No. 22-6406

IN THE
SUPREME COURT OF THE UNITED STATES

WILLIAM JAMES TRUESDALE,

Petitioner,

vs.

RICKY D. DIXON, Secy, Florida Dept of Corrections, et at.,

Respondent(S)

On Petition For A Writ Of Certiorari
To The United States Court Of Appeals
For The Eleventh Circuit

PETITION FOR WRIT OF CERTIORARI

PRO SE

PROCEED IN FORMA PAUPERIS

PETITIONER

WILLIAM JAMES TRUESDALE
Prisoner ID # 129643
Martin Correctional Institution
1150 S.W. Allapattah Road
Indiantown, Florida 34956

QUESTION(S) PRESENTED

Whether petitioner Truesdale owes the District Court Clerk the docketing and filing fee in order to obtain a Certificate of Appealability ""COA") from the United States Court of Appeals - Eleventh Circuit. When its assistance United States District Court Middle District of Florida GRANTED Truesdale's (Doc. 13), construed it as a Motion for reconsideration. The portion of its earlier order, (Doc. 6) that imposes a § 505 appellate filing Fee was VACATED. Accordingly to (Doc. 14) Anderson v. Singletary, 111 F.3d 801, 803 -No. (11th Cir. 1997); Pickett v. Wise, 849 F. App'x 804, 904-05 (11th Cir. 2021)(citing Anderson).

Whether petitioner Truesdale's (Doc. 1 - April 11, 2021 28 U.S.C. § 2254 for the Writ of habeas corpus pursuant to Rule 9 (b) of the Rules Governing 2254 cases in the United States District Courts, appeal governing the pre-AEDPA version of 28 U.S.C. § 2253 (c), dismissed without adjudication on its legal merits, or reaching underlying Federal Constitutional claims, held not to constitute "second or successive" habeas corpus procedure, or Rules governing a denial of a Constitutional rights, or Rules governing, the Sixth and Fourteenths right to effect assistance of counsel for failure to raise a significant and obvious State law claim, and Federal Constitutional claims. See U.S.C. § 2253 (c)(3), petitioner Truesdale has suffered a denial of a constitutional rights. Boyle v. Linchon, 278 F.3d 826, 942-43 (11th Cir. 2001); Batson v. Kentucky, 476 U.S. 78 (1986); State v. Neil, 457 so.2d 481 (Fla. 1984) (citing Slock v. McDaniel, 529 U.S. 473 (1999)).

Whether petitioner Truesdale's (Doc. 1 - April 11. 2021) "a second or successive" habeas corpus "application Issue I, Issue II, Issue III, and (Amended) question or Great Public Importance on ("Appeal") from the United States Court of Appeals - Eleventh Circuit for a COA should be review and GRANTED on its legal merits; listed on page 15 and page 16 of this Petitioner. In page 15 through pages 39, violates petitioner Truesdale constitutional rights and rights under the Act(s) of Congress's.

Whether petitioner Truesdale State Trial Court's brief colloquy and abbreviated review of evidence relevant to a Batson Challenge satisfies it obligation under step three of the Batson inquiry to consider "all of the circumstance that bear upon the issue of racial animosity" Snyder v. Louisiana, 552 U.S. 472, 478 (2008).

Whether petitioner Truesdale appellate counselor(s) violated his constitutional right on appeal, under the Eleventh Circuit Court of Appeal own case. Eagle v. Linahon, 279 F.3d 926 (11th Cir. 2001) not challenging his Batson objection ("preserved") at Trial or State v. Neil, 457 So.2d 481 (Fla. 1984) inquiry ineffective assistance of appellate counselors

Whether petitioner Truesdale right to be present during all material stages of his trial was violated when "Jury Request to Review; Evidence or for Additional Instruction" under Rule 3.410 Florida Statutes and the United States Constitutions, ineffective assistance of Trial counsel ("Not") argued by Truesdale appellate counselors.

Whether petitioner Truesdale trial Court, State attorneys and defense counsel violated his constitutional rights during sentencing by Amendment or Indictment using the 10-20 Life statutes and Non-exist statute 775.007 Florida Statute (Not") filed in the State (Exhibit C: Felony Information) charge Truesdale with (2) Florida Statutes 782.04(2) 775.087 to imposed a Life sentence and a mandatory minimums enhancements, also (Not") given to the Juries, in violation of Rule 3.410 Florida Statue ineffective assistance at trial counsel, not argue by Truedale appellate counselors.

Whether petitioner Truesdale was illegally transferred to custody of the Department of Corrections in violation of 944.17(5) Florida Statute, where the Trial Court, State attorneys and defense attorney, were the State of Florida charges, tried and indicted WILLIAM JAMEL TRUESDALE ("Not") WILLIAM "JAMES" TRUESDALE. That Department of Correction should transferred William James Truesdale back to the custody of the sentencing court, based on the facts, I was admitted to the Department of Corrections on the basis of an incomplete uniform commitment to custody form, in the First place, in (2007).

Whether Truesale August 28, 2009, NOTICE ON INTENT to sue, waiver of sovereign immunity, ("Filled") Truesdale hold case See Allen v. McCurry, 499 U.S. 90, 95-96 (1980) under the Civil Rights Act of 1871, (citing Wallace v. Kato, 549 U.S. 384 ( )

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2 pages

Appellant Exhibit E. State of florida department of highway safety
& motor vehicle Drive and vehicle information
Database (DAUFD) of Petitioner Legal Birth
Home William James Truesdale (Photograph)
Of ID taken by Detective 12/19/2005 ..... 1 page

Appellant Exhibit _____: ("Crime scene") SCALF ..... 1 page

Evidence denied

Appellant Exhibit ____: USDC Case 8:21-cv-00889-TPB-SPF
Date filed" 04/14/2021
Appellant Exhibit L: USDC Case 8:13-cv-03029-CEH-MAP
Date filed 11/29/2013 ..... 3 pages

Appellant Exhibit ____: Case Anderson v. Singletary

Double side pages ..... 3 pages

Appellant Exhibit ____: Pickett v. Wise ..... 1 page
Appellant Exhibit ____:Aienoime v. State ..... 2 pages
Appellant Exhibit ____: Denegal v. State ..... 1 page
Appellant Exhibit ____: Espineza v. State ..... 2 pages
Appellant Exhibit ____: Grievance Log. No. 21-6-16558
Formal Log. No. 2105-564-077
Informal Log. No. NOT LOGGED OR RETURN ..... 4 pages

TABLE OF AUTHORITIES CITED

OTHER AUTHORITIES:

Giannelli, Paul C. Comparative Bullet Lead Analysis
A. Retrospective, Faculty Publication, Paper 87,
Base Western Reserve School of Law (2010),
Htt.//scholarly commons law. Case. edu/faculty ___
Publications/97 34
Ford, Roger Allan, Modeling the Effects of Peremptory
Challenges on Jury Selection and Jury Verdicts,
17 GEO. MASON L. REV. 377 (2010)

INDEX TO APPENDIX

Petitioner William James Truesdale respectfully petition for a Writ of Certiorari Appeal No. 21-11887-G to review the judgments of the United States Court of Appeals for the Eleventh Circuit.

Petitioner William James Truesdale, (Appeal") from the Supreme Court State of Florida, Court order render June 29, 2020. The pertinent in relevant part: petitioner had filed a "Petition for a [sic] Extraordinary Writ, or Writ of Certiorari, of Habeas Corpus, or Mandamus, or a Writ of prohibition," which this Court has treated as a petition for writ of habeas Corpus. The petition for writ of habeas corpus is hereby denied as procedural barred. A petition for extraordinary relief is not a second appeal and cannot be used to litigate or relitigate issues that were or could have been raised on direct appeal or in prior post-conviction proceedings. etc.

Petitioner Truesdale "PETITION FOR A EXTRAORDINARY WRIT, OR WRIT OF CERTIORARI, OR HABEAS CORPUS, OR MANDAMUS, OR A WRIT OF PROHIBITION" in according with Rules governing CERTIFICATE OF APPEALABILITY (COA"), to review the Supreme Court State of Florida, Court order render June 29, 2020.

Pursuant to Rule 9(b) of the Rules Governing 2254 Cases in the United States District Courts, appeals governing the pre-AEDPA version of 28 U.S.C. 2253(c), dismissed without adjudication on its legal merits, or reaching underlying Federal constitutional claims, held not to constitute "second or successive" habeas corpus procedure, or Rules governing a denial of a constitutional rights, or Rules governing the Sixth and Fourteenth Amendments rights to effective assistant of counsel for failed to raised a significant and obvious state law or claims or federal law or claims.

