

22-5443

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

ORIGINAL

FILED  
AUG 12 2022

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SUPREME COURT, U.S.

IN THE

SUPREME COURT OF THE UNITED STATES

ROBERT L. DAVIS — PETITIONER  
(Your Name)

vs.

ASHLEY MOODY, et al. — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Robert L. Davis  
(Your Name)  
Santa Rosa Correction Institution  
5650 E. Milton Road  
(Address)

Milton, FL 32583-7914  
(City, State, Zip Code)

Not Applicable  
(Phone Number)

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## **QUESTION(S) PRESENTED**

### Reason For Question #1

There exist a conflict among United States Circuit Courts on whether the Imminent Danger of 28 U.S.C. § 1915(g) apply to at the time suit was filed or during any later review of the case. And the 11th Circuit Presently changed from its prior holdings, of Imminent Danger At The Time Suit Was Filed to "Currently under Imminent Danger" at Appellate review.

### QUESTION #1

IS PROOF OF IMMINENT DANGER AT THE TIME  
SUIT WAS FILED RELEVANT DURING APPELLATE REVIEW  
OF 28 U.S.C. § 1915(g) ?

### Reason For Question #2

Petitioner Gave Full Notice To Respondents That He Is Illegally Detained As chapter 943.325 Florida Statute Retroactive Criminal DNA Database Statute Violates All U.S. Supreme Court Precedence Concerning The Ex Post Facto Laws Of The United States Constitution, which Made Petitioner's Incarceration A Miscarriage Of Justice.

### QUESTION #2

Can A Miscarriage Of Justice Case Of Illegal Incarceration Be Dismissed Under The Three Strikes Law Of 28 U.S.C. § 1915(g) ?

### QUESTION # 3

Can A State Retroactively Apply A Completed Burglary Conviction To An Amended DNA Database Statute Without Violating The Ex Post Factor Prohibition ?

## 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:

- 1.) Ashley Moody, Attorney General, State of Florida
- 2.) Karen E. Rushing, Clerk of Court,

## RELATED CASES

- 1.) 12th Judicial Circuit Court, Sarasota County, Florida  
(Case # 2018-CP-11999 )
- 2.) 2nd District Court of Appeal, State of Florida  
(case # 2D19-2268 )
- 3.) Supreme Court State of Florida (Habeas Corpus)  
(case # )
- 4.) United States District Court, Northern District of Florida, Pensacola Division (case # 5:21-CV-00228-TKW)  
- NJF )
- 5.) United States Court of Appeals, (11th Circuit)  
(case # 22-10487-E )
- 6.) Florida 2nd District Court of Appeal  
(case # 2D19-2268 )

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APPENDIX B - 11th Circuit, U.S. Court of Appeals June 3rd, 2022 order. (B.B1).

APPENDIX C - U.S. District Court's January 26th, 2022, order adopting Magistrate Judge's recommendation to Dismiss case. (APPX. C, C1).

APPENDIX D - U.S. District Court's January 1st, 2022, order adopting Magistrate Judge's recommendation, (D-D1).

APPENDIX E - Florida District Court of Appeal, November 18th, 2020, order Per Curiam Affirmed.

APPENDIX F

## TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
1.) Abdul-Akbar V. McKelvie, 239 F. 3d 307	
2.) Daker V. Ward, 999 F. 3d 1300, at 1310 (11th Cir. 2021)	
3.) Jones V. Barnes, 463 U.S. 145 (1983)	
4.) Vartelas V. Holder, 566 U.S. 257 (2012)	
5.) Democratic Nat'l Comm. V. Wis. Legislature 208 L. ED 2d 247	
6.) Hernandez V. Mesa, 206 LED 2d 29 (2020)	
7.) Griffin V. Illinois, 351 U.S. 12 (1956)	
8.) Fletcher V. Peck, 10 U.S. 87 (1810)	

### STATUTES AND RULES

28 U.S.C. § 1915 (a)

Chapter 943, 325 Florida Statute

### OTHER

4th Amendment United States Constitution

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-81 to the petition and is

reported at \_\_\_\_\_ Unknown; 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-C1 to the petition and is

reported at \_\_\_\_\_ Unknown; 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 \_\_\_\_\_ 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 \_\_\_\_\_ Not Applicable 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.

