IT CONTAINED IMPROPER JURISDICTION AS OPPOSED TO THE 3-17-14 INFORMATION.

WHEN THE STATE FILED THE AMENDED 12-6-13 INFORMATION AND ADDED THE COUNT-2 VIOLATION, THEY FAILED TO FOLLOW PROPER PROCEDURE IN THE ARREST AND BOOKING

PROCESS AS MR. HOPE WAS NEVER MIRANDARIZED OR REARRESTED FOR THIS NEWLY ADDED VIOLATION AS THERE IS ONLY ONE (1) ARREST AFFIDAVIT FILED WITH THE CLERK THAT ALLEGES ONLY ONE (1) VIOLATION, 943.0435(4)(A). NOT ONLY DID THE STATE ADD THIS NEW VIOLATION BUT ALSO CHARGED IT UNDER THE SAME SUBSECTION AS THE COUNT-1 DSHMV VIOLATION EVEN THOUGH BOTH VIOLATIONS FALL UNDER THE SAME STATUTE AND CARRY THE SAME PENALTY. THE 3-17-14 INFORMATION PROPERLY LISTED THE COUNT-1 VIOLATION UNDER HAMILTON JURISDICTION AND COUNT-2 UNDER PUTNAM JURISDICTION AND CORRECT SUBSECTION OF (2)(A), YET THIS DOCUMENT WAS THE PRODUCT OF FRAUD AS IT ALLEGED THE COUNT-2 VIOLATION THAT MR. HOPE WAS NEVER ARRESTED FOR.

THE 3-19-14 INFORMATION FILED BY THE STATE WAS AGAIN THE PRODUCT OF FRAUD AS NOW A KEY ELEMENT OF THE CRIME CHARGED - JURISDICTION - HAS BEEN SWITCHED TO GIVE PUTNAM JURISDICTION OVER THE COUNT-1 DSHMV VIOLATION THAT HAD HAMILTON JURISDICTION IN THE 3-17-14 DOCUMENT BUT ALSO REMOVED THE COUNT-2 VIOLATION THAT WAS ADDED ON 12-6-13. RULE 3.140(G), FLA. R. CRIM. PROC. (2014) STATES AN INFORMATION ON WHICH THE DEFENDANT IS TO BE TRIED THAT CHARGES AN OFFENSE MAY BE AMENDED ON THE MOTION OF THE PROSECUTING ATTORNEY OR DEFENDANT AT ANY TIME PRIOR TO TRIAL BECAUSE OF FORMAL DEFECTS, BUT THE STATE DIDN'T MAKE THE AMENDMENT TO FIX A DEFECT BUT TO ACCUSE MR. HOPE OF COMMITTING THE DSHMV VIOLATION IN PUTNAM BECAUSE HE COULDN'T PRODUCE THE COURT-ORDERED CASELAW EVIDENCE. IN ARZUMAN V. SAUD, 843 So.2d 950 (FLA. 4 DCA 2003) IT SAYS THE TRIAL COURT HAS THE INHERENT AUTHORITY, WITHIN THE EXERCISE OF SOUND JUDICIAL DISCRETION, TO DISMISS AN ACTION WHEN A PLAINTIFF HAS PERPETRATED A FRAUD ON THE COURT OR WHERE A PARTY REFUSED TO COMPLY WITH COURT ORDERS AND THE STATE COMMITTED BOTH UNLAWFUL ACTS DURING MR. HOPE'S PROCEEDINGS BY FILING THE FRAUDULENT AND FALSE CHARGING DOCUMENTS WITH THE COURT AND FABRICATING EVIDENCE, AS ARGUED IN GROUNDS SEVEN (VII), IN ORDER TO OBTAIN THE CONVICTION. REVERSAL AND DISMISSAL FOR FRAUD WAS APPROPRIATE TO CURE THE MANIFEST CONSTITUTIONAL ERROR MR. HOPE INCURRED AS A RESULT OF THE STATE'S MISCONDUCT WHICH DENIED MR. HOPE HIS 5TH AND 8TH AMENDMENT DUE PROCESS RIGHTS.

