21-8098 ORIGINAL
No.

IN THE SUPREME COURT OF THE UNITED STATES



_____term, 2022

ROCKY TRAVERSE CHRISTIAN,

Petitioner,

Vs.

STATE OF FLORIDA,

Respondent.



AMENDED

PETITION FOR WRIT OF CERTIORARI
TO THE DISTRICT COURT OF APPEALS
OF THE FIFTH DISTRICT OF FLORIDA

Respectfully Submitted

Rocky Christian, Pro se
FDC# X84903
Jefferson Correctional
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1050 Big Joe Rd.
Monticello, Fl. 32344

## QUESTION PRESENTED

Did the Fifth District Court of Appeal for the State of Florida conduct an adequate review of the record pursuant to Anders v. California 386 U.S. 738 (1967) before allowing counsel to withdraw, based on the grounds that the state appellate court overlooked a plain error in petitioner's self-defense jury instruction that negated his sole defense in contravention to the Sixth and Fourteenth Amendment of the U.S Constitution?

## LIST OF PARTIES

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

## RELATED CASES

There are no cases that are directly related.

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PETITION FOR WRIT OF CERTIORARI
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Petitioner Rocky Christian asks that this Court issue a writ of Certiorari to review the judgment of the Fifth District Court of Appeals for Florida.

## CITATIONS TO OPINIONS BELOW

The decision of the Fifth District Court of Appeals for Florida, *Christian v. State of Florida*, 5D21-2546, is attached to this petition as **Appendix A**.

The decision of the Fifth District Court of Appeals for Florida, Christian v. State of Florida, 146 So. 3d 1198 (Fla. 5th DCA August 26, 2014), is attached to this petition as **Appendix B**.

## JURISDICTION

The Fifth District Court of Appeals for Florida entered its judgment on December 29, 2021. The Fifth District Court of Appeals for Florida denied Petitioner's timely motion for rehearing, rehearing en banc, and request for written opinion on February 21, 2022. The order denying rehearing is attached as **Appendix C**.

This Court's jurisdiction is invoked pursuant to 28 U.S.C. §1257 (a), Mr. Christian having asserted below and asserting in this petition the deprivation of rights secured by the United States Constitution.

## CONSTITUTION AND STATUTORY PROVISIONS INVOLVED

1. This case involves the Sixth Amendment's requirement that "*the accused shall enjoy the right ... to have the Assistance of Counsel for his defence*" U.S. Const. amend IV.

2. This case involves the Fourteenth Amendment to the United States Constitution, which applies the Sixth Amendment to the states, and which provides, in relevant part, that "*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...*" U.S. Const. amend XIV, §2.

## STATEMENT OF THE CASE

### *I. Procedural History*

Petitioner was arrested and indicted in the Ninth Judicial Circuit of Orange County, Florida in circuit criminal case number *2011-CF-2929-A-O* for first-degree murder with a firearm. On October 23rd 2013, Petitioner was convicted by a jury of a lesser included offense of manslaughter with a firearm, a special interrogatory was rendered finding that not only was a firearm possessed, but was actually discharged resulting in the death of the victim. On December 16th 2013, Petitioner appeared before the court for sentencing, wherein the offense was reclassified to a first degree felony and Petitioner was sentenced to 25-years DOC, followed by 5-years probation. Petitioner timely appealed his judgment and sentence to Fifth District Court of Appeals for Florida- docket number 5D13-4509. On April 1st 2014, appellate Attorney David S. Morgan filed a motion to withdraw under *Anders v. California* contending that there are no reversible errors. **Appendix D**.

On August 26th 2014, the Fifth District Court of Appeal for Florida granted the motion to withdraw and PCA'd the appeal, and the Mandate issued on September 19th 2014. **Appendix B**

## *II. Statement of the Facts*

Petitioner's defense at trial was that his use of deadly force was justified because it occurred when the victim was attempting to commit an aggravated battery against him. Mr. Christian had been working as a subcontractor for Mr. Nasser Alkattan for about two years, respectively. (*Trial Transcript* page 289, L 15). During the course of their work relationship (*Trial Transcript* page 273, L 6) Alkattan boasted to Christian about several confrontations he had. (*Trial Transcript* page 275, L 20).

