

No. SCAL No. 1210172

22-5967

IN THE SUPREME COURT  
OF THE UNITED STATES OF AMERICA

Petitioner /Appellant

SEP 14 2022

OFFICE OF THE CLERK

HUNTER BROWN,

v.

ALABAMA  
STATE OF FLORIDA

Respondents / Appellees

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### PETITION FOR WRIT OF CERTIORARI

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ON PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF  
ALABAMA THE UNITED STATES OF AMERICA

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HUNTER BROWN(Pro-Se)  
DC# P64810

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Defuniak springs, FL 32433  
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## **QUESTIONS PRESENTED**

### **SUMMATION OF THE ISSUES-**

**I-** Whether Hunter Brown's Covington, County, Al. Charges in CASE NO. :CC-20-303, should've been dismissed pursuant to the Interstate Agreement on Detainer's Act since he was not brought to trial on those charges within 180 days of serving the prosecuting officer and the Court with his request for final disposition and written notice of the place of his imprisonment.

**II-** Whether the circuit court erred in awarding restitution to Progressive Insurance when no admissible evidence was offered to show how the value of the restitution amount was determined.

### **QUESTIONS PRESENTED-**

**I-** Would the United States Supreme Court support the errors of the State of Alabama in accepting Mr. Brown to go to trial within 180 days pursuant to the Interstate Agreement on Detainer's Act. . . knowing that COVID restrictions went into effect a month before receiving Mr. Brown's request preventing ALL Trial in the State of Alabama?

**II-** Some party State's have enacted time lines to cases involving speedy trial claims. Page four of the Appellee's brief in APPENDIX-B, to the Court of Criminal Appeals in Alabama shows the prosecutor in Brown's case had recognized the importance of cases with the possibility of time lines under the speedy trial rule, and insured that those cases were brought to trial in a timely manner. . . Will the U.S. Supreme Court allow Alabama

to abuse there discretion in NOT recognizing Brown's time line under the I.A.D. Act.

**III-** Will the U.S. Supreme Court allow Alabama's seemingly intentional error go without correction. . . When Article IV of Part II, of the I.A.D. Act dictates that time periods "shall be tolled whenever and for as long as the prisoner is unable to stand trial, as determined by the court having jurisdiction of the matter." In other words, the prosecutor had a remedy for the prohibition of trials due to the COVID restrictions without allowing Brown to exceed the 180 day time line, and violate the I.A.D. Act.

**CERTIFICATE OF INTERESTED PERSONS  
AND CORPORATED DISCLOSURE STATEMENT**

In accordance with the United States Supreme Court Rule 14.1 (b), the petitioner files the following notice certifying that no case is related to this case, and the following individuals have been involved in one way or another with a judgment of the case currently being reviewed;

The Honorable Corey D. Bryan- Defense Counsel

The Honorable Judge Cole- Appellate Judge

The Honorable Chris Howell- Asst. Attorney General (Ala.)

The Honorable Judge Kellum-Appellate Judge

The Honorable Steve Marshall-Attorney General (Ala.)

The Honorable Judge McCool-Appellate Judge

The Honorable JJ. Minor-Appellate Judge

The Honorable Charles A. Short-Circuit Court Judge

The Honorable P.J. Windom-Appellate Judge

Respectfully Submitted,

/S/ Hunter Brown

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## **INDEX OF APPENDICES**

This petition is used to seek a decision of this Court over decisions rendered by the State Court's. In support of the remedy sought the following decisions and proceedings are presented for review;

- 1) **APPENDIX-A;** -Supreme Court of Alabama's Order denying Case No. CR-20-0223 from the Criminal Appeals Court
- 2) **APPENDIX-B;** -Alabama Criminal Court Court of Appeals denying the Covington County Circuit Court's decision under Case No. CC-20-303
- 3) **APPENDIX-C;** -The Orders from the Circuit Court denying the restitution request from Mr. Brown, and the order denying the request for reconsideration

