

APPENDIX

A

Supreme Court of Florida

TUESDAY, SEPTEMBER 6, 2022

CASE NO.: SC22-1020

Lower Tribunal No(s).:
1D17-1233; 172016CF002579XXXAXX

CHRISTOPHER WADE

vs. STATE OF FLORIDA

Petitioner(s)

Respondent(s)

The petition to invoke all writs jurisdiction is dismissed for lack of jurisdiction because the petitioner has failed to cite an independent basis that would allow the Court to exercise its all writs authority and no such basis is apparent on the face of the petition. *See Williams v. State*, 913 So. 2d 541, 543-44 (Fla. 2005); *St. Paul Title Ins. Corp. v. Davis*, 392 So. 2d 1304, 1305 (Fla. 1980). No rehearing will be entertained by this Court.

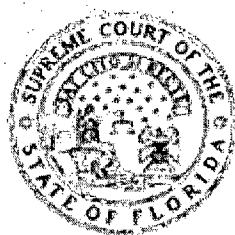
CANADY, POLSTON, LABARGA, COURIEL, and GROSSHANS, JJ., concur.

A True Copy

Test:



John A. Tomasino
Clerk, Supreme Court



dl

Served: *TRISHA MEGGS PATE, CLERK* *CHRISTOPHER WADE, CLERK* *HON. KRISTINA SAMUELS, CLERK* *HON. PAM CHILDERS, CLERK*

TRISHA MEGGS PATE, CLERK
CHRISTOPHER WADE, CLERK
HON. KRISTINA SAMUELS, CLERK
HON. PAM CHILDERS, CLERK

IN THE SUPREME COURT OF FLORIDA

Legal Mail

Provided to

Blackwater River Correctional
and Rehabilitation Facility
on 8/4/22 for mailing. *MM*
InitialsCHRISTOPHER WADE,
PETITIONER,

VS.

STATE OF FLORIDA,
RESPONDENT.

L.T. CASE NO:

APPEAL CASE NO: 1D14-1233

ALL WRIT / PETITION FOR REINSTATEMENT

COMES NOW, THE PETITIONER CHRISTOPHER WADE PRO SE LITIGANT
 PURSUANT TO FLORIDA RULES OF APPROPRIATE PROCEDURE 9.100 (d) AND
 RULE 1.630 OF THE FLORIDA RULES OF CIVIL PROCEDURE PETITIONS THIS
 HONORABLE COURT FOR AN ALL WRIT / PETITION FOR REINSTATEMENT OF THE
 NOTICE TO INVOKE DISCRETIONARY JURISDICTION. THE PETITIONER
 SHOWS THE COURT THE FOLLOWING IN SUPPORT THEREOF:

See, FIA. R. APP. P. 9.040 (c) ("IF A PARTY SEEKS AN IMPROPER
 REMEDY, THE CAUSE SHALL BE TREATED AS IF THE PROPER HAD BEEN
 SOUGHT.

See ALSO STATE V. OWEN, 696 So.2d 415 (FIA, 1994) HOLDING THIS
 HONORABLE COURT HAS THE POWER TO RECONSIDER AND CORRECT ERREORS
 IN EXCEPTIONAL CIRCUMSTANCES AND WHERE RELIANCE ON THE
 PREVIOUS DECISION WOULD RESULT IN A MANIFEST INJUSTICE. ENGLE V. LIGGETT,
 945 So.2d 1246 (FIA, 2006).

(1)

I PRELIMINARY STATEMENT

THE PETITIONER CHRISTOPHER WADE, SEEK REINSTATEMENT OF THIS HONORABLE COURT'S DISCRETIONARY REVIEW, PURSUANT TO RULE 9.140(c), FLORIDA RULES OF APPELLATE PROCEDURE, OF THE WRITTEN OPINION ON DIRECT APPEAL IN WADE V. STATE, 265 So. 3d 674 (FLA. 1ST DCA Feb. 11, 2019). REHEARING DENIED, MARCH 20, 2019. A PREVIOUS PETITION FOR BELATED WAS FILED BY PETITIONER'S APPELLATE COUNSEL AND THE PETITIONER. REFILED COUNSEL'S MOTION WHICH WAS THE IMPROPER REMEDY FOR THE RELIEF SOUGHT.