OPINION BELOW

The opinion from the Supreme Court State of Florida Case No.: SC20-556 judgment became final June 29, 2020

Appendix AA-1, no mandate was issue.
Supreme Court of the United States December 14, 2020 Appendix BB denied to accepted jurisdiction and responded on it legal merits of denial of a constitutional rights.

Case No. SC20-556 denied as procedurally barred listed as Appendix _____. The order from the Supreme Court of the United States No. 20-5987. December 14, 2020 denying review listed as Appendix BB. The order from the United States District Court Case No. 8:21-cv-00889-TPB-SPF Document filed 04/23/2021 Page 1 of 4 page ED195-page FD 198 Truesdale 28 U.S.C. § 2254 for the Writ of habeas corpus barred as a "second or successive" application listed as Appendix _____. The orders or opinions from the United States Court of Appeals for the Eleventh Circuit is listed as Appendix D through Appendix _____. Selected excerpts from the voir dire portion and trial transcript are reprinted on Appendix C: R. Michael Harsey, P.A. March 30, 2017 Supreme Court of the United States No. 16-1187 Cockle Legal Briefs (Booklet) and Appendix _____ Truesdale April 11, 2020 Petitioner; (Doc. 1.)

JURISDICTION

The Court of Appeals - Eleventh Circuit refuse to STAY or RECALL of MANDATE and continued to send petition Truesdale orders, that I had to exhaust listed in the Appendices Appeal No. 21-11887-G. Appendix _____.

This Court jurisdiction rest on the act(s) of Congress in the declaration of right unanimously adopted October 14, 1774 by the continental congress. The Constitution of the United States as framed in 1787, and adopted in 1788, ordained in Article 3, 2, trial by jury of your peers. Act(s) of Congress of 1787; 1788; 1789; 1822; 1866; 1868; 1871, 1873 and 1875. 18 U.S.C. § 243 exclusion of jurors on account of race or color. The Magne Carta in 1215. The British Habeas Corpus Act of 1679. As well as the Constitution and Statutory Provisions involved. 28 U.S.C. § 1254(1), etc.

The constitutionality of the Act(s) of Congress is drawn into question, pursuant to 28 U.S.C. § 2403 (a).

CASE NUMBERS

Supreme Court of the United States: 1) No.: 16-1187, 2) No.: 188462, No.: 19-5981 and 4) No.: 20-5987

Appendix C. – issue I, R. Michael Hursey, P.A. (Law-Firm) March 30, 2017 COCKLE LEGAL BRIEFS filed to the Supreme Court of the United States App. 1 - App. 30 shows numerous of case numbers filed in the Courts.

Appendix I: - United States District Court Case 8:13-cv-3029-SDM-MAP Document 14-1 Filed 03/27/14. Page 1 of 2, Page 2 of 2, Page ID 116 and 117 Case No.: 8:13-cv-3029-T-23 MAP all shows numerous of case numbers, both filed as "Appendices" to the Supreme Court State of Florida, Supreme Court United States and Attorney General Office's.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Act of Congress of 1789, 1791, 1866, 1871, 1873, and 1875, was the landmark under the Act of Congress of March 1, 1875 decision in Strauder v. West Virginia , 100 U.S. 303 (1879) (quoting Neal v. Delaware ,103 U.S. 370 (1880) Virginia v. Rives , 100 U.S. 315 (1880) citing Ex parta Virginia , 100 U.S. 339 (1880) § 4 of the Civil Right Act of 1875 , 18 stat. 336 was empowered to authorized a criminal indictment against a judge for excluding person from 1541 jury service on account of race. Strauder Court held, that a statute barring (Negro) from service on grand and petit juries denied the equal protection of law, to a "Negro" man convicted of murder by an white jury, Id. at 309.

The Fourteenth Amendment to the United States Constitution provides, in pertinent part : No State shall make or enforce any law, which shall abridge the privileges or immunity of citizens of the United States .... " nor shall any State deprived any person of life, liberty, or property, with out due process of law, nor deny any person within it jurisdiction the equal protection of law ...."

The Sixth Amendment to the United States Constitution provides, in pertinent: In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime 'shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation to be confronted with witnesses against him, to have compulsory process for obtaining witnesses in his favor, and have assistance of counsel for his defense.

The Fifth Amendment to the Constitution provides, in pertinent part : No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of Grand Jury " .... nor shall any person be subject for the same offense 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, or property without due process of law, nor shall private property to be taken for public use, without just compensation...."

The Forth Amendment to the United States Constitution provides, in pertinent : "The right of the people to be secured in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated an no warrants affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

The First Amendment to the United States Constitution provides, in pertinent : ".... Congress shall make no law respecting an establishment of religion, or prohibing the free execise thereof, or abridging the freedom of speech, or the press or the right of the people peaceably to assembly , " .... and for redress of grievance. "

§ 1983. Civil action for deprivation of right

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory of the District of Columbia, subject, or cause to be subjected, any citizen of the United States or other within the jurisdiction thereof to be deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in any action brought against a judicial officer for any act or omission taken in such officer's capacity, injunctive relief shall be granted unless, a declaratory degree was violated or declaratory relief was unavailable, for the purpose of this section, any Act of Congress applicable exclusively to the District of Columbia.

§ 1343. Civil rights and elective Franchise Text (a)

The district courts shall have original jurisdiction of any civil action authorized by law to be commenced by any person:

(1) To recover damages for injury to his person or property, or because of the deprivation of any right or privileges of a citizen of the United States, by any a act done in furtherance of any conspiracy mentioned in section 1985 of Title 42

(2) To recover damages from any person who fails to prevent or to aid in preventing any wrongs mentioned in section 1985 of Title 42 which he had knowledge were about to occur and to prevent

(3) To redress the deprivation, under color of any state law, statute, ordinance, regulation, custom or usage, of any right, privilege or immunity secured by the Constitution of the United States or by any Act of Congress providing for equal rights of citizens or of all persons within the jurisdiction of the United States

(4) To recover damages or to secure equitable or other relief under any Act of Congress providing for the protection of civil rights, including the right to vote.

(b) for purpose of this section.--

(1) the District of Columbia shall be considered to be a State and

(2) any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia credits

(June .25, 1948, ch. 646, 62 stat. 932 Sept. 3, 1954, ch. 1263, § 42, 68 stat. 1241 Sept. 9, 1957, P.L. 85-315, Part III, § 121, 71 stat. 637 Dec. 29, 1979, P.L. 96-170, § 2, 93 stat. 1284).

Act of Congress March 1, 1975, 18 stat. 335

The provisions of the fourteenth amendment prohibiting state laws abridging the privileges of the citizen, or depriving any person of life, liberty, or property without due process of law or denying any person equal protection of law, apply exclusively to state legislation, and have no reference to illegal acts of individuals. The power granted congress to enforce it, with appropriate legislation, applies to corrective legislation only, such as may be necessary to counteract and redress the effect of such forbidden state laws,

STATE OF FLORIDA
CONSTITUTION ARTICLES PROVISIONS INVOLVED

SECTION 2. Basic rights.- pertinent in part : All natural persons, Female and Male alike, are equal before the law and have inalienable rights, amount which are the right to enjoy and defend life and liberty " No person shall be deprived of any right because of race, religion, national origin, or physical disability "

SECTION 9. Due process.- pertinent : No person shall be deprived of life, liberty or property without due process of law, or be twice put in jeopardy for the same offense, or be compelled in any criminal matter to be a witness against oneself

SECTION 12. Search and seizures.- pertinent : The right to the people to be secure in their persons, houses, papers, and effects against unreasonable interception of private communities by any means, shall not be violated. No warrant shall be issues except upon probable cause, supported by affidavit particularly describing the place or places to be searched, the person or persons, thing or things to be seized, the communication to be intercepted, and the nature of evidence to be obtained. This right shall be construed in conformity with the 4th Amendment to the United States Constitution, as intercepted by the United States Court. Articles or information obtained in violation of this right shall not be admissible under decisions of the United States Supreme Court construing the 4th Amendment to the United States Constitution

SECTION 13. Habeas Corpus.- pertinent: The writ of habeas corpus shall be grantable of right, freely and without cost. It shall be returnable without delay, and shall never be suspended unless, in case of rebellion or invasion suspension is essential to the public safety

SECTION 16. Right of accused and victim.-- pertinent in part: "(a) In all criminal prosecutions the accused shall, upon demand, be informed of the nature and cause of the accusation, and shall be furnished a copy of the charge, and shall have the right to have compulsory process for witnesses, to confront at trial adverse witnesses, to be heard in person, by counsel or both, and have a speedy and public trial by impartial jury in the county where the crime was committed "

SECTION 21. Access to Courts.-- pertinent : The Courts shall be open to every person for redress of any injury, and justice shall be administered without sale, denial or delay

SECTION 23. Trial by jury.-- pertinent: The right of trial by jury shall be secure to all and remain inviolate. The qualifications and the number of jurors, not fewer than six, shall be fixed by law

SECTION 24. Access to public records and meetings.-- pertinent in part: (a) Every person has the right to inspect or copy public record made or received in connection with the official business of any public body, officer, or employee of the state, or persons acting on their behalf, except with respect to records exempted pursuant to this section or specifically made confidential by this constitution. This section specifically includes the legislative, executive, and judicial branches of gov and each agency or department created thereunder officer, board, and commission, or entity created pursuant to law of this constitution.

