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SUPREME COURT, U.S.

SILAS KENDRICKS
PETITIONER,

CASE #:
TO BE ASSIGNED BY CLERK OF THE COURT

Vs.

LOWER TRIBUNAL # : 2015 CA 000322

D.C.A. # : 4021-2652

OKEECHOBEE CORRECTIONAL INST.,
SECRETARY, DEPARTMENT OF CORRECTIONS,
RESPONDENTS.

S.Ct. # : SC22-950

ON PETITION FOR A WRIT OF CERTIORARI TO
THE CIRCUIT COURT FOR THE NINETEENTH JUDICIAL CIRCUIT, OKEECHOBEE
COUNTY; REBECCA I. WHITE, JUDGE; L.T. CASE NUMBER 2015 CA 000322,
THE FOURTH DISTRICT COURT OF APPEAL, #4021-2652; FL. SUPREME COURT # SC22-950.

PETITION FOR WRIT OF CERTIORARI

SILAS KENDRICKS
MADISON CORR. INST.
382 S.W. MCI WAY
MADISON, FLORIDA
32340

RECEIVED
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SUPREME COURT, U.S.

QUESTION PRESENTED

WHEN THERE IS A RULE OF APPLICABLE LAW, §944.17(5) FLORIDA STATUTE, AND THE RECORD OF THE CASE REVEALS THAT ADHERENCE OF THAT APPLICABLE LAW IS UNKEPT BY THE RESPONDENT, AND THE NON-ADHERENCE LEADS TO DETENTION OF A DETAINEE IN VIOLATION OF HIS CONSTITUTIONAL RIGHTS TO DUE PROCESS AND DUE PROCESS OF THE LAW, CAN THE DETENTION BE CONSTITUTIONALLY LEGAL?

LIST OF PARTIES

ALL PARTIES IN THE CAPTION OF THE COVER PAGE:

OSKEECHOBEE CORRECTIONAL INSTITUTION

OSKEECHOBEE CIRCUIT COURTHOUSE
312 N.W. 3RD STREET, SUITE #101
OSKEECHOBEE, FLORIDA 34972

FOURTH DISTRICT COURT OF APPEAL
110 S. TAMARIND AVENUE
WEST PALM BEACH, FL. 33401

FLORIDA SUPREME COURT
500 S. DUVAL STREET
TALLAHASSEE, FL. 32399

ALL PARTIES TO THE PROCEEDING IN THE COURT WHOSE JUDGEMENT
IS THE SUBJECT OF THIS PETITION IS AS FOLLOWS:

DUVAL COUNTY COURTHOUSE
501 W. ADAMS STREET
JACKSONVILLE, FL. 32202

FIRST DISTRICT COURT OF APPEAL
2000 DRAYTON DRIVE
TALLAHASSEE, FL. 32399

RELATED CASES

ABRAHAM YISRAEL VS. STATE OF FLORIDA, 938 S02d 546, 4 D.C.A., AUG. 16, 2006

ASHLEY VS. STATE OF FLORIDA, 614 S02d 486 (Fla. 1998)

CARROLL VS. CROMER, 2013 U.S. DIST. LEXIS 68716

CARTHANE VS. CROSBY, 776 S02d 964, 1 D.C.A., FEB. 2, 2000

EDWARDS VS. CREWS, 124 S03d 422, 1 D.C.A., OCT. 25, 2013

F.B. VS. STATE OF FLORIDA, 852 S02d 226, (Fla. 2003)

LAHODIK VS. LAHODIK, 969 S02d 533, 1 D.C.A. (2007)

LOUNIE POORE VS. STATE OF FLORIDA, 503 S02d 1282, 5 D.C.A. FEB. 5, 1987

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- "N" - CASE RECORD FL. DEPT. OF CORR. WITH ATTACHMENTS
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JURISDICTION

ARTICLE V, SECTION 5 (b) OF THE UNITED STATES CONSTITUTION, RULE 14 OF THE SUPREME COURT OF THE UNITED STATES INVOKES THIS HONORABLE COURT JURISDICTION TO ISSUE WRITS OF CERTIORARI. SEE ALSO FL.R. APP. P. 9030 (c)(2) AND 9.100,