The first account Christian testified to was when Alkattan was sent back out to repair a wood floor that a customer was unsatisfied with, when Alkattan arrived at the homeowners house he attempted to repair the wood floor with some cheap wood putty. (*Trial Transcript* page 278, L 5-21). The customer became agitated with Alkattan and asked him to leave. Alkattan then cussed at the homeowner saying that this wood putty is for your floor, not your ass, and slammed the

homeowner against the door and walked out. (*Trial Transcripts* p. 279, L 10, 15)

Defense witness, a former police officer, Mr. George Asbate (*Trial Transcript* page 312, L 9, 10) testified to a second encounter involving Alkattan that occurred three months prior to the incident in this case. (*Trial Transcript* page 275 L 21) Mr. Asbate at the time was managing a warehouse property that he owned. Alkattan was a tenant before breaking lease. During that, time Mr. Asbate had encountered several confrontations with him. (*Trial Transcript* page. 313, L 7-9).

Mr. Asbate explained that one night he heard some banging going on while working on the lights at the warehouse only to come out and see Nasser dumping carpet scraps in his dumpster. (*Trial Transcript* page 313, L 10-16) Mr. Asbate then drove over and parked in front of Alkattan's van preventing him from leaving, and asked him what he was doing? Alkattan said "Nothing. Nothing. It's is not your business" (*Trial Transcript* page 313, L 16-23) and started screaming at Mr. Asbate saying "I paid you money, I paid you money, you know, I can do - - I can do it you know, get out of here. (*Trial Transcript* page 314 ,L 1-4).

Mr. Asbate said I'm not leaving this my place and you got to get that stuff out of my dumpster or I'm calling the police. Alkattan said, "I'm not doing nothing. Get out of my way. Get out of my way."(*Trial Transcript* page 314, L 5-7)

Mr. Asbate then called the sheriff's office. (*Trial Transcript* page 314, L 10, 11) Alkattan then got in his van, jumped the curb and median, and took off. (*Trial Transcript* page 314, L 18-20) Mr. Asbate followed him and Alkattan then turned back in the second parking entrance of the warehouse. (*Trial Transcript* page 314, L 23-25) Alkattan then jumped out of his van screaming and cussing with a razor knife in his hands (*Trial Transcript* page 315, T 4-6). Mr. Asbate backed up towards his vehicle, called the sheriff's office again, and told them what was going on. (*Trial Transcript* page 315, L 8-10)

Alkattan started towards his van and Mr. Asbate backed up towards his truck, where he had his gun, and put it on his side. Mr. Asbate then told Alkattan "to get back, that if came -- you know, don't come close to me. Don't come close to me." (*Trial Transcript* page 315, L 11-15) A few moments later, the police arrived and issued Alkattan a trespassing notice. (*Trial Transcript.* page. 315, T 17, 18)

Shortly after, Mr. Christian had a similar incident with Alkattan. On the day of the incident Christian parked his car at 515 Cooper Commerce Drive (A warehouse complex) (*Trial Transcript* page 274, L 10) along the wall, adjacent from the warehouse (*Transcript* page 280 L 25,) to get the work van (*Trial Transcript* page 274, L 5-15) so he can pick-up the days job at the Lowes in Leesburg. (*Trial Transcript* page 291, L 17-18). At Lowes Christian inquired about the work order with the job prices on it. After Christian left, the Lowes associate called Alkattan at the warehouse to see if he allowed his installers to have a copy of the work order with the prices on it. Alkattan then called Christian asking why he was snooping around asking about the job prices. (*Trial Transcript* page 292, L 7, 114) Alkattan wanted Christian to stay and finish the job but Christian would not. (*Trial Transcript* page 273, L 15-18) Alkattan said, in a treating manner "I don't want to see your face anymore" (*Trial* Transcript page296, L 5-12)

On the way to return the van to the warehouse Christian felt like he needed protection from Alkattan because of the threats made during the phone call, and the previous stories he had told. As a result, Christian stopped at his house and pick-up his sidearm. (*Trial*

