

22-5883

No. USA 11 21-13206

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

FILED  
SEP 13 2022  
OFFICE OF THE CLERK  
SUPREME COURT, U.S.

Drummond — PETITIONER  
(Your Name)

vs.

Dixon, Sec'y FDC 11<sup>th</sup> COA — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

U.S. 11<sup>th</sup> Circuit Court of Appeal

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

PETITION FOR WRIT OF CERTIORARI

Walter Drummond, #M33531  
(Your Name)

F.S.P - P.D. Box 800  
(Address)

Raiford, FL 32083  
(City, State, Zip Code)

—  
(Phone Number)

QUESTION(S) PRESENTED

1) How can a 'pending motion' be "rendered moot" when it is the Respondent being LAWLESS ??

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APPENDIX G EXAMPLE Due to the discord of the Respondent

Note: The Petitioner understands the 28 USCS § 2244(E) statute and that is why he didn't include the judgment in the INDEX TO APPENDICES.

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 B to the petition and is

reported at 8/25/22; 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 is unpublished.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 \_\_\_\_\_ to the petition and is

reported at \_\_\_\_\_; 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 is unpublished.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 is unpublished.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 is unpublished.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 8/25/22.

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 \_\_\_\_\_ (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. U.S. Const. Amend. 1 - Religious and political freedom

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

### 2. U.S. Const. Amend. 5 - Criminal actions - Provisions concerning - Due process of law and just compensation clauses

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval Forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

### 3. U.S. Const. Amend 8 - Bail - Punishment

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

### 4. U.S. Const. Amend. 14 - Suits against states - Restriction of judicial power.

The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by citizens of another State, or by citizens or subjects of any Foreign State.

### 5. U.S. Const. Amend. 14, Sec. 1 - All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and the State where they reside. No State shall make or enforce any 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 any Person within its jurisdiction the equal protection of the Laws.

### 28 U.S.C. 5

§ 2254 (a)-The Supreme Court, 2 Justice thereof, a circuit judge, or a district court shall entertain an application for a writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court only on the ground that he is in custody in violation of the Constitution or laws or treaties of the United States.

7. § 2254 (b)(1)(A)-An application for a writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a State court shall not be granted unless it appears that- the applicant has exhausted the remedies available in the courts of the State

8. § 2254 (f)-If the applicant challenges the sufficiency of the evidence adduced in such State proceeding to support the State court's determination of a factual issue made therin, the applicant, if able, shall produce that part of the record pertinent to a determination of the sufficiency of the evidence to support such determination. If the applicant, because of indigency or other reason is unable to produce such part of the record, then the State shall produce such part of the record and the Federal court shall direct the State to do so by order directed to an appropriate State official. If the State cannot provide such pertinent part of the record, then the court shall determine under the existing facts and circumstances what weight shall be given to the State court's factual determination.

9. § 2244 (b)(3)(A)- Before a second or successive application permitted by this section is filed in the district court, the applicant shall move in the appropriate court of appeals for an order authorizing the district court to consider the application.

10. § 2244 (E)- The grant or denial of an authorization by a court of appeals to file a second or successive application shall not be appealable and shall not be the subject of a petition for rehearing or for a writ of certiorari.

11. § 2244 (d)(1)(D)(2)-A 1<sup>st</sup> year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a state court. The limitation period shall run from the latest of - the date on which the factual predicate of the claim or claims presented could have been discovered through the exercise of due diligence. The time during which a properly filed application for state post-conviction or other collateral review with respect to the pertinent judgment or claim is pending shall not be counted toward any period of limitation under this subsection.

## 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:

## STATEMENT OF THE CASE

The Petitioner has a motion 'rendered moot', though, it was previously road-blocked due to the Respondents illegal behavior. This Case was renewed onward Appeal on March 21, 2022 with a May 2, 2022 Petitioners' due date for the "FRAP BRIEF" in the 11<sup>th</sup> Cir. Court of Appeals. The Petitioner turned in his Brief on 4/28/22 (placed in Prison Officials hands= filed...). That, giving the Respondent per RULE of LAW - 11<sup>th</sup> Cir. R. 31-1(a) until 5/28/22 "to file and serve their brief. They "filed" their brief on "05/31/2022", 3 days Tardy, the date put on the top by them, and "served" it on 7/12/22 (please check DPS tracking), a whopping 75 days later (it wasn't served when the Petitioner sent his APPENDIX B MOTION FOR ACCORD RELEASE to THE SUPREME COURT), <sup>please see APPENDIX E</sup>