THE ORDER TO BE REVIEWED IN THIS CASE WAS RENDERED AUGUST 25, 2021, BY JUDGE REBECCA I. WHITE. ORDER DISMISSING CASE, IN THE NINETEENTH JUDICIAL CIRCUIT COURT, IN AND FOR OKEECHOBEE COUNTY, FLORIDA. AND THIS CERTIORARI HAS BEEN TIMELY FILED WITHIN THE 90 DAYS BY RULE 13, AND 28 USC § 2101(c). (SEE APPENDICES - A THRU C)

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

CONSTITUTION

AMENDMENT FIVE (5TH), DUE PROCESS

AMENDMENT FOURTEEN (14TH), DUE PROCESS OF THE LAW

STATUTES

§ 944.17 (5) FL. STAT.

§ 945.25 FL. STAT.

STATEMENT OF THE CASE

THE PETITIONER WAS CONVICTED ON JUNE 29, 2005 BY A PLEA OF GUILTY TO A PLEA OF GUILTY AND NEGOTIATED SENTENCE, SPECIFIC TERM, 0-10 YEARS (APPENDIX - D). IN THE CIRCUIT COURT, FOURTH JUDICIAL CIRCUIT, IN AND FOR DUVAL COUNTY, FLORIDA IN CASE # 16-2005-CF-004840-HXXX-MA. ON JAN. 12, 2007, A SENTENCE TO A TERM OF 25 YEARS AS A HABITUAL FELONY OFFENDER WAS IMPOSED (APPENDIX - E). ON MARCH 6, 2009, BY OPINION, THE

FIRST DISTRICT COURT OF APPEAL, STATE OF FLORIDA REVERSE AND RE-
MAND THE SENTENCE AND AFFIRM THE CONVICTION (APPENDIX-F).

TO JUSTIFY CONTINUED INCARCERATION TO THE 25 YEAR SENTENCE
AS A HABITUAL FELONY OFFENDER, THE RESPONDENT FILED NU-
MEROUS DOCUMENT KNOWING THEM ALL TO BE FALSE. WHEN
FOLLOWING THE APPELLATE COURT'S MANDATE NO OTHER 25 YEAR
SENTENCE HAD BEEN IMPOSED.

THE PETITIONER HAD A CONSTITUTIONALLY PROTECTED RIGHT
TO DUE PROCESS, AMENDMENT FIVE (5TH), THAT THE DEPARTMENT
ADHERE TO CONCLUSION(S) OF THE COURT. AND A CONSTITUTIONALLY
PROTECTED RIGHT, AMENDMENT FOURTEEN (14TH), THAT THE DEPART-
MENT MAINTAIN ITS RECORDS, PERTINENT TO THE PETITIONER'S
LIBERTY, IN ACCORD WITH THE PROCEDURE OF LAW GOVERNING
THE DEPARTMENT TO WHICH IT HAD A FIDUCIARY DUTY.

REASON FOR GRANTING THE WRIT

THE PETITIONER CONTENTS THAT THE ORDER DISMISSING THE
CASE BY THE LOWER TRIBUNAL WAS A RESULT OF THE COURT'S
NOT REVIEWING THE RECORD OF THE CASE,

FOLLOWING DIRECT APPEAL (APPENDIX-F) THE APPELLATE
COURT'S OPINION VOIDED THE 25 YEAR HABITUAL OFFENDER FE-
LONY SENTENCE. IT EXPLAINED THAT THE PLEA OF GUILT WAS AC-
CEPTED PER THE PLEA AGREEMENT TO THE TERM OF 0-10 YEARS.
IN THE OPINION IT WAS MADE CLEAR THAT THE CONVICTION BY
PLEA OF GUILTY WAS VIOLATED BY THE IMPROPER IMPOSITION
OF 25 YEARS AS A HABITUAL FELONY OFFENDER, BE REVERSED, AND
THERE WAS NO FURTHER NEED OF DISCUSSION.