*Transcript* page 275, L 3-5). Christian then continued to the warehouse facility at Cooper Commerce Drive to drop off the van and to pickup his car. Alkattan was going in the opposite direction (*Trial Transcript* page 299, L 13-17), driving to go finish the job that Christian just left. (*Trial Transcript* page 198, L 19, 20). Alkattan did a violent u-turn and followed Christian bumper-to-bumper back to the warehouse. Christian parked the van in the parking spot and Alkattan parked in the middle of the road (*Trial Transcript* page 283, L 14-19) boxing Christian in with his van (*Trial Transcript* page 307, L 16, 17).Christian stepped out of his van (*Trial Transcript* page 301, L 15). Alkattan leaped out of his van, leaving his van door open and came charging in Christian direction yelling, "I told you not to let me see your face". Christian warned Alkattan first by saying "get away from me. Stay away from me" and then pulled his pistol out, and told him again to "stay away from him" and Alkattan continued to come closer and closer to Christian (*Trial Transcript* page 284, L 7-24). then a scuffle broke over the gun and Alkattan's chest was almost against Christian chest with his hands extended around the gun trying to take the weapon from Christian *Trial Transcript* page 287, L15,16), that's when Christian squeezed the

trigger once hitting Alkattan below the belt, piercing the femoral artery (*Trial Transcript* page171, L 19-25). Christian than secured the firearm and placed it on the hood of the car, a few moments later the police arrived (*Trial Transcript* page74, L 4-19). Petitioner's defense at trial was that his use of deadly force was justified because it occurred when the victim was committing an aggravated battery against him

In support of the Petitioner's defense, that his use of deadly force was justified because it occurred when the victim was attempting to commit an aggravated battery against him the state trial court gave Standard Jury Instruction 3.6(f). The oral and written instructions in large part were consistent with the then-standard instruction for justifiable use of deadly force. However, at the point where the then-standard jury instruction directed the court:

"***[i]nsert and define applicable felony that defendant alleges victim attempted to commit***"

The state trial court went on to explain to the jury:

> To prove the crime of Aggravated Battery, the State must prove the following two elements beyond a reasonable doubt. The first element is a definition of battery. Nasser Alkattan intentionally touched or struck Rocky Traverse Christian against his will and in committing the battery used a deadly weapon....

***(Record on Appeal from Initial Appeal pp. 222-237).***

(Oral Jury Instructions (T. pp. 429, L 22-25 thru 430 L 1-2).

*The law at that time!*

The State must prove the defendant's guilt beyond a reasonable doubt, and when the defendant presents a *prima facia* case of self-defense, the State's burden includes proving beyond a reasonable doubt that the defendant did not act in self-defense. Fowler v. State of Florida, 921 So.2d 708,711(Fla. 2nd DCA 2006); Brown v. State of Florida, 454 So.2d 596 (Fla. 5th DCA 1984).

## HOW THE ISSUES WERE DECIDED BELOW

On August 26th 2014, after performing an Anders review, the Fifth District Court of Appeals for Florida granted appellate counsel permission to withdraw from the initial appeal and *per curiam* affirmed the direct / initial appeal. Christian v. State of Florida,146 So. 3d 1198 (Fla. 5th DCA August 26, 2014).

On December 29, 2021, the Fifth District Court of Appeals for Florida denied Petitioner's writ of Habeas Corpus petition requesting the court to reconsider its previous ruling on the basis that the Court overlooked a plain error (fundamental reversible error) during their Anders review, which would have resulted in a new trial.

## REASONS THE WRIT SHOULD BE GRANTED

WHETHER THE STATE APPELLATE COURT DEPRIVED THE PETITIONER OF HIS FEDERAL CONSTITUTIONAL RIGHT TO AN APPROPRIATE INITIAL APPELLATE REVIEW PURSUANT TO ANDERS v. CALIFORNIA

The United States Supreme Court has determined that every criminal defendant is entitled to representation of counsel under the Sixth and Fourteenth amendments of the United States Constitution in the first appeal as of right. See *Penson v. Ohio,* 488 U.S. 75, 79, (1988).

In *Anders v. California,* 386 U.S. 738, (1967), the Court prescribed a procedure to be followed when appointed counsel for an indigent defendant on direct appeal from a conviction is unable to identify any arguable grounds from appeal.