STATE OF FLORIDA STATUTES
STATUTORY PROVISIONS INVOLVED

Chapter 782.04. Murder (2005) Florida Statute .--
§ 782.02(2). The unlawful killing of a human being, when perpetrated by any act imminently dangerous to another and evincing a deparved mind regardless of human life,although without any premeditated design to effect the death of any particular individual, is murder in the second degree and constitutes a felony of the first degree, punishable by imprisonment for a term of years not exceeding life or as provided in s.775.082, s.775.083 or s.775.084

Chapter 775.087. Possession or use of weapon aggravated battery felony reclassification minimum sentence.-

Chapter 768 - Negligence (2005) Florida Statutes.-
§ 768.28 Waiver of sovereign immunity in tort actions recovery limits limitation on attorney fees statute of limitations exclusions indemnification risk management programs.-

"MAGNA CARTA"

The writ of habeas corpus is a ancient writ with its origins dating as early as the Magna Carta in 1215. See William Blackstone, 3 Commentaries on the Laws of England * 133. The modern writ date to the British Habeas Corpus Act of 1679 and has been consistently used as a method to obtain jurisdiction over a jailor or other person who is illegally detaining a person so that court may order the release of the person illegally detained. See 28 Fla. Jur. Habeas Corpus and Postconviction Remedies, 1 (2007).

Some of Florida oldest laws create the procedure for writ of habeas corpus. Before Florida's statehood, the Legislative Council of the Territory of Florida enacted directions for the mode of suing and prosecuting the writ. See Act of September 16, 1822, 1-11. The right is also secured by the United States Constitution and the State of Florida Constitution. U.S. art, I, section 9 and art I, section 13, Fla. Const.

Sparf et al. v. United States, 156 U.S. 51 (Jan. 21, 1895), In the declaration of right unanimously adopted October 14, 1774, by the continental congress, of which John Adams, Samuel Adams, Roger Sherman, John Chase, George Washington, and Patrich Henry, were members, it was resolved "that the respective colonies are entitled to common law of England, and more especially to the great and inestimable privilege of being tried by their peers of the vicinage, according to the course of the law," Jour. Cong. 28.

The constitution of the United States, as framed in 1787, adopted in 1788, ordained, in article 3, 2, that "the trial of all crime, except in case of impeachment, shall be by jury, and such trial shall be in the State where the said crime shall have been committed" and in the Fifth, Sixth, and Seventh Amendments, adopted in 1791, "nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb, nor be deprived of life, liberty or property, without due process of law" in all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district where the crime shall have been committed, which district shall been previously ascertained by law."

The ordinance of the continental congress of 1787 for the government of the Northeast Territory provided that the inhabitants of the Territory should always be entitled to the benefit of the trial by jury, and no man should be deprived of his liberty or property but by the judgment of his peers or law of the land.

By the Great Chapter of England, and by the American Constitutions, it is by a decision of the ablest or most learned judges that the citizen can be deprived of his life or liberty, but it is only by the "judgment of his peers," or in the ancient phrase, "by his country," a jury taken from the body of the people.

Smith v. United States, 151 U.S. 50, 14 Sup. Ct. 234 (1895). But the court can never order the jury to convict, for no one can be found guilty but by judgment of his peers.

Decision of courts, and especially of courts of last resort, upon issues of law, such as are presented by a demurrer or by a special verdict, because precedents to govern judicial decisions in like the particular case and the issue decided is so complicated of law and fact, blended together, that no district decision of any question of law is recorded or made. The purpose of establishing trial by jury was not to obtain general rules of law for future use, but to secure impartial justice between the government and the accused in each case as it arose.

In 1885, to help enforce the Fourteenth Amendment Congress passed and president [2019 LEXIS 18], Ulysses S. Grant signed the Civil Rights Act of 1875, 114, stat. 335. Among other things, this law made it a criminal offense for a State officials to exclude individuals from jury service on account [239 S. Ct. 2239] of their race. 18 U.S.C. 243. The Act provides: No citizen possessing all other qualification which are or may be prescribed by law shall be disqualified for service as grand or petit jurors in any Court of the United States, or of any State on account of race, color, or previous condition of servitude.

STATEMENT OF THE CASE

Petitioner - Appellant William James Truesdale, argued that the Clerk of Court - United States Court of Appeals for the Eleventh Circuit, is in ("CONTROVERSY ") with his Assistant Court - United States District Court Middle District of Florida (Tampa) Division, United States District Judge (" RULING ") in (Doc. 14, Date 11/19/2021 and Doc. 16, Date 01/03/2022), that pertinent in relevant part:

ORDER: (Doc. 14, PageID 517) ORDER the U.S. District Court Clerk accordingly to Truesdale's objection (Doc. 13), construed as a motion for reconsideration, is GRANTED. The portion of the earlier order (Doc. 6) that imposes a $505 appellate filing fee is VACATED. The clerk must (1) refund to Truesdale's the $10 partial installment received on September 29, 2021, and the $50 installment received on October 28, 2021, and (2) mail a copy of this order to the Florida Department of Corrections, Inmate Trust Fund, Centerville Station, P.O. Box 12100, Tallahassee, FL 32317-2100, Attention: Rita Odom, Professional Account Supervisor, and Veronica Wold, Government Operations Consultant, who are directed to REMOVE the $505 lien on Truesdale's prisoner account for the appellate filing fee for this action, etc.

ORDER: (Doc. 16, Page 529). An earlier order (Doc. 2) dismisses Truesdale's application under 28 U.S.C 2254 as a unauthorized second or successive application. An appellate filing fee was assessed (Doc. 16) base on Truesdale's notice of appeal. A later order (Doc. 14) vacates the appellate filing fee, orders a refund to Truesdale from the Clerk, and directs the Department of Corrections (" DOC") to remove the lien associated with the appellate filing fee for this action. etc.

See BLACK'S LAW DICTIONARY Third Pocket Edition By: BRYAN A. GARNER, Editor In Chief, it define, or definite: (1) moot, (2) controversy, (3) separable controversy, (4) constitutional law, and (5) case-or-controversy requirement as follows:

moot, adj. 1. Archaic. Open to argument, debatable. 2. Having no practical significant, hypothetical or academic. --- mootness , n.

controversy. 1. A disagreement or a dispute, esp, in public. 2. A justiciable dispute.

> separable controversy. A claim that is separate and independent from the other claims being asserted in a suit. * This term is most often associated with the statute that permits an entire case to be removed to federal court if one of the claims, being separate and independent from the others, presents a federal question that is within the jurisdiction of the federal courts. 28 USCA 144(c).

3. Constitutional law. A case that requires a definitive determination of the law on facts alleged for the adjudication of an actual dispute, and not merely a hypothetical, theoretical, or speculative legal issue. See CASE-OR-CONTROVERSY REQUIREMENT.

case-or-controversy requirement . The constitutional requirement that, for a federal court to hear a case, the case must involve an actual dispute.

In Santana v. United States, 98 F.3d 752 (3rd Cir. 1996) PLRA is read as a whole, it is apparent that Congress did not intend for the statute to apply to habeas proceedings. The PLRA established an elaborate installment payment plain by which litigants may fulfill their fee obligations, yet does not increase the $5 filing fee for a habeas corpus petition, (citing Reyes v. Keane, 90 F.3d 676 (2nd Cir. 1996). Court note Reyes v. Keane Congress has endeavored to make the filing of a habeas petition easier than the filing of a typical civil action by setting the district court filing fee at $5.