II STATEMENT OF THE FACTS

THE FIRST DISTRICT COURT OF APPEAL AFFIRMED PETITIONER'S CONVICTION OF SEXUAL BATTERY WITH A DEADLY WEAPON. THE COURT WROTE ONE OPINION ON TWO ISSUES - WHETHER PETITIONER WAS DENIED HIS RIGHT TO CONFLICT-FREE COUNSEL AND WHETHER THE TRIAL COURT ERRED IN ADMITTING COLLATERAL CRIME EVIDENCE.

MOREOVER, THE RECORD DEMONSTRATES THAT PETITIONER'S COURT/STATE APPOINTED APPELLATE COUNSEL MS. KATHLEEN STOVER ESQ. OF THE LEON COUNTY PUBLIC DEFENDER'S OFFICE ACKNOWLEDGED IN HER PETITION SEEKING BELATED DISCRETIONARY REVIEW THAT THE PETITIONER DESIRED TO SEEK DISCRETIONARY REVIEW OF THE FIRST DISTRICT COURT OF APPEAL DECISION. MS. STOVER INFORMED PETITIONER THAT SHE WOULD TIMELY FILE THE MOTION TO INVOK DISCRETIONARY REVIEW.

HOWEVER, COUNSEL CONCEDED IN THE BELATED PETITION THAT SHE INTENDED TO SEEK DISCRETIONARY REVIEW. THE DATE FOR FILING THE NOTICE TO INVOK WAS INADVERTENTLY MISCALENDERED BY HER ASSISTANT. THE ERROR WAS DISCOVERED AFTER THE DUE DATE TO FILE THE NOTICE TO INVOK HAD PASSED.

MS. STOVER, FURTHER CONCEDED THAT SHE NEVER ADVISED THE PETITIONER THAT HE HAD THE RIGHT TO FILE A PRO SE NOTICE TO INVOK DISCRETIONARY REVIEW. (APPENDIX (A))

BASIS FOR REINSTATEMENT AND JURISDICTION

THE PETITIONER ASSERTS AS A PRELIMINARY MATTER AND TO PREVENT A MANIFEST INJUSTICE AND THE DENIAL OF PETITIONER'S 6TH AND 14TH AMENDMENT RIGHTS OF DUE PROCESS TO EFFECTIVE ASSISTANCE OF COUNSEL GUARANTEED BY THE UNITED STATES AND FLORIDA CONSTITUTIONS, THE INSTANT PETITION FOR THE COURT TO GRANT REINSTATEMENT OF THE NOTICE TO INVOKE UNDER THE CIRCUMSTANCES OF THE INSTANT CASE SHOULD BE GRANTED, BECAUSE THIS COURT HAS THE ABILITY TO TREAT THE NOTICE TO INVOKE AS TIMELY FILED.

MOREOVER, PETITIONER FURTHER ASSERTS THAT THIS HONORABLE COURT HAS PREVIOUSLY TREATED BELATED NOTICES TO INVOKE AS TIMELY FILED WHEN LATE FILING WAS DUE TO SOME FAULT OF THE ATTORNEY AND BEYOND THE INCAPACITATED DEFENDANT'S CONTROL. SEE, E.G., RIOS V. STATE, NO: SC06-1144, 2006 FLA. LEXIS 2766 (FLA. 7, 2006); RODRIGUEZ V. STATE, NO: SC05-1442, 2006 FLA. LEXIS 387 (FLA. MAR. 2, 2006); PARKS V. STATE, NO: SC05-978, 2006 FLA. LEXIS 278 (FLA. FEB. 14, 2006); LYONIS V. STATE, NO: SC03-249 (FLA. MAY 4, 2005); SAINIT-FLEUR V. STATE, NO: SC03-44 (FLA. APR. 16, 2005); JORDAN V. STATE, NO. SC02-465 (FLA. APR. 13, 2005); CURTIS V. STATE, NO: SC01-2342 (FLA. APR. 12, 2005); ARRINGTON V. STATE, NO: SC02-669, 2004 FLA. LEXIS 28 (FLA. JAN. 6, 2004); LORENZ V. STATE, NO: SC02-769, 2003 FLA. LEXIS 768 (FLA. APR. 8, 2003).

HOWEVER, IN PRIOR ORDERS GRANTING MOTIONS FOR REINSTATEMENT, THIS HONORABLE COURT FAILED TO ARTICULATE ITS REASONS. THE COURT EXPLAINED ITS REASONING IN THE CASE OF SIMS V. STATE, 998 So. 2d 494 (FLA. 2008) IN WHICH THE PETITIONER ALSO RELIES UPON FOR REINSTATEMENT TO INVOKE DISCRETIONARY REVIEW TO REVIEW THE FIRST DISTRICT COURT OF APPEAL DECISION.