The Florida Supreme Court adopted these procedures, *In re Anders Briefs*, 581 So.2d 149 (Florida 1991). The procedures established in *Anders* and its progeny requires an indigent's appellate counsel to "master the trial record, thoroughly research the law, and exercise judgment in identifying the arguments that may be advanced on appeal. . . . Only after such an evaluation has led counsel to the conclusion that the appeal is 'wholly frivolous' is counsel justified in

making a motion to withdraw." *McCoy v. Court of Appeals,* 486 U.S. 429, 438-39, (1988). That motion, however, must be accompanied by an appellate brief referring to every arguable legal point in the record that might support an appeal. *Id.* at 439; *Penson,* 488 U.S. at 80; *Anders,* 386 U.S. at 744; Upon counsel's submission of the motion to withdraw accompanied by an *Anders* brief, the indigent must be given the opportunity to file a pro se brief. *See Anders,* 386 U.S. at 744 ("A copy of counsel's brief should be furnished to the indigent and time allowed him to raise any points that he chooses").

The appellate court then assumes the responsibility of conducting a full and independent review of the record to discover any arguable issues apparent on the face of the record. *See Anders,* 386 U.S. at 1400; *State of Florida v. Causey,* 503 So.2d 321, 322 (Fla. 1987). If the appellate court finds that the record supports any arguable claims, the court must afford the indigent the right to appointed counsel, *Penson,* 488 U.S. at 83; *McCoy,* 486 U.S. at 444; *Anders,* 386 U.S. at 744, and it must give the state an opportunity to file a brief on the arguable claims. *Causey,* 503 So.2d at 322. However, the appellate court is to conduct its full and independent review even if the indigent elects

not to file a pro se brief. *Id.* Only if the appellate court finds no arguable issue for appeal may the court grant counsel's motion to withdraw and proceed to consider the appeal on its merits without the assistance of defense counsel. *Penson,* 488 U.S. at 80.

In this case, when the state appellate court conducted an independent review of petitioner's record on appeal, it determined that there were no meritorious claims and allowed counsel to withdraw. **Appendix B**

Later, petitioner found a fundamentally flawed jury instruction and sought Habeas Corpus relief in the state appellate court by seeking to have them correct an erroneous ruling made during the direct/initial appeal

The theory for relief in petitioner's Habeas Corpus was that the state appellate court overlooked a fundamentally flawed jury instruction that was on the face of the record during it Anders review regarding petitioner's self-defense instruction. Therefore, the issue

merited reconsideration of the courts previous decision under the Law of the Case Doctrine to prevent a manifest injustice[1].

[1] See Page v. State of Florida, 201 So.3d 207 (Fla. 5th DCA 2016) (Granting Habeas Corpus relief under the law of the case doctrine to prevent a manifest injustice, when petitioner appraised the appellate court that it overlooked a fundamentally flawed jury instruction during its Anders review).

## I. JURY INSTRUCTION IN THE RECORD BEFORE THE DIRECT APPEAL PANEL

In the record before the Court, during its Anders review, was the oral and written version of the Justifiable Use of Deadly Force 3.6(f) self-defense jury instruction that was relied upon at trial in this case.

- (Record on Appeal from Initial Appeal pp. 222-237).
- (Oral Jury Instructions (T. pp. 429, L 22-25 thru 430 L 1-2).

The trial court when instructing on the *Aggravated Battery Prong*[2] of the self-defense jury instruction, erroneously instructed the jury that it could find the defendant acted in self-defense only if the *State* proved beyond a reasonable doubt that the *victim* was committing

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2. The trial court when instructing on the [Aggravated Battery Prong] of the self-defense jury instruction, should have omitted any reference to burden of proof. See Montijo v. State of Florida, 61 So.3d 424 (Fla. 5th DCA 2011) (Holding, when instructing on the *aggravated battery prong of the self-defense instruction*, the trial court should have *omitted reference to any burden of proof*, instead simply instructing on the requisite elements).

an Aggravated Battery against the defendant when he used deadly force.

At the point where the then standard jury instructions for Justifiable Use of Deadly Force 3.6(f) (2013) directed the court to

"**[I]nsert and define applicable felony defendant alleges victim attempted to commit.**"

The trial court erroneously stated that the State must prove beyond a reasonable doubt that the victim must commit the elements of Aggravated Battery. See: the Aggravated Battery prong of the Justifiable Use of Deadly Force jury instruction 3.6(f) given at defendant's trial below:

> *To prove the crime of Aggravated Battery, the State must prove the following two elements beyond a reasonable doubt.* The first element is a definition of battery. Nasser Alkattan intentionally touched or struck Rocky Traverse Christian against his will and in committing the battery used a deadly weapon. See.(T. pp. 429, L 22-25 thru 430 L 1-2).