See Dwiggins v. United States, 2017 U.S. Dist. LEXIS 105316 (11th Cir. 2017) $5 filing fee petition for a habeas corpus, (quoting Cotto v. Capre, 2020 U.S. Dist. LEXIS 138719 (2nd Cir. 2015)), Guzman v. White, 2020 U.S. Dist. LEXIS 96315 (3rd Cir. 2020), Williams v. Gomez, 2020 U.S. Dist. LEXIS 32705 (4th Cir. 2020), Wiggins v. AG of NC, 2011 U.S. LEXIS 120988 (4th Cir. 2011), Ramirez-Garcia v. Bond, 2015 U.S. Dist. LEXIS 56067 (5th Cir. 2015), Ervin v. Highland Cty. Prosecutor, 2020 U.S. Dist. LEXIS 160559 (6th Cir. 2020), Williams v. Hudson, 2020 U.S. Dist. LEXIS 5849 (7th Cir. 2020), and Horswell v. Minnesota, 2020 U.S. Dist. LEXIS 106843 (8th Cir. 2020).

Ossawa Wood v. McDowell, 2020 U.S. Dist. LEXIS 158006 (9th Cir. 2020),(quoting Brown v. Tompkins, 2020 U.S. Dist. LEXIS 176679 (9th Cir. 2020), citing Cielto v. Hedgpeth, 2020 U.S. Dist. LEXIS 64746 (9th Cir. 2014). No filling fee is required.

CIRCUIT RULE 22-3. APPLICATION FOR AUTHORIZATION TO FILED SECOND OR SUCCESSIVE 2254 PETITION OR 2255 MOTION. Ninth Circuit Rule 22-3 provides:

An application seeking authorization to file a second or successive 2255 motion in the district court must file an application in the court of appeals demonstrating entitlement to such leave under section 2255 or 2254. See form 12. An original in paper format of the application must be file . . . unless the application is submitted vis Appellate CM/ECF. No filing fee is required.

If the application for authorization to file a second or successive 2254 petition or 2255 motion is mistakenly submitted to the district court shall refer it to the court of appeals.

Marmolejos v. Blanckensee, 2017 U.S. Dist. LEXIS 219365 (9th Cir. 2017).

TRANSFER ORDER:

Marmolejos v. United States, No. 07-366-pr. (2nd Cir. 2017), this Circuit Court held, application is a second or successive 2255 motion, Further, because. Marmolejos paid the $5.00 filing fee application to a habeas action. {LEXIS 3} under 2241, and because there is no filing fee associated with bringing a 2255 motion, the Clerk of Court is direct to refund the $5.00 fee.

Hill v. City of St. Louis, 2016 U.S. Dist. LEXIS 47626 (8th Cir. 2016) held in relevant part:

Conspicuously absent from plaintiff's pleading was any reference to habeas corpus relief, which should have been brought pursuant to 28 U.S.C. 2254. In fact, this court point out in several of its orders to plaintiff that, "Neither civil action, nor declaratory relief complaints will suffice to bring plaintiff relief he is seeking."

Court should have sua sponte transferred his case to second or successive habeas corpus action so he could avoid paying a full filing fee of $350 will be denied.

REASON FOR GRANTING MOTION FOR RECONSIDERATION / STAY OR RECALL OF MANDATE

Clerk of Court United States Court of Appeals - Eleventh Circuit May 05, 2022 ORDER is in ("CONTROVERSY") with the RULING of the United States District Judge ORDER (Doc. 14, filed 11/19/2021) and (Doc. 16, filed 01/03/2022), whom name appears on the United States District Court (Doc. 2, Doc. 4, Doc. 6, Doc. 8, Doc. 10, Doc. 12, Doc. 14, and Doc. 16), VACATING the $505 appellate filing fee and directed the Department of Corrections ("DOC") to remove the lien associated with the appellate filing fee for this action, from. Truesdale's DOC, Inmate Trust Fund Account, quoting Anderson v. Singletary, 111 F. 3d 801, 803-06 (11th Cir. 1997), Pickett, v. Wise, 849 F. App'x 904, 904-05 (11th Cir. 2021)(citing Anderson).

The Clerk of Court, United States Court of Appeals for the Eleventh Circuit, mailed Petitioner Appellant William James Truesdale an ORDER March 04, 2022 and Truesdale's filed a hand written "REPLY."

Appellant Truesdale March 13, 2022 filed a six (6) pages hand written ("REPLY") to; 1) Clerk of the United States Court of Appeals - Eleventh Circuit, 2) Ashley Moody, Attorney General, and 3) Clerk of the United States District Court Middle District of Florida (Tampa) Division.

Now I (N0) DeSoto C.I. mailroom personnel's and prison official's is (TAMPERING) with numerous of my envelopes, so I can't say, whether it was a ("error") by the Clerk of Court of Appeals - Eleventh Circuit or this honorable circuit court did not received my March 13, 2022 ("REPLY") to the court order date March 04, 2022 ORDER.

Appellant Truesdale is going to typed on his (JPay 6S Tablet) his March 13, 2022 six (6) pages reply, " word-for-word" as follows:

REPLY:

March 13, 2022 Page 1 of 6

Applicant Truesdale's "REPLY" to the United States Court of Appeals for the Eleventh Circuit March 04, 2022 ORDER that pertinent in relevant part:

Pursuant to Eleventh Circuit Rule 42-1(b) you are hereby notified that upon expiration of fourteen (14) days from this date, this appeal will be dismissed by the Clerk without further notice unless you pay to the District Court clerk the docketing and filing fees, with notice to this office.

March 13, 2022 Page 2 of 6

See enclosed copy of Case 8:21-cv-00889-TPB-SPF Document 14 Filed 11/19/2021 Page 1 of 2 PageID 516 and PageID 517 United States District Court Middle District of Florida Tampa Division "ORDER" it pertinent in relevant part:

ORDER

An earlier order (Doc. 2) dismisses Truesdale's application under 28 U.S.C. 2254 as an unauthorized second or successive application. A later order (Doc. 6) denied Truesdale leave to appeal in forma pauperis and imposed the filing fee required for a civil appeal. Truesdale objects (Doc. 13) to the imposition of the appellate filing fee both because this is an action for habeas relief under Section 2254 and not civil rights relief under 42 U.S.C. 1983 and because the filing fee requirement under the Prisoner Litigation Reform Act applies to only the latter action and not the former. Truesdale is correct that the order imposing the appellant filing fee was an error. Anderson v. Singletary, 111 F.3d 801-06 (11th Cir. 1997), Pickett v. Wise, 849 F. App'x 904, 904-05 (11th Cir. 2021)(citing Anderson).

Accordingly, Truesdale's objection (Doc. 13), construed as a motion for reconsideration, is GRANTED. The portion of the earlier order (Doc. 6) that imposes a $505 appellate filing fee is VACATED, etc.

See also enclosed copy of the United States District Court (Doc. 16) the latter ORDER from the Clerk, and directs the Department of Corrections ("DOC") to remove the lien associated with the appellate filing fee for this action. Case 8:21-cv-00889-TPB-SPF Document 16 filed 01/03/2022 Page 1 of 3 PageID 529, PageID 530 and PageID 531.

March 13, 2022 Page 3 of 6

Pursuant to In Forma Pauperis (IFP) of the Prison Litigation Reform Act (PLRA) Section 2255 motion or 2254 petition in accordance with 28 U.S.C. 1915. In Anderson v. Singletary, 111 F.3d 801 (11th Cir. 1997).

PROCEDURAL POSTURE: Defendant filed a motion to determine the applicability of docket and filing fee under 804(a) of the Prison Litigation Reform Act of 1995 (PLRA), 42 U.S.C. 1915(a)(2), in connection with a certificate of appealability which he filed after the United States District Court for the Middle District of Florida denied his petition for a writ of habeas corpus. Defendant contended that habeas cases were not covered by the PLRA filing fee requirements of Prison Litigation Reform Act of 1995 (PLRA) did not apply to habeas corpus proceedings because PLRA was promulgated to curtail prisoner tort, civil rights and conditions litigation, not filing of habeas corpus petitions.

OUTCOME: The court held that the filing fee requirement of the Prison Litigation Reform Act of 1995 (PLRA) did not apply to habeas corpus proceedings. The court noted that a review of the language and intent of the PLRA revealed that Congress was not intend to include habeas proceedings in the scope of the PLRA.

See Gorza v. Thaler, 585 F.3d 888 (5th Cir. 2009).

OVERVIEW: The prisoner argued that, because PLRA did not apply to 2254 habeas cases, there was no authority for requiring him to pay the appellate filing fee in installments pursuant to the provisions order the prisoner to pay the

March 13, 2022 Page 4 of 6

fee over time. Vacating the collection order, the Court noted that Fed. R. App. P. 24, governing IFP appeals, provided that if the district court granted a motion for leave to proceed IFP on appeal, the party could proceed on appeal without prepaying or giving security for fees and costs, unless a statute provided otherwise. The only statute that authorized payments of an initial filing fee, with the remainder in installments, was PLRA, and it did not apply in 28 U.S.C. 2254 appeal. There was no statute that authorized a court to grant leave to proceed IFP in a 2254 habeas appeal and yet require payment of the appellate filing fee in installments pursuant to the term of PLRA.