ARGUMENT

THE PETITIONER ASSERTS LIKE THE FLORIDA SUPREME COURT'S REASONING IN SIMS V. STATE, 998 So.2d 494 (FLA. 2005) THAT HIS ALL WRITS MOTION WAS TREATED AS A NOTICE TO INVOKE AS TIMELY BECAUSE HE WAS ENTITLED TO EFFECTIVE ASSISTANCE OF APPELLATE COUNSEL AND SHOULD NOT BE PENALIZED FURTHER DUE TO THE FAILURES OF HIS APPELLATE COUNSEL ON DIRECT APPEAL.

THE PETITIONER AVERS THAT HIS APPELLATE COUNSEL MS. KATHLEEN STOVER SWORE UNDER OATH THAT HER ACTIONS AND INCTIONS DURING PETITIONER'S APPEAL PROCESS IS THE REASON THAT HE IS AND WAS UNABLE TO OBTAIN DISCRETIONARY REVIEW BY THE FLORIDA SUPREME COURT. SEE APPENDIX (A).

PETITIONER FURTHER AVERS THAT THE FLORIDA SUPREME COURT HAS THE DISCRETION TO TREAT THE INSTANT PETITION AS A TIMELY NOTICE TO INVOKE DISCRETIONARY REVIEW BASED ON THE UNDISPUTED FACTS OF INEFFECTIVE ASSISTANCE OF APPELLATE COUNSEL THATS OBVIOUS AND APPARENT ON THE FACE OF THE RECORD. BECAUSE CRIMINAL DEFENDANTS ARE ENTITLED TO A DIRECT APPEAL AS A MATTER OF RIGHT IN FLORIDA. SEE AMENDS. TO FLA. R. APP. PRO., 685 So.2d 773, 774 (FLA. 1996) (CONCLUDING THAT ARTICLE V, SECTION 4 (B) (1) OF THE FLORIDA CONSTITUTION, PROVIDES A CONSTITUTIONAL PROTECTION OF THE RIGHT TO APPEAL); 924.05, FLA. STAT. (2001) ("DIRECT APPEALS PROVIDED FOR IN THIS CHAPTER WHICH PERTAINS TO CRIMINAL CASES ARE A MATTER OF RIGHT."). A CRIMINAL DEFENDANT PURSUING A FIRST APPEAL AS A MATTER OF RIGHT IS GUARANTEED THE RIGHT TO EFFECTIVE ASSISTANCE OF APPELLATE COUNSEL. SEE EVITTS V. LUCRY, 469 U.S. 384, 396, 105 S.C.T. 830, 83 L.Ed. 2d 821 (1985). ("A FIRST APPEAL AS OF RIGHT

THERFORE IS NOT ADJUDICATED IN ACCORD WITH DUE PROCESS OF LAW IF THE APPELLANT DOES NOT HAVE THE EFFECTIVE ASSISTANCE OF AN ATTORNEY."') AS IN THE INSTANT CASE, PETITIONER'S STATE APPOINTED APPELLATE COUNSEL, NOT ONLY DID MS. STOVER FAILED TO TIMELY FILE THE NOTICE TO INVOKE DISCRETIONARY REVIEW, SHE PROMISED HIM THAT SHE WOULD SEEK REVIEW IN THE FLORIDA SUPREME COURT. HOWEVER, AS A FORESTATED MS. STOVER ALSO INFORMED THE FLORIDA SUPREME COURT OF HER ACTIONS AND IN ACTIONS SHE ALSO FAILED TO INFORM THE PETITIONER THAT HE HAD A RIGHT TO FILE A PRO SE NOTICE TO INVOKE DISCRETIONARY REVIEW. SEE APPENDIX (A)

CONCLUSION

WHEREFORE, BASED UPON THE MOTION, FILES, AND RECORD ATTACHMENT, THE PETITIONER PLEADS THAT HE SHOULD NOT BE PENALIZED FOR HIS APPELLATE COUNSEL'S ACTIONS AND IN ACTIONS AND REINSTATEMENT OF THE NOTICE TO INVOKE SHOULD BE GRANTED.

THE PETITIONER PRAYS FOR RELIEF.

APPENDIX

(A) APPELLATE COUNSEL'S PETITION SEEKING
BATED DISCRETIONARY REVIEW ACKNOWLEDGING HER
INEFFECTIVENESS ON THE FACE OF THE RECORD

CERTIFICATE OF MAILING

I HEREBY CERTIFY that a true and correct copy of the foregoing document has been placed into the hands of prison officials for delivery by U.S.