To the contrary it was the State's burden to overcome Petitioner's claim of self-defense by proving beyond a reasonable doubt that the

victim was *not* attempting to commit an Aggravated Battery on the defendant when he used deadly force Brown v. State of Florida, 454 So.2d 596 (Fla. 5th DCA 1984)(Holding the burden of proving guilt beyond a reasonable doubt never shifts from the State, and this standard broadly includes the requirement that the State prove that the *defendant* did *not* act in self-defense beyond a reasonable doubt); See also S.D.G v. State of Florida, 919 So.2d 704, 705 (Fla. 5th DCA 2006) (the State is required to prove beyond a reasonable doubt that the *defendant's* actions were *not* taken in self-defense);

Finally, in Fowler v. State of Florida, 921 So.2d 708,711(Fla. 2nd DCA 2006) the court held:

"the State must prove the defendant's guilt beyond a reasonable doubt, and when the defendant presents a *prima facia* case of self-defense, the State's burden includes "proving beyond a reasonable doubt that the defendant did not act in self-defense."

quoting Thomson v. State of Florida, 552 So.2d 264, 266 (Fla. 2nd DCA 1989.

Petitioner would contend due process requires that "a criminal defendant is entitled to have the jury correctly instructed on his or her theory of defense if there is any evidence to support the theory and the theory is recognized as valid under Florida law." See Vila v. State of Florida, 74 So.3d 1110 (Fla. 5th DCA 2011).

In other words, a trial judge has the responsibility of correctly charging the jury. Garrido v. State of Florida, 97 So.2d 291 Fla 4th DCA 2012) "That responsibility includes giving instructions that are not 'confusing, contradictory, or misleading.'" Dooley v. State of Florida, 268 So. 3d 880, 885 (Fla. 2d DCA2019) (quoting Butler v. State of Florida, 493 So. 2d 451, 452 (Fla. 1986)). When "a trial judge gives an instruction that is an incorrect statement of the law and necessarily misleading to the jury, and the effect of that instruction is to negate the defendant's only defense, it is fundamental error and highly prejudicial to the defendant." Carter v. State of Florida, 469 So. 2d 194, 196 (Fla. 2d DCA 1985).

## II. FLORIDA LAW ON AFFIRMATIVE DEFENSES

In Martinez v. State of Florida, 981 So. 2d 449, (Fla. 2008) the Florida Supreme court set the precedent for affirmative defenses. The Court explained in *Martinez*, that it had "never held that the failure to give an instruction or to give an erroneous instruction on an affirmative defense always constitutes fundamental error." Rather, "[w]here the challenged jury instruction involves an affirmative defense, as opposed to an element of the crime, fundamental error only occurs where a jury instruction is 'so flawed as to deprive defendants claiming the defense . . . of a fair trial.'" *Id.* (quoting Smith v. State of Florida, 521 So. 2d 106, 108 (Fla. 1988)).

The *Martinez* court further found, that the trial judge erred by instructing the jury on the forcible-felony exception to the affirmative defense of justifiable use of deadly force because Martinez was not charged with an independent forcible felony. Id. at 454. However, after "review of the complete record," the court concluded that the erroneous instruction did not deprive Martinez of a fair trial for two reasons. *Martinez*, 981 So. 2d at 455. First, Martinez did not rely solely on self-defense; he also argued that the evidence established only a lesser-

included offense. *Id.* at 456. "[A]lthough the forcible-felony instruction was erroneous and could have confused the jury, it did not deprive Martinez of his sole, or even his primary, defense strategy." *Id.* Second, the court explained that Martinez's claim of self-defense was "extremely weak" and "strained even the most remote bounds of credulity." *Id.*

Thus, when assessing whether the mistaken instruction constituted fundamental error at petitioner's trial, the State Appellate Court "must consider 'the effect of the erroneous instruction in the context of the other instructions given[3], the evidence adduced in the case, and the arguments and trial strategies of counsel.'" Dooley v. State of Florida, 206 So. 3d 87, 89 (Fla. 2d DCA 2016) (quoting Garrett v. State of Florida, 148 So. 3d 466, 469 (Fla. 1st DCA 2014)).

