

No.21-7265

IN THE
SUPREME COURT OF THE UNITED STATES

VICTOR MANNS,-- Petitioner,

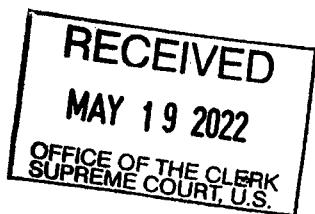
V.

STATE OF FLORIDA, ET.AL.-- Respondent.

PETITION FOR REHEARING FOR WRIT OF CERTIORARI TO
SECOND DISTRICT COURT OF APPEALS
(NAME OF THE LAST COURT THAT RULED ON THE MERITS OF YOUR
CASE)

**PETITION FOR WRIT OF CERTIORARI
REHEARING**

VICTOR MANNS, *pro se*
DC # K20425
MAYO CORRECTIONAL INSTITUTION
8784 U.S. Hwy. 27 West
MAYO, FLORIDA 32066



QUESTIONS PRESENTED

When a Detective Under Oath admits she did not Mirandarize defendant, and a Defendant testifies Miranda warnings were never given, can a suspect provide an implied waiver pursuant to Fed.R.Crim.P. 18 U.S.C. § 3501 ?

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.

all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

Attorney General, Ashley Moody.

RELATED CASES

- CF-16-7451
- 2D19-1828

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 published.

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is unpublished.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

[x] reported at 2D19-1828; or,

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

[] is unpublished.

The opinion of the 10th Judicial Circuit Court (Polk County, Florida) court

appears at Appendix "B" to the petition and is

[x] reported at 2016CF-007451-xx; 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[] is unpublished.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 extention of time to file the petition for 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 December23, 2020.

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 extention of time to file the petition for 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

United States Constitution, Amendment V;

United States Constitution, Amendment XIV.

For the compelling reason under the United State's Supreme Court's ruling in Miranda v. Arizona and Fed.R.Crim.P Section 3501(b) Petition for rehearing shall be granted. This case of such imperative public importance and requires immediate determiniation in this court. The Supreme Court emphasized that before statements esteeming from those interrogations can be used there must be a waiver of those rights. In the instant case the lead detective failed to advise Petitioner of any constitutional rights and interogated him in violation of principles required in *Miranda* and *Fed.R.Crim.P Section 3501(b)*. There was no sufficient, substantial, competent evidence that petitioner was ever read his *Miranda* rights or validly waived his rights to give a voluntarily implied waiver based on the record. Petitioner testified *Miranda* warnings were not read and the detective in this case, under oath, admitted her deficient omissions on three different occassions; depositions, Motion to Suppress hearing and Petitioner's jury trial. Each time, she testifiesd she never obtained a written waiver, and she never had Manns acknowledge all his rights. She never obtained a written waiver, and she never asked if Petitioner wanted to waive any rights. This case reflects a blatant violation of the United States

Supreme Court's supervisory power; to make such a determination for the proper decision for this case being that these circumstances have never arisen before.

How can a suspect be made both aware of the nature of the right being abandoned and the consequences of the decision to abandon those rights without being informed of the constitutional mirand rights?

Firstly both the United States and Florida constitution provide that persons shall not be "compelled" to be witnesses agianst themselves in any criminal matter. U.S. Const. Amend. V and Fla. Const. Article 1 and 9.

Secondly, Manns asserts he should be reversed and remanded, due to the true fact detective admitted to never asking Petitioner if he wished to waive his rights. Deputy Officer Britten and Mr. Manns testimony should have outweighed the credibility of Detective Wright, to show that Miranda was not read. The video clearly depicts Manns in custody at the Sheriff's station. Det. Wright does not provide *Miranda* warnings, there was no *Miranda* form signed, all questions indicated that the detectives considered Manns a suspect and there was no discussion or reference of *Miranda* during the two-hour interrogation. Under Fed.R.Crim.P. § 3446 Petitioner is entitled to a new trial.

The Detective in this case, was required to read Manns *Miranda* warnings in order to secure an implied waiver. In contrast, the Detective failed to specifically give the defendant his *Miranda* warnings before asking him questions, which were reasonably likely to elicit, and did elicit incriminating responses, which the state presented at trial in their entirety, after the denial of defendant's Motion to Suppress hearing.

Furthermore Petitioner raised the same claim to the district court which ultimately was per Cuirrum affirmed without an opinion, which is why this matter should be settled by this Court. The time elapsing between the arrest and interrogation was 2 hours. The Petitioner did not know the nature of the offense for which he was being charged. There was no *Miranda* warnings given nor did Petitioner know his own statements could be used against him. Petitioner was never informed of the right to counsel and petitioner never consented an implied waiver of *Miranda* rights, "The requirement of warnings and waiver of rights is fundamental with respect to the Fifth Amendment privilege and not simply a preliminary ritual to existing methods of interrogation." Miranda, 384 U.S. At 476, 86 S.Ct. 1602. Petitioner asserts because he responded to the detective's questions without being advised of *Miranda* does not make it sufficient to show an

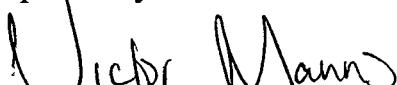
implied waiver as the trial court deemed sufficient. This rehearing
Certiorari is a matter of legal discretion and the matter has not been, but
should be, determined by this Court, solely because the judgment of the
trial courts ruling to deny the motion to suppress statements was based on
unfair circumstances which are governed by rules and principles of the law.
(The trial court and DCA departed from accepted usual course of judicial
proceedings.)

CONCLUSION

The Rehearing for a Writ of Certiorari should be granted.

Respectfully Submitted

/s/


Victor Manns, DC #K20425
Mayo C.I. (Annex)
8784 U.S. Hwy. 27 West
Mayo, Fla. 32066

CERTIFICATE AND ACKNOWLEDGEMENT

I certify that the motion is filed in good faith, that I have reasonable belief that the motion is timely filed, has potential merit and does not duplicate previous motions that have been disposed of by the court. I certify that I understand English and have read the foregoing motion. I understand that I am subject to judicial or administrative sanctions, including but not limited to forfeiture of gain time if this motion is found to be frivolous, malicious, made in bad faith or with reckless disregard for the truth, or an abuse of the legal process.

s/ Victor Manns
Victor Manns, DC #K20425
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