## **TABLE OF AUTHORITIES**

<b>INTERSTATE AGREEMENT ON DETAINERS CODE</b>	<b>PAGE NO.(S)</b>
18 U.S.C. Art. VI(a).....	3, & 4
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**IN THE SUPREME COURT OF THE UNITED STATES**

**PETITION FOR CERTIORARI REVIEW**

In the interest of the proper administration of justice, the petitioner respectfully seeks the issuance of a certiorari writ to correct a plain error that was denied on appeal, and then swept under the rug by the Alabama State's Supreme Court. This error affects the fairness, integrity, and equal application of judicial proceedings applied between States in the resolution of this case.

Mr. Brown served the Covington County Circuit Clerk's Office, and the Covington County District Attorney's Office on April 30<sup>th</sup>, 2020. Mr. Brown arrived in the custody of the Covington County, Al. Sheriff's Dept. on or about August 6<sup>th</sup>, 2020. The Interstate Agreement on Detainers Act, §941.01-.57 Fla. Stats. (2020) allows 180 days from the date the State Attorney became aware the Mr. Brown wanted to go to trial on the outstanding charges. It's obvious that the day the officials in Alabama received the papers showing the desire to satisfy the outstanding Alabama charges, that that would be the date the 180 day trial time line would begin. It was three months before Mr. Brown was received in Covington County Alabama. Mr. Brown first went to court in Alabama on 8/3/2020. Trial was not set until 12/02/20, which is the day Mr. Brown signed a plea deal. There were a couple delays preventing Mr. Brown from going to trial meeting the 180 day time line, It seems like they were unnecessary delays that had nothing to do

with the COVID restrictions, that were set into play before Mr. Brown even served the desire to satisfy the charges with Alabama officials.

## OPINIONS BELOW

Petitioner respectfully prays that a certiorari writ is issued to review the judgment below. This review is requested over decisions from the **State Court's**:

On November 30<sup>th</sup>, 2020, Hunter Brown filed to dismiss the charges brought in the indictment by Covington County Al. In Covington Case No. CC-20-303. Arguing that the State was in violation of the Interstate Agreement on Detainer's Act for failing to bring Mr. Brown to trial within 180 days. A hearing was held on December 1<sup>st</sup>, 2020, in which where the Circuit Court orally Mr. Brown's Motion to Dismiss the charges against him for missing the 180 day time line, A formal order was issued by the Covington County Circuit Court on December 1st, 2020. Then another order was issued after Mr. Brown filed a Motion to Reconsider the previous motion that was denied requesting that the Court dismiss the charges over the States failure to bring Mr. Brown to trial within 180 days from being notified by Mr. Brown that he desired to satisfy the outstanding charges in Alabama. The Circuit Court denied the Motion to Reconsider on December 23<sup>rd</sup>, 2020.

The Circuit Court held a Restitution Hearing on December 23<sup>rd</sup>, 2020, and awarded Progressive Insurance Co. the amount of \$33.149.29, and to John Goolsby in the amount of \$40.805.35. Mr. Brown argued that the Circuit Court abused it's discretion by awarding restitution without offering admissible evidence to prove how the amounts of restitution were determined.

The Criminal Court of Appeals under Case No. CR-20-0223 affirmed all of the orders issued by the Covington County Circuit Court under Covington Case No. CC-20-303.

## **JURISDICTION**

All three levels of Alabama State Court's, (Trial; Appellate; State Supreme), have supported through there decisions or lack thereof violations of federal and State Codes. 18 U.S.C. App. §2, Art. III (a)-(b); Ala. Code §15-9-81. Whereas,

(a) Whenever a person has entered upon a term of imprisonment in a penal or correctional institution of a party State, and whenever during the continuance of the term of imprisonment there is pending in any other party State any untried indictment, information or complaint on the basis in which a detainer has been lodged against the prisoner, he shall be brought to trial within one hundred and eighty days after he shall have caused to be delivered to the prosecuting officer and the appropriate court of the prosecuting officer's jurisdiction written notice of the place of his imprisonment and his request for a final disposition to be made of the indictment, information, or complaint.