In contrast to *Martinez*, the record on appeal in this case reveals that justifiable use of deadly force was the only defense

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[3] The instruction given at petitioners trial also includes the use of justifiable deadly force when necessary to prevent imminent death or great bodily harm to oneself while resisting another's attempt of murder. However, this was not a scenario that petitioner argued to the jury or one that was necessarily supported by evidence.

petitioner presented at trial. It also reflected that, Petitioner's claim of self-defense was strong especially where a defense witness that used to be a former police officer testified that a few months prior he was in a similar situation with the alleged victim when he threaten and pulled a knife on him.

On the day of the incident, Petitioner received a threatening phone call from Alkattan. When Alkattan seen petitioner returning the work van he whipped a violent u-turn and followed the Petitioner back to the warehouse, boxing him, jumped out the van yelling and charging at him. Petitioner first warned Alkattan to stay away; he then pulled out his gun, and warned him again. At that point, a scuffle broke-out over the gun and when Alkattan's chest was almost against Christian chest with his hands extended around Christian's gun, trying to take the weapon from Christian, that is when Christian squeezed the trigger once hitting Alkattan below the belt, piercing the femoral artery.

Petitioner consistently presented a textbook case of self-defense, was in a place he had a right to be, and not engaged in a separate independent forcible felony. At trial, The States Case-in Chief was that Mr. Alkattan fired Mr. Christian and in retaliation defendant shot him.

The state failed to prove that Alkattan fired Christian. Christian always maintained it was a mutual understanding that they would not be working together anymore. Petitioner demonstrated that Alkattan was the initial aggressor, and was in the imminent commission of attempting an Aggravated Battery on Petitioner, clearly showing the jury that Alkattan was the initial aggressor, as he had been in the past.

In sum, the petitioner's claim of self-defense was viable, yet by instructing the jury, that Petitioner's actions were not justified unless the State proved the very facts it disputed, the instruction prevented the jury from finding that Petitioner's use of deadly force was justified. A properly instructed reasonable juror could have concluded that the State did not meet its burden to prove beyond a reasonable doubt that petitioner's use of deadly force was not justified. This instruction amounted to a directed verdict on Petitioner's sole defense and thereby deprived him of a fair trial. As such, the jury instruction constituted fundamental error. *See Martinez*, 981 So. 2d at 453

Fundamental errors are equivalent to a complete denial of due *process Hooters of Am., Inc. v. Carolina Wings, Inc.,655 So. 2d 1231 (Florida. 1st DCA 1995), and would result in a miscarriage of*

*justice if not considered* Am. Sur. Co. of N.Y. v. Coblentz, 381 F.2d 185 (5th Cir. 1967).[4]

The state appellate court had a duty to conduct a full and independent review of the record to discover any arguable issues apparent on the face of the record to ensure compliance with Anders v. California. Likewise, when the appellate court finds that the record supports any arguable claims, the court must afford the indigent the right to appointed counsel. *Anders,* 386 U.S. at 744.

There is no doubt that the record supported an arguable claim. At bare minimum, this issue should have been raised and briefed by appellate counsel, because every criminal defendant is entitled to representation of counsel under U. S. Const. amends. VI and XIV. This right is premised on the general notion that there is no assurance they will get a fair result absent the vigorous representation of a trained legal advocate.

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[4] Florida's fundamental error doctrine parallels the federal plain error doctrine, whose foundational parameters were based on *United States v. Atkinson*, 297 U.S. 157, 160 (1936). See (Rosier v. State of Florida, 276 So.3d 403 (Fla. 1st DCA 2019)(Quoting Atkinson)

In sum, the state appellate court deprived petitioner of his federal constitutional right to adequate initial appellate review pursuant to *Anders v. California*, 386 U.S. 738 (1967).

## CONCLUSION

The Court should grant Certiorari and schedule this case for briefing and oral argument to ensure the Fifth District Court of Appeals for Florida compliance with Anders v. California and Penson v. Ohio.

Respectfully Submitted

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**PETITION FOR WRIT OF CERTIORARI TO THE DISTRICT COURT OF APPEALS OF THE FIFTH DISTRICT OF FLORIDA**

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CERTIFICATE OF SERVICE

I, Rocky Christian, hereby certify that a true and correct copy of Petitioner's amended Writ of Certiorari and Appendix was served on counsel for Respondent on this 31st day of May, 2022, via First Class United States Mail, addressed to: **Attorney General's Office, State of Florida, 444 Seabreeze Blvd., Daytona Beach, FL 32118.** I declare under the penalty of perjury that the foregoing is true and correct.

Rocky F. Christian

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