THE APPELLATE COURT MADE IT CLEAR, THERE WERE TWO TERMS DOCUMENTED WITHIN THE CASE, 25 YEARS AS A HABITUAL FELONY OFFENDER IMPOSED AT SENTENCING (THE LATTER) AND THE 0-10 YEARS, THE BASIS OF CONVICTION. THE 25 YEARS AS A HABITUAL FELONY OFFENDER WAS VOIDED AND MANDATED TO BE REVERSE, AND AFFIRMED THE 0-10 YEARS NEGOTIATED AT CONVICTION.

THE PETITIONER HAD A CONSTITUTIONALLY PROTECTED RIGHT IN ACCORD WITH AMENDMENT FIVE (5TH) OF THE UNITED STATES CONSTITUTION TO DUE PROCESS. THE APPELLATE COURT'S MANDATE SET FORTH A PROCEDURE TO BE FOLLOWED BY THE RESPONDENT IN ITS FIDUCIARY DUTY. DUE PROCESS IS THAT WHOLE COMMON SENSE OF DECENCY AND FAIRNESS THAT HAS BEEN WOVEN BY COMMON EXPERIENCE INTO THE FABRIC OF ACCEPTABLE CONDUCT, SEE BREITHAUP V. ABRAHAM, 77 S. CT. 408 (2-25-1957)

NEVERTHELESS, THE FOLLOWING WILL SHOW THAT, MALICIOUSLY, THE RESPONDENT VIOLATED THE PETITIONER'S RIGHT TO DUE PROCESS, IN THE PETITIONER'S EFFORT TO EXHAUST THE ADMINISTRATIVE REMEDY PURSUANT TO FL. ADMIN. CODE, CHAPTER 33-103, PROVING THAT AT THE TIME CUSTODY OF THE PETITIONER WAS UNLAWFUL. THE RESPONDENT'S REPRESENTATIVES RESPONDED THAT AN AMENDED SENTENCING OCCURRED ON 5-4-2009 (SEE APPENDIX - ~~B~~) FOLLOWING THE APPELLATE COURT'S MANDATE. A CLAIM PROVEN TO BE FALSE BY RESPONSE OF THE CLERK OF THE SENTENCING COURT (APPENDIX - ~~H~~), SENTENCING PROSECUTION (APPENDIX - I), OFFICE OF THE SHERIFF (ACCORDING TO 8944.17(5)(b)) APPENDIX - J), AND ALLOF THE SENTENCING ADMINISTRATORS DOCUMENTED THAT NO ORDER FOR THE PRESENT COMMITMENT TO CUSTODY (PURSUANT TO 8944.17(5)(a)) EXIST UPON THE RECORD. UNREMOVSEFULLY, CONTINUOUSLY REPRESENTATIVES FILED FALSIFIED REPORTS TO JUSTIFY

THE UNLAWFUL DETENTION AGAINST THE PETITIONERS WILL. DOCUMENT
"A MANDATE ISSUED SEPT. 25, 2017, AFFIRMED YOUR SENTENCE (APPENDIX-
K), PROVING THAT THEY KNEW THE AFFIRMED CONVICTION, 0-10 YEARS,
PER THE APPELLATE COURT'S MANDATE (APPENDIX-F) HAD BECOME LAW OF
THE CASE. BUT THE FL. SUPREME COURT REFUTED (APPENDIX-L) THEIR
CLAIM TO BE UNTRUE, STATING,

"THE MANDATE REQUESTED WAS NOT ISSUED
BY THIS COURT."

CONCLUSIVELY, THE REPRESENTATIVES OF THE RESPONDENT, KNOWING THE
AFFIRM CONVICTION OF 0-10 YEARS WAS BINDING AND NO OTHER 25 YEAR
SENTENCE HAD BEEN IMPOSED, DOCUMENTING:

"YOU ARE BEING DETAINED BASED ON THE
COMMITMENTS DELIVERED WITH YOU TO
THE RECEPTION CENTER UPON YOUR RECEIPT
INTO THE DEPARTMENT'S CUSTODY." (SEE APPENDIX-M)

CLEARLY, REGARDLESS OF THE APPELLATE COURT'S MANDATE (APPENDIX-
F) VOIDING THE 25 YEAR SENTENCE (APPENDIX-E) AS A HABITUAL FEL-
ONY OFFENDER BY REVERSING THE SENTENCE.

