

21-7920

No. _____

ORIGINAL

Supreme Court, U.S.
FILED

MAR 31 2022

OFFICE OF THE CLERK

U.S.C.A. 11 No. 21-12658

IN THE

SUPREME COURT OF THE UNITED STATES

Jimmy Lee Wheeler - PETITIONER, pro se,
(Your Name)

vs.

Mark S. Inch, Secretary, et al. - RESPONDENT(S), D.D.C.

ON PETITION FOR A WRIT OF CERTIORARI TO

U.S. District Court - Middle District of Florida
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Jimmy Lee Wheeler
(Your Name)

Blackwater River - C.R.F. 5914 Ates Rd.,
(Address)

Milton, Florida 32583
(City, State, Zip Code)

N/A
(Phone Number)

QUESTION(S) PRESENTED

1). Whether this Court Will Certify that a Manifest injustice has been Circumvented by the lower Courts and also been disregarded by the appellate Courts of this Court's rulings on "Structural Error defect" From an internal "False publication; outlined in the Custodial Computer data base," Contrary to the original Charges Filed! Constituted a Form of Fraud on the 'gun' to-wit: "deadly weapon," documented Custodial Criminal records for 47-year and Counting, pursuant to Rule 19(2). Which needs to be Certified to Correct the injustice under "internal Structural error," which allowed the False Publication, etc. ... and this Malicious Controversy. See 28 U.S.C. §1254(2).

This defect Raises a Great Public Importance;

2). Because the Eleventh Circuit Court of Appeal has overlooked a true "Manifest injustice," that's apparent on the face of the record, which is in direct and express conflict with this Court's holding in [U.S. v. Olano, 507 U.S. 725, 735, 113 S.Ct. 1170, 1265, 123 L.Ed. 2d 508 (1993)]; (holding, "The Court labeled this Category of errors as "Structural." See also, [Arizona v. Fulmanate, 499 U.S. 279, 310, 111 S.Ct. 1246, 1265, 113 L.Ed. 2d 302 (1991)]; Citing State v. Burton, 314 So. 2d 136, 138 (1975)]; Id. at 1309, which is a direct conflict which needs Certification.

Questions Continuation

3). No Court has allowed a Challenge to the record or held an examination of any facts stated in the previous petitions filed by habeas Corpus writ; and so for such, clearly have denied petitioner due process of law and the equal protection thereof; contrary to Constitutional provisions.

4). Thus, as there has never been any evidentiary findings contrary to the stated facts disclosing the dictates of the entire "False Publication"; this claim remains meritorious on its face for correctness.

This Court Held;

5)* "A structural error in a criminal proceeding or trial always requires reversal of a conviction or claimed error defect of such, because such error renders the trial an unreliable vehicle for the determination of guilt." [Rose v. Clark, 478 U.S. 570, 577-78, 106 S.Ct. 3101, 3105-06, 92 L.Ed. 2d 460 (1986)]; Also,

6). "Governmental Misconduct Which Violates Constitutional due process rights of a Defendant requires the dismissal of Criminal Charges." [Anderson v. State, 574 So. 2d 87, 92 (Fla. 1991)]; [U.S. v. Russell, 411 U.S. 423, 431-32, 93 S.Ct. 1637, 36 L.Ed. 2d 366 (1973)]; Which appears to be in conflict here for the relief and review sought.

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:

The Florida Department of Corrections;
The inmate records Dept. of DOC

RELATED CASES

Second Driect Court of Appeals: Case No. 2D21-0379;
U.S. Middle District Case No. 8:21-cv-02989-MSS-AAS,
Cumulatively represents 47-years of Fraud and
False Publication, so is a "Great Public Importance",
Which is Apparent on the record that No Court
has allowed an examination to Correct a Clear
Manifest injustice, with Severe prejudice to the
petitioners' Constitutional rights. See Also,
Case No. 8:18-cv-1716-T-33TGW, (Same prior petition);
Circumvented each time.

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INDEX TO APPENDICES

- APPENDIX A (1) Mandate Issuance (Without Opinion);
- APPENDIX B (2) Grievances and Orders of L.T. below;
- APPENDIX C (3) State Supreme Court Opinion;
- APPENDIX D (4) Rehearing Was Also denied, see Appendix C. (2);
- APPENDIX E (5) Exhibits A. (1)-(3), Were All identically Charged;
Robbery "Snatch-N-grab," No gun or weapon
- APPENDIX F (6) The Filing Fee Would have been paid; A False
Statement during phone Conversation on the
Amount due to be paid Was not Misconstructed
by the Eleventh Circuit Court's Clerk,
% Walter Pollard, C; see Exhibit F. (1)-(4)
- APPENDIX G (7), Which directly Conflicts with Exhibit (F).

TABLE OF AUTHORITIES CITED

CASES:

PAGE NUMBER:

- Anderson v. State, 574 So.2d 87, 92 (Fla. 1991)] . . . paragraph: (6)
- Arizona v. Fulmanete, 499 U.S. 279, 310, 111 S. Ct. 1246
1265, 113 L. Ed. 2d 302 (1991)] (2)
- * Rose v. Clark, 478 U.S. 570, 577-78, 106 S. Ct. 3101,
3105-06, 92 L. Ed. 2d 460 (1986)] (5)
- * State v. Burton, 314 So. 2d 136, 138 (Fla. 1975)] (4)
- * U.S. v. Olano, 507 U.S. 725, 735, 113 S. Ct. 1170, 1265
123 L. Ed. 2d 508 (1993)] (2)
- * U.S. v. Russell, 411 U.S. 423, 431-32, 93 S. Ct. 1637,
36 L. Ed. 2d 366 (1973)] (6)

- STATUTES AND RULES: Section 832.022 and 839.13(2)(a) (4)
- Also Article 440, For unfair procedures. (1)
- 28 U.S.C. § 1254(2) — (3)
- 28 U.S.C. § 1915 (b). (3)
- Rule 29. (7)
- 28 U.S.C. § 1257 (a). (2)

OTHER: Const. Amend. V; Article 1, § 9, Fla. Const. (3-8).