So, BY LAW, the Respondents lie fest A.K.A "Answer Brief" doesn't even exist because it is out of time & because it isn't according to 11<sup>th</sup> Cir. R. 31-1(a); nor, was an accord attempt to per 11<sup>th</sup> Cir. R 31-2 "BRIEFS AND APPENDICES - MOTION TO EXTEND TIME" "setting forth a good cause" (PLEASE SEE 11<sup>th</sup> Cir. R. 31-2(g) "for going out of the 30 day limit.") properly conducted. I DID NOT DO NOTHING, I AM NOT GUILTY.

This mishapp caused the Petitioner not to have the by rule FRAP 31. 11<sup>th</sup> Cir. R. 31(a) "21 day reply brief", in which, would've contradicted, with evidence, the Respondents whole fiasco of the Actual Innocent Petitioner (please see FOR EXAMPLE<APPENDIX G> Petitioners' "Amended: 9/1/22 REHEARING and his "Pending" ~~Amended~~ FRAP BRIEF. ) THIS, IN AFFECT preventing him his U.S. Constitution 5<sup>th</sup> & 14<sup>th</sup> Amendment Rights to Due process in which, both Amendments stipulate; "No person shall be deprived of life, liberty, or property without due process of law:

### FOOTNOTE

1. FRAP 31.  
RULE 31.

11<sup>th</sup> Cir. R. 31-1(a) - Briefing Schedule. Except as otherwise provided herein, the appellant shall serve and file a brief within 40 days after the date on which the record is deemed filed as provided by 11th Cir. R. 12-1. The appellee shall serve and file a brief within 30 days after service of the brief of the last appellant. The appellant may serve and file a reply brief within 21 days after service of the brief of the last appellee.

## REASONS FOR GRANTING THE PETITION

### 1. VIOLATIONS

~~on the Petitioner's side and the Respondents' side before it.~~  
~~and the Respondents' side before it.~~

8 Per "Bill of Rights", THE UNITED STATES CONSTITUTION:  
the Civil Right of Amendment I; "to Petition the Government  
(Provision for access to the Courts) for a redress of grievances";  
BEING THIS CAUSE, Amendment XI; "The judicial power of the United States  
shall not be construed to extend to any suit in law or equity."  
the judicial power, by which being; through THIS time lapse and  
disregard - for the Respondent, and, Further injustice by VIOLATION  
OF UNITED STATES CONSTITUTIONAL Amendment VIII;  
"inflicting cruel and unusual punishments." by Further  
incarceration of the Petitioner; an ACTUAL INNOCENT,  
by ignoring his Civil Rights in which, by which, he is a born  
Citizen to, TO; BY PROCEDURAL RULE AND RIGHT!

IMMEDIATELY RELEASE THE PETITIONER FROM THIS  
FUNDAMENTAL MISSCARRIAGE OF JUSTICE. I'M READY  
TO START MY LIFE GETTING A BEACH CRUISER BIKE (FAMILY)  
WORKING AT A BURGER KING IF I HAVE TO, A.S.A.P! )

2. An Appeal is apart due process of Law. YOUR HONOR, PLEASE EXAMINE Appendix B<sup>1-3</sup>,  
Appendix B<sup>1</sup>; written, in fact, before the illicit Respondents' response - a "Motion for  
Release" speaks of the renewed onward Appeal, B<sup>2</sup>; The 11<sup>th</sup> Court of Appeals  
introducing of the "FRAP brief" on February 11, 2022, in it, they're discussing its format  
and conditions, Appendix B<sup>3</sup>, due to an infraction by the 11<sup>th</sup> COA, the previous due date  
was pushed to May 2, 2022, 3rd, due ~~infraction~~ to the illegal; by being Unconstitutional, tardy  
and against RULE FRAP 31-(a), PLEASE SEE YOUR HONOR - EVIDENCE by way of Appendix E the unruly postage  
the "Priority Mail 07/06/2022" ~~postagedate from the Respondents~~, in which, through Circumstance,  
delivered by Prison Officials after the Petitioner filed his First Petition, correctly entitled;  
"MOTION FOR ACCORD RELEASE" TO THIS HEREOFTH HONORABLE AND SUPREME COURT.