(b) The written notice and request for final disposition referred to in paragraph (a) hereof shall be given or sent by the prisoner to the warden, commissioner of corrections, or other official having custody of him, who shall promptly forward it together with the certificate to the appropriate prosecuting official and court by registered or certified mail, return receipt requested.

Article V, §(c), goes on to state;

“in the event that an action in the indictment, information, or complaint on the basis of which the detainer has been lodged is not brought to trial within the period provided in Article III or Article IV hereof, the appropriate court of jurisdiction where the indictment, information, or complaint has been pending shall enter an order dismissing the same with prejudice, and any detainer based thereon shall cease to be of any force or effect.”

The prosecuting authority and the court were properly served by Hunter Brown. Then the 180 days expired without Hunter Brown being brought to trial on the charges in the indictment, information, or complaint.

### **CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED**

The Alabama Supreme Court contends on pages 7 and 8 of their affirmation to the Alabama Criminal Court of Appeals decision in this case that the U.S. Supreme Court has yet to address their meaning of the phrase “unable to stand trial” as set forth under I.A.D.. Compact Clause U.S. Const. Art. I §10 cl. 3.

Brown contends that whether the error is the petitioner's fault i.e., the petitioner has a physical or mental inability to stand trial, or the State and court of jurisdiction prevented trial with some procedural defect in the health interest of the common public that would be attending and participating in the trial. i.e., not scheduling trial because of the COVID restrictions, but scheduling trial for speedy trial issues even though the

COVID restrictions were still in effect.

Subsequently, as §15-9-81 Art. VI(a), Al. Stat. States, “In determining the duration and expiration dates of the time periods in Articles III, and IV of this agreement, the running of said time periods shall be tolled whenever and for as long as the prisoner is “unable to stand trial”, as determined by the court having jurisdiction of the matter.

With that being said, Brown contends further that with the State of Alabama preventing trials between March 30<sup>th</sup>, until September 14<sup>th</sup>, 2020, but yet bringing in speedy trial cases, in utilizing §15-9-81 Art. VI(a), both the prosecuting attorney and the court of jurisdiction had the ability to call Brown's trial if they were able to call speedy trial cases. The I.A.D. Is a congressionally sanctioned Interstate Agreement Compact, within the Compact Clause, U.S. Const. Art. I,§ 10 cl.3, and is generally subject to federal rather than State construction.

A plain reading of the statutory language makes it clear that brown was “unable to stand trial” due to circumstances out of his control, and prosecutorial misconduct prevented Brown from being brought to trial “with” speedy trial cases being heard.

**Amendment V & Amendment XIV**- This Amendment prohibits a person from being deprived of life, liberty, or property without due process of law. The Alabama State court's denied the petitioner relief over the process of the charges alleged, and the amount of restitution owed, which violates 18 U.S.C. App. §2, Art. III (a)-(b); Ala. Code §15-9-81. In other words, the State overlooked or ignored provisions of the Interstate

Agreement on Detainer's Act requiring Mr. Brown to have been to trial within a specific amount of time, and went a bit farther as to overlooked or ignore safeguards set into the Interstate Agreement on Detainer's Act to remedy that problem when it arises.

## **STATEMENT OF THE CASE**

Mr. Brown had been initially arrested and imprisoned in Florida on probation violations using the Alabama cases as the violations. An Alabama prosecutor filed formal charges against Brown which resulted in a detainer, if and when Brown was to be released from prison in Florida. Officials would "hold" Brown before release in Florida so Alabama officials could pick him up to answer the charges in Alabama. The detainer was affecting Brown's custody in prison in Florida. Mr. Brown had changed the way he was "doing things" and thinking. He wanted to get his life back, live a better life, and be a better person.