IX. TRIAL JUDGE'S FAILURE TO DISCIPLINE AND REPORT MISCONDUCT BY THE STATE WARRANTS THIS COURT'S ATTENTION.

THE 11TH CIRCUIT COURT OF APPEALS, U.S. DISTRICT COURT AND 5TH DCA ALL REFERRED TO THE

TRIAL COURT'S DECISION THAT THIS ISSUE SHOULD'VE BEEN RAISED ON DIRECT APPEAL AND THERE WAS NO JUDICIAL MISCONDUCT COMMITTED BY THE TRIAL JUDGE FOR FAILING TO DISCIPLINE AND REPORT THE STATE'S FRAUDULENT ACTS WHEN HE WAS FULLY AWARE THAT THE STATE HAD FABRICATED AND SUPPRESSED FALSE EVIDENCE THE JUDGE KNEW DIDN'T EXIST IN ORDER TO OBTAIN MR. HOPE'S CONVICTION.

THE TRIAL JUDGE'S NON-ACTION TO THE STATE'S PROSECUTORIAL MISCONDUCT CONSTITUTED A VIOLATION OF JUDICIAL CANON 3(C)(1) OF HIS ADMINISTRATIVE RESPONSIBILITIES AND CANON 3(B)(2) OF HIS DISCIPLINARY RESPONSIBILITIES AS THIS JUDICIAL MISCONDUCT BY THE TRIAL JUDGE PREJUDICED MR. HOPE'S RIGHT TO A TRIAL THAT'S FREE OF BIASNESS UNDER THE DUE PROCESS CLAUSE AND THE EQUAL PROTECTION OF THE LAW THAT'S GOVERNED BY THE CONSTITUTION'S 14TH AMENDMENT. JUDGE MENDOZA TOOK AN OATH TO UPHOLD THE LAWS OF THE CONSTITUTION AND STATE OF FLORIDA, SO HIS YEARS OF LEGAL EXPERIENCE AND FAMILIARITY WITH STATUTES, LAWS AND CONSTITUTIONAL RIGHTS OF DEFENDANTS WAS FAR MORE ADVANCED THAN THAT OF STATE ATTORNEY SHARP AS JUDGE MENDOZA KNEW THE STATE WAS ENGAGING IN MISCONDUCT AGAINST MR. HOPE. HAD THE JUDGE PERFORMED HIS JUDICIAL RESPONSIBILITIES AS OUTLINED IN THE CODE OF JUDICIAL CONDUCT MR. HOPE'S DUE PROCESS RIGHTS WOULD NOT HAVE BEEN SO GROSSLY VIOLATED BY THE STATE AND PUTNAM COUNTY.

X) COUNSEL'S FAILURE TO OBJECT TO CHARGING INFORMATION THAT SHOWED IMPROPER JURISDICTION WARRANTS THIS COURT'S ATTENTION.

THE 11TH CIRCUIT COURT OF APPEALS, U.S. DISTRICT COURT AND 5TH ACR ALL DEFERRED TO THE TRIAL COURT'S DECISION THAT AFTER A REVIEW, THAT THE AMENDED INFORMATION CONTAINED PROPER VENUE AND JURISDICTION AND THAT AN OBJECTION WOULD HAVE BEEN MERITLESS BUT THIS DENIAL IS IMPROPER AND UNSUPPORTED. HAD COUNSEL PROPERLY OBJECTED TO THE AMENDED INFORMATION, IT WOULD'VE AGAIN PLACED THE TRIAL COURT ON NOTICE THAT PUTNAM COUNTY HELD NO JURISDICTION OVER THE COUNT-1 MISDEMEANOR VIOLATION AND MR. HOPE WAS BEING PROSECUTED IN THE WRONG VENUE.