Congress's intent when it enacted the PLRA's filing-fee provisions are inapplicable to habeas corpus actions. See Blair-Bay v. Quick, 331 U.S. App. D.C. 362, 151 F.3d 1036, 1040 (D.C. Cir. 1998)(habeas is "unique creature cf. the law"), Davis v. Fechte, 150 F.3d 486, 490 (5th Cir. 1998)(" habeas claims involve someone's liberty, rather than mere civil liability "), Martin v. Bissanette, 118 F.3d 871, 874 (1st Cir. 1997)(" we seriously doubt that Congress would have purpose the narrow the habeas gateway in restrictive a manner without some explicit reference to that effect "). Anderson v. Singletary, (Congress promulgated PLRA to curtail prisoner tort, civil rights, and conditions litigation, not filing of habeas corpus petitions).

Apply the IFP or PLRA provisions under section 2255 motion or 2254 petition in accordance with 28 U.S.C 1915 and Fed. R. App. P. 24 to Truesdale's habeas appeal, the

March 13, 2022 Page 5 of 6

$505 appellate filing fee is inapplicable, do not apply in connection with Truesdale's certificate of appealability, (citing Anderson v. Singletary).

The circuit previously held in Hall v. Cain, 216 F. 3d 518 (5th Cir. 2000) that " PLRA' and it requirement of filing fees do not apply in 2254 appeals.

Hall v. Cain, also must be apply to this applicant Truesdale's "habeas corpus appeal" or "second or successive habeas actions," were the U.S. District Court, have already GRANTED Truesdale's "Objections," and "Vacated" the $505 appellate filing fees (Doc. 14) and (Doc. 16) clarifying (Doc. 15).

See also enclose U.S. District Court Middle District of Florida (Tampa) CIVIL DOCKET FOR CASE #: 8:21-cv-00889-TPB-SPF Date Filed: 04/14/2021 Case in other court: Eleventh Circuit, 21-11887-G Cause: 28:2254 Petition for Writ of Habeas Corpus (State) Jurisdiction: Federal Question Three (3) pages.

UNNOTARIZED OATH

I SWEAR OR AFFIRM UNNOTARIZED OATH UNDER PENALTY OF PERJURY, Pursuant to United States laws and Florida Statutes that this "REPLY" and (USDC) "Documents" are true and correct. (28 U.S.C. 1746, 18 U.S.C. 1621 and Fla. Stat. 92.525), filed on this 13th day of March, 2022(day,month, year).

_____ _____

Applicant Name (Printed) Applicant (Signature)

March 13, 2022 Page 6 of 6

CERTIFICATE OF SERVICE

I HEREBY certify a true and correct copy of this "REPLY" to U.S. Court of Appeals - Eleventh Circuit March 04, 2022 ORDER received March 08, 2022 clarifying the appellate filing fees, that I have already challenges, is being place in Prison Officials " Legal Mail " to the following:

1) United States Court of Appeals for the Eleventh Circuit
Office of the Clerk Elbert Parr Tuttle Court of Appeals
Building 56 Forsyth Street, N.W. Atlanta, Georgia 30303

2) Ashley Moody, Attorney General Office of the Attorney
General The Capital PL-01 Tallahassee, Florida 32399

3) United States District Court Middle District of Florida
(Tampa) Office of the Clerk Sam M. Gibbons U.S. Court-
house 801 North Florida Avenue, Tampa, Florida 33602

PRO SE

PROCEED IN FORMA PAUPERIS

APPLICANT

WILLIAM JAMES TRUESDALE
(Inmate) DC#: 129643
DeSoto Correctional Institution Annex
13617 S.E. Hwy 70
Arcadia, Florida 34266-7800

REASON FOR " NOTICE INDICATING THAT THE CERTIFICATE OF INTERESTED PERSONS AND DISCLOSURE STATEMENT ("CIP") IS CORRECT AND COMPLETE."

Petitioner - Appellant William James Truesdale pursuant to RULE 26.1-1(3), CERTIFICATE OF INTERESTED PERSONS AND CORPORATE DISCLOSURE STATEMENT (CIP) appellant Truesdale challenges court order render May 31, 2022.

Appendix 1(USCA11): May 31, 2022 pertinent in relevant part:

Appeal Number: 21-11887-G
Case Style: William Truesdale v. Secy, Dept. of Corr's. et al
District Court Docket No: 8:21-cv-00889-TPB-SPF

Please take notice that the following motion has been filed:

No action will be taken on your motions. Motion for reconsideration of single judge's order [9681637-2]. and Motion filed by Appellant William James Truesdale motion for reconsideration of a clerk's order of dismissal because these motion are deficient for failure to comply with this court's rules on Certificate of Interested Persons and Corporate Disclosure Statements AND these motions are late. You may file a motion to file out of time along with your motions for reconsideration. All motions must have a CIP attached to them.

Pursuant to 11th Circuit R. 26.1 - 5, no action will be taken on your motion because you have failed to comply with this court's rules on Certificate of Interested Persons and Corporate Disclosure Statements (CIP). Please note that no deadlines will be extended as a result of filing of your motion. Upon compliance with all application CIP rules, you must file a new motion to request relief.

You have failed to comply with the CIP rules by:

* not including a CIP in your motion, as required by 11th Cir. Rules 26.1-1(a)(1) and 27-1(a)(9).

Appendix 2 (USCA11):June 16-2021 pertinent in relevant part:

The referenced case has been docketed in this court. Please use the appellate number noted above when making inquiries.

Every motion, petition, brief, response and reply filed must contain a Certificate of Interested Persons and Corporate Disclosure Statement (CIP). Appellants/Petitioners must file a CIP within 14 days after the case or appeal is docketed in this court:
Appellees/Respondents/Intervenors/Other Parties must file a CIP within 28 days after the case or appeal is docketed in this court, regardless of whether appellants/petitioners have filed a CIP. See FRAP 26.1 and 11th Cir. R. 26.1-1.

Pursuant to Eleventh Circuit Rule 42-1(b) you are hereby notified that upon of (14) days from this date, this appeal will be dismissed by the clerk without further notice unless the default(s) noted below have been corrected:

Pay to the DISTRICT COURT clerk docketing and filing fees, with notice to this office, or request leave to proceed in forma pauperis on appeal in the district court. See Fed. R. App. P. 24(a). If the district court denies such leave, appellant may file in this court a Motion to Proceed in forma pauperis in this court with a financial affidavit.

DKT-2 Appeal WITH Deficiency

Appendix 3 (Truesdale): July 22, 2021 pertinent in relevant part:

U.S. COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

CERTIFICATE OF INTERESTED PERSONS
AND CORPORATE DISCLOSURE STATEMENT (CIP)

Ref: Appeal Number: 21-11887-G 10
Case Style: William James Truesdale v. Secretary,
Department of Corrections, et al
District Court Docket No: 8:21-cv-00889-TPB-SPF

See enclose copy of Truesdale's July 22, 2021 :

U.S. COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

CERTIFICATE OF INTERESTED PERSONS
AND CORPORATE DISCLOSURE STATEMENT (CIP)

It challenges this last court order: No action will be taken on your two motions:

(Motion for reconsideration of single judge's order [9681637-2]. and Motion filed by Appellant William James Truesdale motion for reconsideration of a clerk's order of dismissal because these motions are deficient for failure to comply with this court's rules on Certificate of Interested Persons and Corporate Disclosure Statements AND these motions are late.

First, RULE 26-1(3), defines Appellant Truesdale's arguments, that this court single judge's order [9681637-2] judge error in his or her ruling as well as the court clerk's erred in his, order of dismissal because these motions are deficient for failure to comply with this court's rules on Certificate of Interested Persons and Corporate Disclosure Statements (CIP).

Because Rule 26.1-1(3), as a exception that only requires this appellant Truesdale, to give this Honorable Court a (" NOTICE INDICATING THAT THE CIP IS CORRECT AND COMPLETE"). See again Appendix 3 (Truesdale) July 22, 2021:

U.S. COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

CERTIFICATE OF INTERESTED PERSONS
AND CORPORATE DISCLOSURE STATEMENT CIP

Truesdale is in compliance with Rule 26.1(3) portion (notice indicating that the CIP is correct and complete), their is no other requirements for me as a pro se petitioner.