Mr. Brown went to the Warden of the institution he was currently housed at with the appropriate paperwork, return receipt requested, to take care of the outstanding charges in Alabama. Unbeknownst to Brown the Alabama Supreme Court had already placed COVID restrictions into place. Unless necessary, all trial came to a halt. The COVID restrictions went into effect on March 13<sup>th</sup>, 2020. The prosecutor and court of jurisdiction in Covington County Al. Received Brown's demand to execute the trial over the charges on April 30<sup>th</sup>, 2020. Now at this point and time to prevent the issue of cause with Brown NOT being brought to trial within the time required in accordance with 18

U.S.C. App. §2 Art. III which states, “the prisoner shall be brought to trial within one hundred and eighty days after he shall have caused to be delivered to the prosecuting officer and the appropriate court of the prosecuting officer's jurisdiction written notice of his place of imprisonment and his request for a final disposition to be made of the indictment, information or complaint. After being served with Hunter Brown's request on April 30<sup>th</sup>, 2020, the 180 day time limit would expire on October 27<sup>th</sup>, 2020. Almost two months AFTER the Alabama Supreme Court issued the order postponing all trials, Alabama prosecuting officials failed to bring Brown within there jurisdiction for disposition of his untried indictment until, on or about August 6<sup>th</sup>, 2020.

Based on these grounds Brown filed to have the charges in Covington County Case No. CC-20-303 dismissed. The Circuit Court denied both the Motion to Dismiss, and the follow-up Motion to Reconsider. Both the Circuit Court. The Circuit Court and the District Attorney's both had the opportunity to comply with or remedy the issue of timeliness with the Interstate Agreement on Detainer's as the Circuit Court held a criminal jury term the week of October 19<sup>th</sup>, 2020, and Brown's 180 days did not expire until October 27, 2020.

On the second issue. A restitution hearing was held whereby a restitution award was entered in favor of the victim's home insurance provider, Progressive, in the amount of \$33.149.29. Hunter Brown objected to the State not proving the value of this amount

through admissible evidence. Over Brown's objection, the Circuit Court entered an order awarding restitution to Progressive Insurance in the amount of \$33,149.29

## **REASONS FOR GRANTING THE PETITION**

Where the evidence before the trial court was undisputed the ore tenus rule is in applicable, and the appellate court will sit in judgment on the evidence de novo, indiging no presumption in favor of the trial court's application of the law to those facts.

State v. Hill-690 So 2d 1201, 1203 (Ala. 1996).

A determination of admissibility of the evidence rests within the sound discretion of the trial court and will not be disturbed on appeal absent a clear showing of an abuse of discretion. Sims v. State-663 So 2d 975 (Ala. Crim. App. 1994) (quoting Jennings v. State- 513 So 2d 91, 95 (Ala. Crim. App. 1987)).

1. The circuit court erred in denying Hunter Brown's Motion to Dismiss the charges in Covington County Case No. CC-20-303. Hunter Brown served his "Inmate's Notice of Place of Imprisonment and Request for Disposition of Indictments, Informations, or Complaints as well as his "Notice of Untried Indictment, Information, or Complaint and of Right to Request Disposition" on the court and the District Attorney's Office via certified mail, return receipt requested, on April 30<sup>th</sup>, 2020, and Hunter Brown was not brought to trial before the expiration of the 180 days.
2. The Circuit Court abused it's discretion by awrding restitution to Progressive

Insurance because the State did not present admissible evidence to prove the amount or restitution to be paid to Progressive.

## **CONCLUSION**

For the aforementioned reasons, Hunter Brown is entitled to the following relief; To have the charges in Covington County, Ala. Case No. CC-20-303 dismissed with prejudice and have Progressive Insurance's restitution award overturned by this Honorable Court.

## **RELIEF SOUGHT**

When the charges are dismissed, the two restitution orders are said to be dismissed as well.

Respectfully Submitted,  
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