And the Petitioner was deprived his 5<sup>TH</sup> and 14<sup>TH</sup> U.S.C.A RIGHTS because of THIS.  
The Petitioner, being deprived by ~~being~~ being enforced to wait for Respondents; in which,  
careless to all others/Respondent. came unlawfully <sup>and</sup> too late.

THE PETITIONER asks THIS HONORABLE AND SUPREME COURT to PLEASE SEE

## REASONS FOR GRANTING THE PETITION IN THE ACCORDANCE TO

XIII "Additional page"

Appendix D also as it shows of the Petitioner's, by Right, rebut to the illicit behavior gets, by some uncivil process, disregarded, putting an abridge in favor of the Respondents.

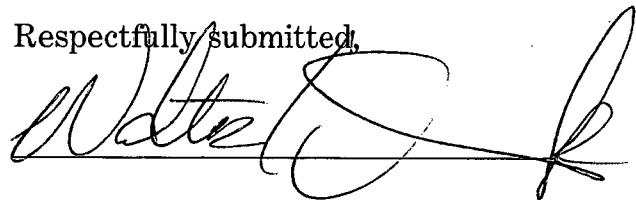
And the intentional trickery language used by the Respondent, in which, they j the Eleventh Circuit, state in camouflage in *Jordan v. Sec'y DOC, Att. Gen. State of FLA*, 485 F.3d 1351; at the very end of {485 F.3d 1358}: "We make only *prima facie* decision for §2244(b)(3)(A) purposes, the Petitioner, as a english speaking American, 'prima facie', some pig Latin phrase meaning "at first view" (the Petitioner had to take the due diligence of a time to find the meaning) due diligence; Text: Constancy or steadiness of purpose or labor by men who desire a speedy accomplishment of their purposes and such assiduity in the prosecution of the enterprise as manifest to the word a bona fide intention to complete the task within a reasonable time, to decode unnative language Indigent and Pro Se. The 11th Circuit goes on attempt Sympathy Card <sup>I couldn't believe when I read the supposed legal base work how the typist, rep. for 11thCircuit, got in his/her feelings. And when feelings involve -prejudice K.T.M</sup> in *Jordan* @ 1358 basically hating on the district court: "Things are different in the district court" and "That court has the benefit of submissions from both sides, access to the record, opportunity to inquire into the evidence" and "has time to make a decision whether the Petitioners, (pointing lowercasing "petitioners") claim truly meets requirements. They also cry how they "only got 30 days" to make a decision when a §2244(b)(3)(A) is filed. The Petitioner, filed a § 2244 (b)(3)(A), all the while waiting for a been destined response to his Procedure FRAP, a procedural rule that was deemed invisible due to the Respondents Lawlessness. His § 2244 (b)(3)(A) carefully explained the Petitioner's per "Second or successive application" of his § 2244(b)(3)(A) under § 2254 the previously inaccurate ruling in his case "untimely", and exist of, by showing "Case Summary" EXHIBIT an existing "properly filed" pending motion as Bennett in *Artuz v. Bennett* 531 US 4, 148 L.Ed 2d 213, 121 Set 361 (2000) in the ACCORDANCE with the § 2244(d)(2) statute, by which was never ruled on by the State Court and inprocedurally left pending, causing, which have should also conclude in the Petitioner's case: a reverse and Remand due to the AEDPA provision as in Bennett's case (PLEASE SEE YOUR HONOR Bennett @ {531 US 4}; {531 US 7}) whereas it explains the cause and the BYLAW conditions that all 'properly filed' motions not answered by the COURT is BYLAW "still pending" (Bennet @ 531 US 7) and root for the cause of Reverse and Remand. )

3. Because the Petitioner is innocent and can prove by "rebut<sup>33</sup> §2254(f):

## **CONCLUSION**

The petition for a writ of certiorari should be granted.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Walter S. Kline". The signature is fluid and cursive, with "Walter" on the left and "S. Kline" on the right, connected by a horizontal line.

Date: 9/13/22