

22-5698 **ORIGINAL**
No. _____

FILED
SEP 16 2022

OFFICE OF THE CLERK
SUPREME COURT, U.S.

IN THE

SUPREME COURT OF THE UNITED STATES

ROBERT L. DAVIS — PETITIONER
(Your Name)

vs.

JULIAN HOLT — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

U.S. Eleventh Circuit Court of Appeals
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Robert L. Davis #652400
(Your Name)
Santa Rosa Correctional Institution
5850 E. Milton Road
(Address)

Milton, FL 32583-2914
(City, State, Zip Code)

None
(Phone Number)

QUESTION(S) PRESENTED

QUESTION ONE

Does Federal Rules of Civil Procedure Allow
A Prisoner To File A Non 42 U.S.C. § 1983 Civil
Suit In Federal Courts?

QUESTION TWO

Can A Person Sue His Public Defender For Lying
During A Nelson Hearing When The Ly Prejudice
Defendant With A Longer Sentence?

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:

Jane Dowe (A.K.A)

RELATED CASES

1.) 13th Judicial Circuit Court of Hillsborough County,
Florida. State of Florida
V. Case No. 2013-CF-01745
Robert L. Davis 2013-CF-18157
Defendant

2.) U. S. District Court, Middle District of Florida
Tampa Division
Robert L. Davis V. Fla. Dept. of Corr.,
Case No. _____ Forgo (Fed. Hab)

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APPENDIX B - U.S. Clerk of Court acknowledgement of District Court's order, and directing Appellant to file in Forma Pauperis Motion.

APPENDIX C - U.S. District Court's order denying Appellant to appeal in Forma Pauperis.

APPENDIX D - U.S. District Court's order granting motion to Amend complaint, and Dismissing complaint alleging I Failed to state a claim.

APPENDIX E - U.S. District Court's order to Grant Plaintiff to Proceed in Forma Pauperis .

APPENDIX F

TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
<u>Polk County V. Dodson, 454 U.S. 312 (1981)</u>	
<u>Dodson, 425 U.S. at, 325 [1c]</u>	

STATUTES AND RULES

TITLE III, Federal Rules of Civil Procedure, Rule 4, 1-8
28 U.S.C. § 1343

OTHER

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 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 to the petition and is

reported at Do Not Know; 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 _____ 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 August 22nd, 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: _____, 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. § 1254(1).

For cases from **state courts**:

The date on which the highest state court decided my case was _____. A copy of that decision appears at Appendix _____.

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 _____ (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.) 6th Amendment to The United States Constitution
- 2.) 7th Amendment to the United States Constitution
- 3.) 14th Amendment to the United States Constitution

STATEMENT OF THE CASE

On approximately January of 2014, A.K.A. Jane Dowe, was appointed to represent the Plaintiff, Petitioner, Robert L. Davis. Jane Dowe, assistant Public Defender worked for the Public Defender Office of Julian Holt, of the 13th Jurisdictional Circuit Court of Hillsborough County, Florida. Where the Petitioner was being charged with two burglaries of a structure on case # 2013-CF-01745, and 2013-CF-18157. And the Prosecutor Possess blood DNA found at the crime scene that matched that of Petitioner's DNA held in Florida's DNA Database. On February 12th, 2014, at Pretrial conference. The Prosecutor offered Petitioner a magnanimous sentence of 25-months incarceration. But A.K.A. Jane Dowe, refuse to allow Petitioner to accept the Plea Offer. The judge, Judge Timmerman, begged counsel Jane Dowe to take a time out to resolve the case with this Plea deal, and Jane Dowe consistently moved the judge for a trial date, and a trial date was given. Subsequently, the Prosecutor enhanced the offer to 36-months as a habitual Felony Offender.

On May 12th, 2014, Petitioner was dressed for trial, but made ineffective counsel complaint to another judge who was handling the trial. This judge conducted a Nelson Hearing. At the Nelson Hearing Counsel, Jane Dowe, lied to the judge after the judge asked counsel, Dowe, is it true that you discouraged Defendant from accepting the 25-months Plea Offer during the February 12th, 2014, court proceeding? And counsel, Dowe, lied by stating, I conveyed that offer to Defendant. He told me he did not want to accept it. So that is what I told the judge, that he wished to reject the offer. But the February 12th, 2014, transcript will ~

Show that counsel, Dowe, did not tell Judge, Timmerman, this. The case shows a clear Frey case violation. But Petitioner sought criminal relief from state-court to the United States Supreme Court, and was unable to obtain Mercy or Justice. As a result of counsel Jane Dowe's lie, Petitioner was given a choice to accept a 36-months sentence instead of the original 25-months sentence offer. Or go to trial on two burglary charges in which the Prosecutor possessed Petitioner's DNA evidence.

Because counsel, Dowe, lied during Nelson Hearing where she was not representing the Petitioner, but rather in a neutral status proceeding. Petitioner believed he has standing to file a non-42 U.S.C § 1983 Civil Complaint. But the United States District Court, and Eleventh Circuit held such suit to be Frivolous. Because there is a lack of holdings explaining what circumstances are applicable for civil claims against a Public Defender. Where Petitioner comes timely with this Writ of September, 2022, .

REASONS FOR GRANTING THE PETITION

- 1.) The Judicial Branch Needs A Holding That Explains When A Public Defender and or Assistance is liable For action and or inaction on Investigation and or Ad -ministrative error that cause Prejudice to a De -fendant.
- 2.) There is no case by a Federal Court that answers the material Question of Whether A Nelson Hearing is a Natural Proceeding inwhich Defendant is not being Represented by the counsel causing Prejudice
- 3.) United State District Courts are Forcing Litigating Prisoners to File civil Suit under 42 U.S.C. § 1983, and or change the common civil suit to a 42 U.S.C. § 1983, even though there is nothing in Federal Rules of Civil Procedure that requires Prisoners to File their civil claim under 42 U.S.C. § 1983 . Where Petitioner believes he has a Constitutional right or Privilage to File a non 42 U.S.C. § 1983 civil suit.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Robert L. Davis

Date: September 20th, 2022