Second, RULE 27-2 MOTION FOR RECONSIDERATION states as follows:

A motion to reconsider, vacate or modify an order must be filed within 21 days of the entry of such order. No additional time shall be allowed for mailing.

If you look at your own court order date May 05, 2022 and Rule 27-2. Motion for Reconsideration, must be filed within 21 days of the entry of such order, and Truesdale filed his on May 22, 2022 (4) days period of your court order deadline.

Pursuant to the "mail box rule," under Houston v. Lack, 487 U.S. 276, 276, 108 S. Ct. 2379 (1988)(established the prisoner mailbox rule), for habeas corpus procedures, and Lewis v. Richmond City, Police Dep't., 947 F. 2d 733 (4th Cir. 1991) (applying prisoner mailbox rule for 1983), cases.

Habeas corpus petitioner filed notice of appeal from denial of motion for corpus within requisite 30 days period when, three days prior to deadline, petitioner delivered notice to prison authorities for forwarding to district court. F.R.A.P. Rule 4(a)(1), 28 U.S.C.A. 2254.

Under Federal Rule of Appellate Procedure 4(a)(1) setting 30 days filing period for taken appeal from a denial of habeas relief, pro se petitioner notice of appeals is "filed" at the moment of delivered to prison authorities for forwarding to district court. Houston notice of appeal was filed 3 days period of his deadline.

As here Truesdale May 22, 2022 (2)two motions was filed (4)four days period of Truesdale's deadline, making it timely filed under the (21) twenty-one days rule pursuant to Rule 27-2. and

Rule 41-1. STAY OR RECALL OF MANDATE has a (1)one year time framer after issuance of the mandate.

Appendix 4 (Truesdale) original" hand written (CIP)(STAMP):

PROVIDED TO DESOTO C.I.
7-22-21FOR MAILING
INMATE INITIALS WJT
OFFICER INITIALS _____

U.S. COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

CERTIFICATE OF INTERESTED PERSONS
AND CORPORATE DISCLOSURE STATEMENT (CIP)

Appendix 5 (USCA11) July 09, 2021 order: pertinent in relevant part:

Appeal Number: 21-11887-G
Case Style: William Truesdale v. Secy. Dep't. of Corrections
District Court Docket No: 8:21-cv-00889-TPB-SPF

You are receiving this notice because you not completed the below required filing(s) pursuant to 11th Cir. Rule 26.1-1:

Certificate of Interested Persons and Corporate Disclosure Statement (CIP) pursuant to 11th Cir. Rule 26.1-1(a)

Pursuant to 11th Cir. R. 26.1-5(c), failure to comply with these Rules may result in dismissal of the case or appeal under 11th Cir. R. 42-1 (b), return of deficient documents without action, or other sanctions on counsel, the party, or both.

CIP Deficiency Letter

If you look at Appendix 3 (Truesdale) (CIP) typed on his JPay 6S Tablet, and Appendix 4 (Truesdale) "original" hand written (CIP), and court order Appendix 5 (USCA11) July 09, 2021.

Truesdale timely filed his CIP on July 22, 2021 within the (14) Fourteen days requirements by the court Rules.

Plus I explain in CONCLUSION at bottom of Appendix 3 (Truesdale) JPay 6S Tablet copy, and Appendix 4 (Truesdale) "original" hand written copy, the following:

PS I've not received my ("copies yet) from the warehouse, but I have written an (" hand written copy ") if I don't received my copies tonight Tuesday July 20, 2021 tomorrow July 21, 2021 I will copy my (" hand written copy ") and filed this back to the Court's and those mention on the certificate of service page to make my (Deadline Date before July 23, 2021).

And I also explain that I could not find RULE 26.1-5 in the law library books or on the computer, could you please send appellate Truesdale a copy of 11th Cir. R. 26.1-5 and 21.1-5(c).

Appendix 6 (USCA11): May 05, 2022 order, pertinent in relevant part:

Page: 1 of 2

Appeal Number: 21-11887-G
Case Style: William Truesdale v. Secy. Dep't of Corrections
District Court Docket No. 8:21-cv-00889-TPB-SPF

The enclosed copy of the Clerk's Order of Dismissal for Failure to prosecute in the above reference appeal is issued as the mandate of this court. See 11th Cir. R. 41-4.

Any pending motions are now rendered moot in light of the attached order.

Page: 2 of 2

ORDER: Pursuant to the 12th Cir. R. 42-1(b), this appeal is DISMISSED for want of prosecution because the appellant William James Truesdale has failed to pay the filing and docketing fees to the district court within the time fixed by the rules.

FOR THE COURT - BY DIRECTION

Appellant/Petitioner Truesdale timely filed on May 22, 2022 the following:

MOTION FOR RECONSIDERATION/
STAY OF RECALL OF MANDATE

This challenges set forth your Appendix 1 USCA11) May 31, 2022 Court Order already Re-Write in part on Truesdale (USCA11 Page 1) of this notice pursuant to RULE 27-2.

RULE 27-2. MOTION FOR RECONSIDERATION

A motion to reconsider, vacate, or modify an order must be filed within 21 days of the entry of such order.

No additional time shall be allowed for mailing.

Appendix 1 (USCA11) May 31, 2022 Court Order, is also in ("CONTROVERSY ") with RULE 27-2. MOTION FOR RECONSIDERATION. Because Rule 27-2 specific states 21 days, with no additional time for mailing.

If you review Appendix 6 (USCA11) May 05, 2022 Court Order and Truesdale's reply to that Court Order on May 22, 2022 it was filed (17) Seventeen Days expired of the (21) Twenty-One days to response to this court order, were again this honorable court have error in it Appendix 1 (USCA11) May 31, 2022 Court Order single judge's order [9681637-2].

Appellant Truesdale was not provide a copy of the single judge's order [9681637-2] and request this honorable court have the clerk of court to provide appellant Truesdale a copy of order [9681637-2] for my Records.

I was provided Appendix 1 (USCA11) May 31, 2022 clerk order were he too, also error, in his RULING clerk's order of dismissal because these motions are deficient for failure to comply with court's rules on Certificate of Interested Persons and Corporate Disclosure Statement AND these motions are late.

The record shows appellant Truesdale motions was filed as follows:

PROVIDED TO DESOTO C.I.
5/22/22 FOR MAILING
INMATE INITIALS WJT
OFFICER INITIALS _____

If shows Prison Officials legal mail haded Truesdale Motion for Reconsideration/Stay of Recall of Mandate, (4) Four days expire of the court Appendix 6 (USCA11) May 05, 2022 court order for forwarding to the court.

If shows that Appellant Truesdale reply with this honorable court, assistance court United States District Judge's court order(s) that this honorable court error on that RULING) Appendix 6 (USCA11) May 5, 2022 court order.

Truesdale's constitutional claims, as well as Truesdale's claims proven ineffective assistance of counsel, under this honorable court own case law.

(citing) Eagle v. Linahan, 279 F.3d 926 (11th Cir. 2001), petitioner state prison inmate sought a writ of habeas corpus setting aside his conviction for murder. The United States Court for the Southern District of Georgia denied the writ, rejecting, among other claims, petitioner's assertion that appellate attorney failed to provide the effective assistance of counsel required by the Sixth and Fourteenth Amendments. Appellate counsel was ineffective in failing to ask the state supreme court to set aside habeas corpus petitioner's murder conviction on the ground that petitioner had been denied the equal protection in jury selection recognized under Batson.

OVERVIEW: Petitioner an African-American, attempted to raise a Batson argument on appeal, based on the prosecutor's use of 9 of his 10 peremptory challenges to exclude black's from jury. Counsel chose not to raise that issue, leading in part, to petitioner's claim that appellate counsel was ineffective. The court of appeal found that the trial court's error in applying Batson was apparent on the face of the transcript of the jury selection proceedings.

Where appellate counsel failed to raise a claim on appeal that was so obviously valid that any competent lawyer would have raised it, no further evidence was needed to determined counsel was ineffective for not having done so. No conceivable reason that counsel might have proffered would have made her failure to pursue the claim would have succeeded.

This Honorable Court, has again before it, Truesdale's constitutional claims as well as Truesdale's claims of miscarriage-of-justice at trial and appeal, ineffective assistance of counsel's at trial Gary L. Potts, P.A. on appeal Kimberly N. Hopkins,Esq. and James M. Moorman, as well as postconviction relief, private hider David F. Ranck, his (Title Counsel) the Miami Criminal Defense Firm.

Again, this honorable court, can drop appellant Truesdale's claims back to the State Supreme Court, or it's assistance court, United State District Court) to review the claims, it's in the trial transcript proceedings, as like Eagle v. Linahan.