REPRESENTATIVES OF THE RESPONDENT KNOW THEIR INTENT WAS
A VIOLATION OF THE PETITIONER'S CONSTITUTIONALLY PROTECTED
RIGHT, AMENDMENT FOURTEEN (14TH) TO DUE PROCESS OF THE LAW. IN
FLORIDA, THE APPELLATE RULED, POORE VS. STATE OF FLORIDA, 503
SO 2d 1282, 5 DCA (FEB. 5, 1987), "... A NEW AND SECOND SENTENCE FOR THE
SAME OFFENSE... THE CLERK OF THE COURT IS TO ISSUE A NEW UNIFORM
COMMITMENT FORM AND DELIVER IT, TOGETHER WITH A CERTIFIED JUDGE-
MENT, AND THE ORIGINAL JUDGEMENT AND SENTENCE, TO THE SHERIFF, PER
§ 944.17(5) FL. STAT. THE RESPONDENT'S REPRESENTATIVES THEIR FIDUCIARY
DUTY TO THE LAW AND THAT THE PETITIONER HAD A CONSTITUTIONALLY PRO-
TECTED RIGHT, AMENDMENT FOURTEEN (14TH), TO DUE PROCESS OF THE LAW.
AND THAT THEY HAD A FIDUCIARY DUTY IN ACCORD WITH § 945.25 FL. STAT,

CONDUCT, SEE BREITHAUP V. ABRAM 352 U.S. 432, 77 S. CT. 408, 1 L. ED. 2D 448 (1957).

CONCLUSION

THE DISMISSAL OF THE CASE WAS NOT BY ORDER OF PREJUDICE, BUT PREJUDICE IS SHOWN. THE COURT HELD THE CASE FROM 2015 TO 2021 (ABOUT 6 YEARS), DISMISSAL HAD TO BE THE FIRST IMMEDIATE RESOLUTION. THE PETITION FOR WRIT OF HABEAS CORPUS REVEALED THE PERTINENT FACTS: 1) THE CONVICTION WAS THE SOLE BASIS OF A PLEA OF GUILTY TO A NEGOTIATED SENTENCE OF 0-10 YEARS (APPENDIX D), 2) THE CONVICTION WAS AFFIRMED (APPENDIX F) ON DIRECT APPEAL, AND ALL SENTENCING TRANSCRIPT WERE ATTACHED TO THE PETITION TO CLARIFY THAT ONLY ONE SENTENCING PROCEEDING HAS OCCURRED WITHIN THE CASE.

THE PETITIONER'S CONSTITUTIONALLY PROTECTED RIGHTS, AMENDMENT FIVE (5TH) AND FOURTEENTH (14TH), REQUIRED RECORDS TO REFUTE THE CLAIM AND PROOF OF THE PRESENT TERM OF IMPRISONMENT, 25 YEARS, AND A LEGAL ORDER OF COMMITMENT TO THE CUSTODY OF THE RESPONDENT IN ACCORD WITH § 944.17(5), TO WHICH THE CASE DISMISSAL WAS TO AVOID. THEREFORE, DUE TO THE FACTS THAT THE OFFICE OF PROSECUTION (APPENDIX-O) HAS VERIFIED THAT NO ORDER OF COMMITMENT TO CUSTODY AND WRITTEN JUDGEMENT AND SENTENCE EXISTS UPON THE RECORD OF THE CASE. DEEMING IT AS TRUE THAT DETENTION OF THE PETITIONER IS IN VIOLATION OF CONSTITUTIONAL AMENDMENTS FIVE (DUE PROCESS) AND FOURTEEN (DUE PROCESS OF THE LAW). THE PETITIONER HAD SERVED 85% OF THE AFFIRMED CONVICTION OF 0-10 YEARS, AND IMMEDIATE RELEASE SHOULD HAVE BEEN GRANTED.