Mail to:

Clerk of the Court - 500 South Duval Street Tallahassee Fla.
Office of State Attorney - 190 West Governmental Street Pensacola Fla.
3239
32502

On this 28 day of July, 2022

/s/ Christopher Wade
Christopher Wade
DC# P09443
Blackwater River Corr. Facility
5914 Jeff Ates Road
Milton, Florida 32583

APPENDIX

B

FIRST DISTRICT COURT OF APPEAL
STATE OF FLORIDA

No. 1D17-1233

CHRISTOPHER WADE,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

On appeal from the Circuit Court for Escambia County.
Thomas V. Dannheisser, Judge.

February 11, 2019

WINSOR, J.

A jury convicted Christopher Wade of sexual battery with a deadly weapon, and the court sentenced him to life in prison. This is Wade's appeal.

I.

Wade's twenty-eight-year-old victim was walking on a sidewalk early one morning. Wade approached her on a bicycle, spoke to her briefly, and then put a knife to her neck and raped her. Afterward, Wade rode off, and the victim ran home. The victim immediately woke up her husband and then went to the hospital, where medical professionals examined her and gathered DNA that turned out to match Wade's.

“a conflict *that affected counsel’s performance*—as opposed to a mere theoretical division of loyalties”); *Cuyler v. Sullivan*, 446 U.S. 335, 348 (1980) (“In order to establish a violation of the Sixth Amendment, a defendant who raised no objection at trial must demonstrate that an actual conflict of interest adversely affected his lawyer’s performance.”).

Wade has made no showing—indeed no argument—that the OCCCRC’s representation of the victim (through a separate attorney) adversely affected his counsel’s performance. His attorney indicated she had no knowledge of the victim’s dependency case; she had not been aware there even was a dependency case, much less that another attorney in her office was handling it. Wade’s attorney vigorously cross-examined the victim in Wade’s defense, and she unambiguously told the court that her office’s involvement in the dependency case would not affect her representation of Wade. There is nothing in this record to suggest otherwise. Cf. *Cuyler*, 446 U.S. at 348-50 (noting that an actual conflict existed where “record showed that defense counsel failed to cross-examine a prosecution witness whose testimony linked [defendant] with the crime and failed to resist the presentation of arguably inadmissible evidence [because of] counsel’s desire to diminish the jury’s perception of a codefendant’s guilt” (citing *Glasser v. United States*, 315 U.S. 60 (1942))).

As in *State v. Alexis*, “there was no need for an inquiry into the knowing, intelligent, and voluntary nature of the waiver because, since there had been no finding of an actual conflict of interest, there was no need for a waiver.” 180 So. 3d at 938. Wade’s Sixth Amendment rights were not violated.

III.

Wade’s other argument is that the court abused its discretion by admitting testimony of two other sexual-assault victims. Under Florida’s Evidence Code, in prosecutions for certain sex crimes, “evidence of the defendant’s commission of other crimes, wrongs, or acts involving a sexual offense is admissible and may be considered for its bearing on any matter to which it is relevant.” § 90.404(2)(c)1., Fla. Stat. (2015). Here, it was certainly relevant that Wade had approached other women on a bicycle and forced sex at knifepoint—if for no other reason than to refute Wade’s

APPENDIX

C

IN THE DISTRICT COURT OF APPEAL
FIRST DISTRICT OF FLORIDA

CHRISTOPHER WADE, :
Appellant, :
VS. : CASE NO. 1D17-1233
STATE OF FLORIDA, :
Appellee. :
:

MOTION FOR REHEARING OR CERTIFICATION

Appellant, CHRISTOPHER WADE, through undersigned counsel, pursuant to Rule 9.330, Florida Rules of Appellate Procedure, moves this court to rehear its opinion of February 11, 2019, or certify a question, and as grounds therefor states:

I

The issue

The issues here are 1) whether defense counsel had a conflict of interest between appellant and the key state witness when both were represented by attorneys of the same office, and 2) was the waiver of the conflict legally adequate.

II

The facts

Mid-trial, defense counsel of the Office of Regional Conflict Counsel, informed the trial court that her office was representing KH, the alleged victim of sexual battery in this case, in a separate dependency proceeding at the same time she

was representing appellant in this case. Defense counsel did not object to continuing to represent appellant despite the conflict of interest. The trial court did not advise appellant of any rights he might have, for example, to request other counsel due to the conflict. Defense counsel said she spoke to appellant off the record. Appellant waived the conflict on the record, but he was not advised of any rights on the record.