WHEN THE STATE FILED THE AMENDED DOCUMENT, TRIAL COUNSEL HAD A BINDING DUTY OWED TO MR. HOPE AS COMPETENT COUNSEL AND SHOULD'VE OBJECTED TO THIS FRAUDULENT DOCUMENT IMMEDIATELY AS THE VENUE AND JURISDICTION ELEMENT OF THE CRIME HAD BEEN SWITCHED ABSENT THE COURT-ORDERED DISCLOSURE AND MADE THE REQUIREMENT OF A CONTEMPORANEOUS OBJECTION "VERY NECESSARY" SO AS TO PLACE THE TRIAL JUDGE AND COURT ON NOTICE FOR THE THIRD (3RD) TIME

IN FOUR (4) DAYS THAT AN ERROR OF "EXTREME IMPORTANCE" WAS BEING COMMITTED SO THE TRIAL JUDGE CAN "CURE EARLY THAT WHICH MUST BE CURED EVENTUALLY," SEE *CASTOR, SUPRA*. *TUCKER V. STATE*, 406 502d 855 (FLA. 1984), "VENUE IS AN ESSENTIAL ELEMENT OF THE CRIME CHARGED AND IF DEFENDANT CAN PROVE THAT THE CRIME DIDN'T HAPPEN IN THE VENUE ALLEGED IN THE CHARGING DOCUMENT OR THE PROSECUTION HAS NOT PRODUCED SUFFICIENT PROOF THAT THE CRIME OCCURRED IN THE COUNTY WHERE THE TRIAL WAS HELD, THE CONVICTION CANNOT STAND," ALSO CITING *MOSLEY V. STATE*, 842 502d 855 (FLA. 1 DCA 2002). COUNSEL'S FAILURE TO OBJECT DENIED MR. HOPE A CONSTITUTIONAL RIGHT, STATE AND FEDERAL, TO BE HEARD IN THE PROPER COUNTY AS THE STATE NEVER PROVED THAT THE INSMV VIOLATION OF NOT UPDATING HIS LICENSE OCCURRED IN PUTNAM COUNTY AND WAS A FACT EVEN CONCEDED BY THE STATE DURING SENTENCING HEARING THAT THE LICENSE VIOLATION WAS A "HAMILTON COUNTY JURISDICTION."

COUNSEL'S REASONS FOR NOT OBJECTING TO THE AMENDED INFORMATION AND ALLOWING THE STATE TO PROCEED IN PROSECUTING MR. HOPE IN THE WRONG VENUE AND JURISDICTION GREATLY PREJUDICED MR. HOPE AS HER DEFICIENT PERFORMANCE DENIED MR. HOPE HIS CONSTITUTIONAL DUE PROCESS RIGHT TO EFFECTIVE ASSISTANCE OF COUNSEL AS GOVERNED BY THE 6TH AMENDMENT OF THE CONSTITUTION AS WELL AS HIS 14TH AMENDMENT RIGHT TO EQUAL PROTECTION OF THE LAW. MR. HOPE HAS SATISFIED THE DEFICIENT PERFORMANCE AND PREJUDICE PRONGS OF *STRICKLAND, SUPRA*, BECAUSE HAD IT NOT BEEN FOR COUNSEL'S DEFICIENT PERFORMANCE AND THE PREJUDICE THAT RESULTED FROM THIS PERFORMANCE, THE OUTCOME OF MR. HOPE'S PROCEEDINGS WOULD HAVE BEEN DIFFERENT.

XI) TRIAL COURT ALLOWING MR. HOPE TO BE CONVICTED OF AN UNCHARGED CRIME NOT ALLEGED IN THE INFORMATION WARRANTS THIS COURT'S ATTENTION.

THE 11TH CIRCUIT COURT OF APPEALS, U.S. DISTRICT COURT AND 5TH DCA ALL DEFERRED TO THE TRIAL COURT'S DECISION THAT IT SHOULD'VE BEEN RAISED ON DIRECT APPEAL BUT THE LAW CLEARLY STATES THAT A CHARGE NOT MADE BY THE INFORMATION OR INDICTMENT, EVEN IF VALID UNDER FLORIDA LAW, IS A DENIAL OF DUE PROCESS OF LAW, AND IS A DEFECT THAT CAN BE RAISED AT ANY TIME AND THUS CAN BE ASSERTED BEFORE TRIAL, AFTER TRIAL, ON APPEAL OR BY HABEAS CORPUS. USCA CONST. AMEND. X AND XIV, SEE *HARRIS V. STATE*, 76 503d 1080 (FLA. 2d DCA 2011); *ROGERS V. STATE*, 963 502d 328 (FLA. 2007) AS THE FINAL INFORMATION SHOWS AN OCCURRENCE DATE OF BETWEEN "OCT. 1, 2012 AND JUNE