## JURISDICTION

For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was June 3rd, 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: July 11th, 2022, and a copy of the order denying rehearing appears at Appendix 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).

For cases from **state courts**:

The date on which the highest state court decided my case was Nov. 18th, 2020. A copy of that decision appears at Appendix E.

A timely petition for rehearing was thereafter denied on the following date: \_\_\_\_\_, and a copy of the order denying rehearing appears at Appendix \_\_\_\_\_.

An extension of time to file the petition for a writ of certiorari was granted to and including N/A (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

- 1.) Article X, Section 9, Florida Constitution
- 2.) Article 1, Section 9, 10, United States Constitution.
- 3.)<sup>28</sup> U.S.C. § 1915 (9)
- 4.) Florida Legislature Senate Bill 838
- 5.) Florida DNA Database Law chapter 943.325 F.S.
- 6.) 1st Amendment United States Constitution.
- 7.) 14th Amendment United States Constitution.
- 8.) 4th Amendment United States Constitution.

## STATEMENT OF THE CASE

Petitioner, Robert L. Davis, notified Respondents that they were illegally detaining him in violation of their Florida Constitution, and the United States Constitution. This notification was presented through a writ of habeas corpus filed in Florida's Supreme Court. When Respondents refuse to correct the constitutional violations, Petitioner filed a common civil suit in United States District Court of Florida. The U.S. District Court dismissed the case under the (3) strikes rule of 28 U.S.C. § 1915(g), (APPx. D). And altered the facts to deny Petitioner's imminent danger facts on objection, (APPx. E). Where Petitioner was unable to have a Miscarriage of Justice case reviewed.

The Petitioner appealed to the U.S. 11th Circuit Court of Appeals. Petitioner filed motion, "Appellant shows why he should be allowed to appeal in forma pauperis". The motion listed U.S. Supreme Court's precedence showing the Ex Post Factor violation, and the court's holding on covid 19 posing an imminent danger to older sick citizens. But this was not enough to stop the court of Appeals from dismissing the case under 28 U.S.C. § 1915(g) (3) strikes section. One judge entered this order alleging that, "... Davis is not currently under imminent danger of serious physical injury", (APPx. B1). Which is a change from the court's prior holdings of imminent danger at the time the complaint is filed. And this is why Petitioner filed motion to have case reconsidered under the plain error rule. The motion showed how the court's dismissal was contrary to many prior holdings. But the court still refuse to respect Petitioner's imminent danger facts.

## REASONS FOR GRANTING THE PETITION

- \* A.) There exist a conflict holding between U.S. Courts of Appeals concerning where and when the imminent danger of 28 U.S.C. § 1915(g) is applicable to Proceed in Forma Pauperis. For the 3rd, Fifth, Eighth, and 11th Circuit held its applicable at the time the complaint is filed. And all other Circuits have contrary and mixed holdings on the issue.
- B.) Florida's DNA Database Statute of ch. 943.325, takes away Fasted Rights, and amends law retroactively violating every U.S. Supreme Court's Presidence concerning the Ex Post Factor law, and is therefore Un-constitutional.
- \* C.) Florida DNA Database Statute of ch. 943.325(6)2A, subject tourist and visitors to the state with blood DNA subtraction if they enter the state and have a listed Felony conviction. The state does this without first notifying visitor or tourist before entering the state. Where this court's jurisdiction needs to be granted to protect United States Citizens from harm without first being notified (Due Process).
- D.) United States Courts, and Miscarriage of Justice incarcerated Petitioners need to know how much protection the U.S. Constitution requires for such cases. And whether speedy avenues or options are applicable to a Miscarriage of Justice cases supported by United States Supreme Court Presidence.

## **CONCLUSION**

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Robert L. Davis

Date: August 19th, 2022