III

This court's ruling

Citing State v. Alexis, 180 So.3d 929, 936 (Fla. 2015), this court said that "multiple representation alone does not violate the Sixth Amendment, and in the absence of an objection, a court can presume no conflict of interest." Wade v. State, slip op. at 1. When there is no objection, the defendant must show an actual conflict of interest. This court ruled that appellant did not show an actual conflict. Without an actual conflict, no waiver is required, so the absence of a valid waiver here was not reversible error.

IV

Argument

Appellant contends that the error in the court's reasoning derives from the fact that the majority of cases on this issue, including Alexis, involve a single attorney representing two or more codefendants. The term "multiple representation" would be imprecise at a minimum in a context other than one attorney representing multiple codefendants. In the few cases involving

an attorney representing a defendant at trial and having represented a state witness previously, the attorney was not presently "representing" the state witness, so that situation would not constitute "multiple representation."

The distinction with codefendant representation is that the law is well-settled and plain enough to see in everyday life in court that many codefendants have the same defense; their defenses are not in conflict with each other. That is the context in which multiple representation alone does not prove that a conflict exists. That can hardly be said when the same office is representing both the defendant charged with a crime and also the alleged victim accusing the defendant. That scenario would be actual conflict in most cases, and it was here.

This court denied relief because defense counsel did not object, but appellant contends that his counsel was not acting in a conflict-free manner when counsel failed to object, and this court must reconsider its decision. Defense counsel explained that, ordinarily, she would have moved to withdraw based on conflict in her office representing both the defendant and his accuser, but counsel was unaware of this representation until mid-trial.

Appellant contends that counsel was taking pains to show that her error was not blameworthy, but that meant she was protecting her own interests, not appellant's. At the point the conflict was revealed, appellant was entitled to conflict-free counsel and was not provided with conflict-free counsel, or any

advice that he was entitled to such counsel, before he waived the conflict, having received no information about his position on the record.

On the facts of this case, appellant was entitled to conflict-free counsel on the question of whether to waive the conflict, similar to the defendant's right to conflict-free counsel when he moves to withdraw a plea and alleges misinformation from or ineffectiveness of counsel. See Sheppard v. State, 17 So.3d 275 (Fla. 2009). His attorney's loyalties were divided between two clients of the same firm, as well as divided between his interests and the attorney's own interest in seeking to avoid blame for the late discovery of the conflict.

If this court ruled based on the fact that appellant and the witness were represented by different attorneys in the same office, such a ruling would be inconsistent with the ruling that a Public Defender's Office (or Regional Conflict Counsel) is one "law firm" vis-a-vis the issue of conflicting client interests. Babb v. Edwards, 412 So.2d 859 (Fla. 1982); see also Adams v. State, 380 So.2d 421 (Fla. 1980).

The conflict issue was raised inconveniently in the middle of trial, but no one ever advised appellant of his rights or protected his rights. Instead, this court applied a post-conviction standard to say he had no right to conflict-free counsel even to advise him about the conflict; this was a denial of due process.

WHEREFORE, appellant respectfully requests that this court

grant rehearing or certify as a question of great public importance whether appellant was entitled to conflict-free counsel when counsel was not advising him about the conflict.

Respectfully submitted,

ANDY THOMAS
PUBLIC DEFENDER
SECOND JUDICIAL CIRCUIT

/s/
KATHLEEN STOVER
Fla. Bar No. 0513253
Assistant Public Defender
Leon County Courthouse
301 S. Monroe, Suite 401
Tallahassee, Florida 32301
(850) 606-1000

ATTORNEY FOR APPELLANT

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been furnished by electronic mail, by agreement of the parties, to Assistant Attorney General Trisha Meggs Pate, crimappt1h@myfloridalegal.com, and by mail to Mr. Christopher Wade, inmate no. P09443, Blackwater Correctional Facility, 5914 Jeff Ates Road, Milton, FL 32583, this day, February 26, 2019.

/s/
KATHLEEN STOVER

APPENDIX

D

IN THE SUPREME COURT OF FLORIDA

CHRISTOPHER WADE,

Petitioner,

v.

CASE NO. SC19-
(nos. 1D17-1233)

STATE OF FLORIDA,

Respondent.