In Haag v. State, 591 So. 2d 614 (1992), Where it expressly held that the Federal "mailbox rule exist as a matter of Florida law," Id. at 617, Gonzalez v. State, 604 So. 2d 874 (Fla. App. 1st Dist. 1992), Inmate petitioned for writ of mandamus to require DOC to conduct a hearing concerning his grievance with regard to disciplinary report. The Court held that: 1) a appeal from grievances procedure would be deemed "received" by the DOC under the "mailbox rule" at the moment when the inmate lost control over the document.

Finally, appellant Truesdale only need to place this honorable court on [NOTICE] pursuant to RULE 26.1(3).

NOTICE INDICATING THAT THE CIP
IS CORRECT AND COMPLETE

Were appellant Truesdale's filed his CIP timely to this honorable court on July 22, 2021 or 7/22/21 and this honorable court waited to now, to request another CIP, that has an exception, pursuant to RULE 26.1-1(3).

This place the court's on notice pursuant to Rule 26.1(3), Truesdale's ("NOTICE"). NOTICE INDICATING THAT THE CIP IS CORRECT AND COMPLETE.

Again, I have no way of knowing what this honorable court single judge's order [9681637-2] states, I was not provided with a copy of this single judge's order or ruling ! ! !

Further, the trial transcript proceedings shows Truesdale Batson challenge at trial or Neil inquiry at trial, PRESERVED) for his appeal:

Petitioner - Appellant Truesdale June 12, 2022 filed the following motions:

Ref: Pursuant to 26.1-1(3) " NOTICE INDICATING THAT THE
(CIP) IS CORRECT AND COMPLETE." CERTIFICATE OF
INTERESTED PERSONS AND CORPORATE DISCLOSURE
STATEMENT (STAMP). - - -

PROVIDED TO DESOTO C.I. 6 -12 - 22 FOR MAILING
INMATE INITIALS WJT OFFICER INITIALS _____

I went back to the law library and got back on the computer, this time I typed: "RULE 26.1-5" @17, in the computer and I was able to find 11th Cir. R. 26.1-5 and R. 26.1-5(c) mention in the United States Court of Appeals - Eleventh Circuit Court Order dates: July 09,2021- May 05, 2022 and May 31,2022 wear I (" error ") in my arguments filed in the following:

U.S. COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

CERTIFICATE OF INTERESTED PERSONS
AND CORPORATE DISCLOSURE STATEMENT (CIP)

Pg 4 July 22, 2021 typed on my JPay 6S Tablet CONCLUSION or Page 8 of 10 handwriting CONCLUSION - Continued were it states:

JPay 6S Tablet or Handwriting were it states:

Plus I looked at the 11th Cir. Rule 26.1-1, 26.1-1(a) and 11th Cir. R. 42.1(b), but could not find 11th Cir. R. 26.1-5 in the law library books or on the computer, could you please send appellant Truesdale a copy of that Cir. R. 26.1-5 and 26.1-5(c).

I again, stated this same (" error ") June 12, 2022 motion that title page state:

Ref: Pursuant to 26.1-1(3), " MOTION INDICATING THAT THE
(CIP) IS CORRECT AND COMPLETE. " CERTIFICATE OF
INTERESTED PERSONS AND CORPORATE DISCLOSURE
STATEMENT . - -

And I also explain that I could not find RULE 26.1- in the law library books or on the computer, could you please send appellant Truesdale a copy of 11th Cir. R. 26.1-5 and 21.1-5(c).

After I was able to find it today June 23, 2022 on the computer, I call a law clerk over to the computer, showed him the Rule, he gave me the Rules Book 2021, 11th Cir. Rules, wear I was also able to find it in the book and wrote it down, to defined it and it stated as follows:

RULE 26.1-5 FAILURE TO SUBMIT A COPY OR COMPLETE
THE WEB - BASED CIP

(a) The clerk is not authorized to submit to the court any brief, petition, answer, motion, response, or reply that does not contain the CIP, or any of those papers in a case or appeal where the web - based CIP has not been completed, but may receive and retain the papers with the required CIP and pending completion of the web - based CIP.

(c) The failure to comply with 11th Cir. Rule 26.1-1 through 26.1-9 may result in dismissal of the case or appeal under 11th Cir. R. 42-1(b), return of deficient documents without action, or other sanctions on counsel, the party, or both.

Petitioner's Truesdale again, is not a certified Florida Bar Attorney and is illiteracy, pro se status, lack of legal knowledge.

Although, petitioner Truesdale (" error ") in his appeals, its not a constitutional error, Pursuant to 11th Rule 26.1-1(3) exceptions challenges June 12, 2022 that referred to:

Re: Pursuant to 26.1-1(3) " NOTICE INDICATING THAT THE (CIP) IS CORRECT AND COMPLETE." CERTIFICATE OF INTERESTED PERSONS AND CORPORATE DISCLOSURE STATEMENT (STAMP). - - -

PROVIDED TO DESOTO C.I. 6 - 12 - 22 FOR MAILING
INMATE INITIALS WJT OFFICER INITIALS _____

ISSUE I

QUESTION (S) PRESENT

[1] Whether a state trial court's brief colloquy and abbreviated review of evidence relevant to a Batson challenge satisfied its obligation under step three of the Batson inquiry to consider "all of the circumstances that bear upon the issue of racial animosity." Snyder v. Louisiana, 552 U.S. 472, 478 (2008).

[2] Whether a state trial court's brief colloquy and abbreviated review of evidence relevant to a Neil challenge satisfied its obligation under the standard peremptory challenge on Racial, Ethnic, or Gender, grounds. Where the Florida Supreme Court departed from the restrictive in Swain v. Alabama, 380 U.S. 202 (1965), test in Batson v. Kentucky, 476 U.S. 79 (1986) and utilized the equal protection clause to uphold a defendant right not to be tried by a jury that was selected through a procedure employing purposeful of racial discrimination.

[3] Whether a state trial court's brief colloquy and abbreviated review of the information sought on the Jury Questionnaire concerning: name, age, marital status, prior jury service, relationship with law enforcement officials, witness to / victim of / or accused of a crime, occupation, employer, spouse's occupation employer, Juror No. 6 Ms. Alvarez non-disclosure of her " bad relationship or marital status" not disclose before she was sworn and impanel was perjury apond the Court.

[4] Whether Petitioner Truesdale been denied due process of equal protection of law, as well as due process clause of equal protection clause of law. By the Cleck(s) of the United States Supreme Court quarantees individual civil rights and civil liberties as well as the Act(s) of Congress of 1789, 1791, 1866, 1871, 1873, and 1885, in accordance with the United States Constitution Amendment (s) IV, V, VI, VIII, XIII, and XVI, and the State of Florida Constitution Article(s) I, Section(s) I, II, XII, XIII, XVI, and XXIII, as well as Truesdale Batson Objection or Neil Objection. A (Black-Male) African American Born in 1957 Charleston, South Carolina from a (Black-And Cherokee Woman) Born in 1920 Waterboro, South Carolina and a (Black-Male Father) Born in 1918 Macon, Georgia .... Tried by a Jury Selected, Drawn And Impaneled August 28, 2007 of Seven (7) (White-Females) .... was the landmark under the Act of Congress of March 1, 1875 decision in Strauder v. West Virginia, 100 U.S. 303 (1879) (quoting Neal v. Delaware, 103 U.S. 370 (1880) Virginia v. Rives, 100 U. S. 315 (1880)) citing Ex parta Virginia, 100 U.S. 339 (1880) § 4 of the Civil Rights Act of 1875, 18 stat. 336, was employed to authorize a criminal indictment against a judge for excluding persons from 541 jury service on account of their race. Strauder Court held, that a statutes barring (Negro) from service on grand and petit juries denied equal protection of law, to a (Negro) man convicted of murder by an white jury. Id. at 309, exclude (Black) person from juries undermine public confidence in the fairness of our system of justice Batson Id. at 87.