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 USCA Case 21-12658; 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 B to the petition and is

☒ reported at Case 8:21-cv-01702-KKM-AEP; 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 C to the petition and is

☒ reported at No. SC19-1916; or,
☒ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the State Court of Appeals court appears at Appendix A to the petition and is

☒ reported at 236 So.3d 378 (Fla. 2d DCA 2017); 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 Feb. 7, 2022.

☐ 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: N/A, and a copy of the order denying rehearing appears at Appendix N/A.

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

☒ The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1). *To review and Correct A Manifest injustice.*

☒ For cases from state courts:

The date on which the highest state court decided my case was Oct. 3, 2019.
A copy of that decision appears at Appendix C-2.

☒ A timely petition for rehearing was thereafter denied on the following date: October 2, 2019, and a copy of the order denying rehearing appears at Appendix C-2.

☒ An extension of time to file the petition for a writ of certiorari was granted to and including December (date) on 23rd, 20 (date) in Application No. A N/A.

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

- 7). The encouraged Application of the 'gun' to-wit: deadly Weapon Custodial Computer documentation is False under internal Structural error defects; and Must be Corrected as A Matter of Law.
- 8). Which Mirrors The Double jeopardy Clause of both the United States Constitution and the Florida Constitution guarantee that No person shall twice be put in jeopardy for the same offense or offenses. U.S. Const. Amend. V; Fla. Const. Art. I, § 9.
- 9). In The instant Case petitioner Merely needs a review of The records Charges Filed, at Appendix Exhibit A; and Cross reference With The District Court's prior Order, at Appendix Ex. B, (4); The U.S. District Court's Order Certified that "Wheeler Was not Charged With the use of A FireArm As An element of these offenses." Therefore, the Current documented 'gun' to-wit: Computer Network has been Falsefully documented For more than 47-years and Counting. see Respondent's Corrections offender Network at Exhibit C. Appendix C. (10) and (11); despite this Knowledge, No Court or judicial Agency has Allowed a hearing, or Challenge to Correct A "Plain Structural error." Under 28 U.S.C. § 2254; and 28 U.S. Code, § 1915(b); Unless the ruling of the Court Favors petitioner, etc. . .

STATEMENT OF THE CASE

Reviewable Under Article 440 :

- 10). On Review of A Clearly established Manifest injustice; under Custodial False Publication, this Court May Conclude that there is A Conflict At the interest under Public Trust; Which is At the point of law, under Fraud, deceit or Collusion. Citing State v. Burton, 314 So. 2d 136, 132 (Fla. 1975),

Where The Court Held;

Pursuant To § 838.022 And 839.13 (2)(a);

- 11). "The Florida Supreme Court has long recognized that Orders, judgments And decrees Which Are the product of Fraud, deceit or Collusion May be vacated, Modified, opened or otherwise Acted upon At any time. This is an inherent power of Courts of records, And one essential to ensure the true Administration of justice And the orderly Function of the judicial process; Id. At 1309; but Failed to Correct the injustice put before it, ("I am Confused"); The Court also Alleged,
- 12). "IF it appears to a Court of Competent jurisdiction that A Man is being illegally restrained of his liberty [Original Court had no jurisdiction], it is the responsibility of The Court to brush Aside Formal technicalities And issue Such appropriate Orders as will do justice." See, [Anglin v. Mayo, 88 So. 2d 918, 919 (Fla. 1956)], see also, [Santana v. Henry, 12 So. 3d 843 (Fla. App. 1st DCA 2006)]

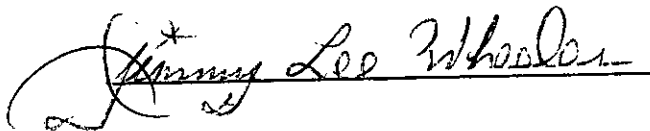
REASONS FOR GRANTING THE PETITION

- 13). Petitioner has Submitted records excerpts as proof and documented Evidence that Contrary to the Sua Sponte decisions of the Courts below.
- 14). Such Which May be Considered "A Great Public Importance"; and is in direct Conflict With this Courts holding on (Structural error); Which Must be reversed regardless on the outcome of their effects on the Case: Certified by Court Order, see Appendix Ex. B. (4).
- 15). The Foregoing reasons Statutes and Citations and Articles supports the reason this Court Should issue an order to the Respondents Secretary, DOC and the Sentencing Specialist therein, to correct the defective Computer documented False Publication; and discharge those prior expired 'gun' to-wit: 'deadly Weapon'; Which petitioner had not been Charged on Adjudicated guilty of or Convicted in these Cases.
- 16). See Appendix A. 1-3, Changing information; thus, possession of "Said CASH" is not a Weapons Charge, and Computers do not place Weapons in the record unless it is programmed; it merely store information; not create it, for 47-years; for these reasons the Court should grant the relief sought here.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

 Jimmy Lee Wheeler

Date: May 10, 2022.