ON BELATED DISCRETIONARY REVIEW OF THE DECISION
OF THE FIRST DISTRICT COURT OF APPEAL

PETITION SEEKING BELATED DISCRETIONARY REVIEW

ANDY THOMAS
PUBLIC DEFENDER
SECOND JUDICIAL CIRCUIT

KATHLEEN STOVER
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kathleen.stover@flpd2.com
ATTORNEY FOR PETITIONER

IN THE SUPREME COURT OF FLORIDA

CHRISTOPHER WADE, :
Petitioner, :
VS. : CASE NO. SC19-
STATE OF FLORIDA, : (no. 1D17-1233)
Respondent. :
_____ :

PETITION SEEKING BELATED DISCRETIONARY REVIEW

I PRELIMINARY STATEMENT

Petitioner, Christopher Wade, seeks belated discretionary review, pursuant to Rule 9.141©, Florida Rules of Appellate Procedure, of the written opinion on direct appeal in Wade v. State, 265 So. 3d 677 (Fla. 1st DCA Feb. 11, 2019), rehearing denied, March 20, 2019. No previous petition for belated review has been filed.

II STATEMENT OF THE FACTS

The First District affirmed petitioner's conviction of sexual battery with a deadly weapon. The court wrote an opinion on two issues - whether he was denied his right to conflict-free counsel and whether the trial court erred in admitting collateral crime evidence.

III NATURE OF RELIEF SOUGHT

Petitioner seeks belated discretionary review from the written opinion of the First District Court on direct appeal of

his criminal conviction.

IV BASIS FOR BELATED DISCRETIONARY REVIEW

Petitioner desired to seek discretionary review of the First District's decision, and undersigned counsel intended to seek discretionary review. The date for filing the notice to invoke was inadvertently miscalendared by counsel's assistant. The error was discovered only after the due date had passed.

Counsel is responsible for the miscalendaring which resulted in the failure to file the notice timely. Counsel's omission in failing to ensure the notice was filed timely was deficient performance which has undermined confidence in the outcome of petitioner's appeal. Petitioner was therefore deprived of the effective assistance of counsel in his direct appeal.

Further, because counsel intended to file the notice to invoke timely, counsel did not advise petitioner that he had the right to file a pro se notice.

I, Kathleen Stover, state under oath that I represented petitioner, Christopher Wade, on appeal in the First District Court, no. 1D17-1233, that he timely requested discretionary review, and counsel failed to timely file the notice to invoke in the Florida Supreme Court.

Under penalties of perjury, I declare that I have read the foregoing statement and that the facts stated in it are true.

/s/
KATHLEEN STOVER
Fla. Bar No. 0513253
Assistant Public Defender

This court has granted belated discretionary review upon

finding ineffective assistance of appellate counsel. Sims v. State, 998 So.2d 494 (Fla. 2008). In Sims, the court granted belated review finding that appellate counsel's failure to inform Sims of the date of the final order and his right to file a pro se petition for review constituted ineffective assistance of counsel on the face of the record. The failure of counsel in this case to timely file the notice to invoke constitutes ineffective assistance of appellate counsel per Sims.

Counsel has a good-faith basis to believe there are grounds for discretionary review as to the conflict of counsel issue. Petitioner does not seek review of the collateral crime evidence issue.

The grounds for review would be misapplication conflict in that the district court misapplied this court's decision in State v. Alexis, 180 So.3d 292 (Fla. 2015), to the facts of this case. The facts are different; Alexis involved an alleged conflict of interests between two codefendants whose interests aligned but, in the instant case, Regional Conflict Counsel represented both petitioner in the criminal case and also the alleged victim of the criminal charge in a dependency proceeding.

Because counsel has sworn to the error in filing the notice untimely, there are no disputed facts which would require an evidentiary hearing.

WHEREFORE, petitioner respectfully requests that this

court grant him belated discretionary review.

Respectfully submitted,

ANDY THOMAS
PUBLIC DEFENDER
SECOND JUDICIAL CIRCUIT

/s/
KATHLEEN STOVER
Fla. Bar No. 0513253
Assistant Public Defender
Leon County Courthouse
301 S. Monroe, Suite 401
Tallahassee, Florida 32301
(850) 606-1000

ATTORNEY FOR PETITIONER

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been furnished through the Florida e-filing Portal, to Assistant Attorney General Sharon Traxler, at crimappt1h@myfloridalegal.com, and by mail to Mr. Christopher Wade, inmate no. P09443, Blackwater Correctional Facility, 5914 Jeff Ates Road, Milton, FL 32583, this day, this day, December 31, 2019.

/s/
KATHLEEN STOVER