27,2013" which would exclude Putnam of being the county in which the violation occurred because after bonding out Mr. Hope registered two (2) temporary addresses with the Putnam Sheriff's Office the same day (8-27-13). Mr. Sharp stated unequivocally on p. 457 of the 4-8-14 sentencing transcript that "Mr. Hope was convicted for failing to register a temporary address, which is uncharged in the information by description or statute and involves registry with the Sheriff's Office under subsection (2)(a) of the same statute as the DNSMV violation.

As argued in *P.R. v. State*, 790 So.2d 1242 (Fla. 5th DCA 2001) it says, "A defendant is entitled to have the charge against him proved substantially as alleged in the indictment or information and cannot be prosecuted for one offense and convicted and sentenced for another, although the offenses are of the same general character or carry the same penalty." See also *Jaimes v. State*, 51 So.3d 445 (Fla. 2010); *Cole v. Arkansas*, 333 U.S. 196, 201, 48 S.Ct. 514, 92 L.Ed. 444 (1948), as due process prohibits an individual from being convicted of an uncharged crime and to sustain a conviction on the grounds that the evidence supports a charge not made would be a sheer denial of due process, (quoting *Thornton v. Alabama*, 310 U.S. 88, 96, 40 S.Ct. 734, 84 L.Ed. 1093 (1940)). Mr. Hope raised this issue to the trial and appellate court yet both courts denied the grounds without attaching any portions of the records to refute the claim as an evidently hearing warranted with conviction reversed, remanded and dismissed as a nullity because the evidence at trial supported the count-2 violation that was removed from the final charging document. This is a clear prima facie fundamental error that warrants this court's attention.

XII. TRIAL COURT'S FAILURE TO DISMISS ENTIRE
JURY AMID JUROR MISCONDUCT WARRANTS
THIS COURT'S ATTENTION.

The 11th Circuit Court of Appeals, U.S. District Court and 5th DCA all deferred to the trial court decision that this should've been raised on appeal and there was no abuse of discretion by the trial court for failing to dismiss the entire jury panel when the misconduct was reported during the 3-18-14 motion hearing.

The jury coordinator reported the misconduct to the trial court that a selected juror was allegedly coaching other jurors as to points of law and what to expect during trial but the extent and damage of this misconduct is unknown as there was no individual inquiry conducted with the

OTHER JURORS SELECTED OR THE PROSPECTIVE ONES TO DETERMINE IF THE MISCONDUCT WAS HARMFUL TO MR. HOPE'S DEFENSE. THE TRIAL COURT HAS AN INNER-GUT DUTY TO DISMISS, NOT ONLY THE ALLEGED JUROR WHO COMMITTED THE MISCONDUCT, BUT THE ENTIRE JURY PANEL THAT WAS SELECTED TO CURE ANY POSSIBILITY THAT THE REMAINING JURORS HAS NOT BEEN IMPROPERLY INFLUENCED AS A RESULT OF THIS MISCONDUCT.

THIS ABUSE OF DISCRETION IN NOT DISMISSING THE ENTIRE PANEL, SELECTED AND UNSELECTED, WAS VERY PREJUDICIAL IN UNDERMINING THE INTEGRITY OF THE JUDICIAL SYSTEM AND CORRUPTED THE FUNDAMENTAL FLOW OF MR. HOPE'S TRIAL AS WELL AS THE JURY SELECTION PROCESS. THIS ABUSE AND ERROR EXPOSED MR. HOPE'S CRIMINAL PROCEEDINGS TO BE DECIDED BY A POTENTIALLY TAINTED JURY, NOT OF MR. HOPE'S PEERS, BUT A PARTIAL AND BIASED ONE THAT DENIED MR. HOPE HIS 6TH AND 14TH AMENDMENTS RIGHTS TO A FAIR TRIAL AS WELL AS EQUAL PROTECTION OF THE LAW.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,


JAMES ROBERT HOPE, PRO SE

Date: OCTOBER 4, 2021