[5] Whether Petitioner Truesdale been denied due process of equal protection of law, as well as due process clause of equal protection clause of law, by the Trial Court Judge Day ("Racial Bias Remarks") towarded Juror No. 8 Ms. Jamal, the Assistant State Attorneys Aaron Slavin, Janet Hunter-Olney (" Racial Profiles Strikes ") against Black African-American Jurors and Juror No. 8, as well as Trial Defense Attorney Gary Lee Potts against (" Blacks") African-American Jurors, the Third Prosecutor for the Victim (" Alias Under Cover Prosecutor ") appointed from the office of the State Attorney Bernie McCabe, former prosecutor 15 years from the same State Attorney Office whom trial Truesdale case. Also both Appellate Attorneys Kimberly N. Hopkins, and James M. Moorman, refusing to challenges my Batson Objection preserved at Trial or Neil Objection at Trial. And my private hired Postconviction Relief Attorney David F. Ranck, his (Title Company) The Miami Criminal Defense Firm, former State Prosecutor from Miami-Dade County, State of Florida, whom holded Truesdale Trial Transcript Proceedings and Legal Documents from (2009 until Jan. 27, 2011) not challenging the Batson Objection or Neil Objection preserved in the Trial Records, to (Time-Barred) my case for his (" Colleagues ") former prosecutors and prosecutors, then re-turn back to the Miami-Dade Country, State Attorney Office's as a prosecutor. But told the Florida Bar Counsel, their was nothing in the Trial Transcript Proceedings, same Records, R. Michael Hursey, P.A. received and challenges the Batson Objection preserved not responded to on it legal merits

QUESTION(S) PRESENT - Continued

[6] Whether Truesdale ineffective assistance of counsel claim at trial attorney error is objective external factor for excusing a procedural default in a state proceeding a deprivation of the constitutional right to counsel amount to a constitutional ineffective assistance imputed to the state is therefore external to Truesdale's criminal conviction.

[7] Whether Truesdale ineffective assistance of appellate attorney(s) error is objective external factor of attorney error committed in the course of David F. Ranck, Esq. his (Title Company) The Miami Criminal Defense Firm state postconviction proceedings for which the constitution does not quarantee the right to counsel in Coleman v. Thompson, 501 U.S. 722 ( ). cannot supply cause to excuse a procedural default that occurs in those proceedings. Id. at 775, 111 S.Ct. 2546 should been argue by Truesdale postconviction relief attorney against the appellate attorney(s).

[8] Whether the trial court have denied Truesdale access to " exculpatory evidence(s)" pending Truesdale conviction pursuant to Florida Statute Chapter 119 Public Records Act (4) and 5 USCA § 552 Freedom of Information Act ("FOIA") pursuant to numerous of: "DEFENDNANT'S MOTION REQUEST PUBLIC RECORDS" and " MOTION FOR RECORDS FROM ATTORNEYS" including the Court Reporters (in person, in court, court reporter tapes) and county jail visitation video tapes alter or docket.

ISSUE II

[1] Whether the trial court error " the defendant is to be imprison for a term of life" and a mandatory minimum provisions " it is further ordered that the 25 years minimum imprisonment provision of 775.087(2), Florida Statute is imposed" two sentencing.

[2] Whether the assistant state attorney the trial court and defense attorney error by using the 10-20-Life statute and a non-exist statute 775.007 to imposed a life sentence with a 25 years mandatory minimum sentence not filed in defendant felony information or given to the jury's.

[3] Whether the trial court error the defendant Truesdale's Florida guidelines case, scored (of 246.525 months) to life in prison and a second sentence of 25 years mandatory minimum sentence.

[4] Whether the trial court error the State of Florida Uniform Commitment to Custody of defendant commitment packers of defendant legal name.

ISSUE III

[1] Whether Truesdale August 28, 2009 "NOTICE OF INTENT TO SUE /WAIVER OF SOVEREIGN IMMUNITY / NOTICE OF INTENT TO PURSUE CRIMINAL CHARGES AND CRIMINAL INDICTMENT / NOTICE OF INTENT TO PURSUE CIVIL ACTION WAIVER / NOTICE OF INTENT TO PURSUE CHARGE AND OF EVIDENCE OF FALSE TESTIMONY BY STATE WITNESSES / NOTICE OF INTENT TO PURSUE CHARGE AND INDICTMENT AGAINST STATE WITNESSED OF FALSE STATEMENTS AND PERJURY BY CONTRADICTORY STATEMENTS / NOTICE OF INTENT TO PURSUE CRIMINAL CHARGE AND INDICTMENT OF SUBORNATION OF PERJURY AND DEPRIVATION OF RIGHTS UNDER COLOR OF LAW.

(AMENDED)

QUESTION OF GREAT PUBLIC IMPORTANCE

Whether the Supreme Court of Florida haded (" Subject Matter Jurisdiction ") to have responded too, Petitioner Truesdale's original petition(s) : Petition for Writ of Certiorari (SC09-803) 4/24/09 Petition for Writ of Certiorari/Petition for Writ of Error Petition for Writ of Error Coram Nobis (SC10-763) 4/12/10 Petition for Writ of Certiorari (SC12-2683) etc., Pursuant to Article I, Section 9, Due Process and Article I, Section 16, Right of Accused and Victim, and Article I, Section 13, Habeas Corpus.

ISSUE X

17

Pursuant to the April 13, 2020 (PETITION FOR A EXTRAORDINARY WRIT, OR WRIT OF CERTIORARI, OR HABEAS CORPUS, OR MANDAMUS, OR A WRIT OF PROHIBITION) filed in the Supreme Court or Florida Case No. SC20-556, Court ORDER render June 29, 2020 as follows in relevant part:

The petitioner has filed a "Petition for a [sic] Extraordinary Writ, or Writ of Certiorari, or Habeas Corpus, or Mandamus, or Writ of Prohibition," which this Court treated as a petition for a habeas corpus. The petition for writ of habeas corpus is hereby denied as procedurally barred. etc.

Truesdale (APPEAL) to the United States District Court Middle District of Florida (Tampa) Division. District Court Docket No. 8:21-cv-00889-TPB-SPF.

Pursuant to Rule 9(b) of the Rules Governing 2254 Cases in the United States Courts, appeal governing the pre-AEDPA version of 28 USCS 2253(c), dismissed without adjudication on its legal merits, or reaching underlying federal constitutional claims, held not a "second or successive" habeas corpus procedure, or Rules governing a denial of a constitutional rights, or Rules governing the Sixth and Fourteenth Amendments right to effect assistant of counsel for failed to raised a significant and obvious state law claim, or federal constitutional claims. See 28 U.S.C.S. 2253(c)(2),(3), that petitioner Truesdale has suffered a denial of a constitutional rights.

Truesdale argued Slack v. McDaniel, 529 U.S. 473 (1999) (quoting Eagle v. Linahan, 279 F. 3d 926, 942-43 (11th Cir. 2001), citing Batson v. Kentucky, 476 U.S. 78 (1986) as some of his grounds for his ("Appeal"). Pursuant to Magna Carta in 1215, as well as the Acts of Congress that appeared in his ISSUES I filed April 11, 2021 including Truesdale (Attached-Appendies) as grounds for relief.

In Slack v. McDaniel, federal habeas corpus petition filed by state prisoner, after initial petition was dismissed without adjudication on merits, held not to constitute "second or successive" petition subject to dismissal for abuse of writ.

On certiorari, the United States Supreme Court reversed and remanded. It was held that: (1) when a federal habeas corpus petitioner sought to initiate an appeal of a dismissal of a petition after April 24, 1996-the AEDPA's effective date-the petitioner's rights to appeal was governed by the certificate of appealability (COA) ought to issue- and an appeal of the District Court's order might properly be taken -if the prisoner showed, at least jurists of reason debatable both whether(a) the petition states a valid claim of a denial of a constitutional right.

In Eagle v. Linahan, 279 F. 3d 926 (11th Cir. 2001), petitioner state prison inmate sought a writ of habeas corpus setting aside his conviction for murder. The United States District Court for the Southern District of Georgia denied the writ, rejecting, among other claims, petitioner's assertion that appellate attorney failed to provide the effective assistance of counsel required by the Sixth and Fourteenth Amendments, and petitioner appealed. Appellate counsel was ineffective in failing to ask the state supreme court to set side habeas corpus petitioner's murder conviction on the ground that petitioner had been denied the equal protection in jury selection recognized under Batson.

OVERVIEW: Petitioner, an African-American, attempted to raise a Batson argument on appeal, based on the prosecutor's use of 9 of his 10 peremptory challenges to exclude blacks from jury. Counsel chose not to raise that issue, leading in part, to petitioner's claim that appellate counsel was ineffective. The court of appeals found that the trial court's error in applying Batson was apparent on the face of the transcript of the jury selection proceedings:

Where appellate counsel failed to raise a claim on appeal that was so obviously valid that any competent lawyer would have raised it, no further evidence was needed to determine counsel was ineffective for not having done so. No conceivable reason that counsel might have proffered would have made her failure to pursue the claim would have succeeded.

In the United States, we have developed generous exceptions to the rule of finality, one of which permits reopening, vis habeas corpus, when the prisoner shows "cause excusing the procedurally default, and actual prejudice, resulting from the alleged error." United States v. Frady, 456 U.S. 152 (1982). We have gone beyond that generous exception in a certain class of cases:

cases that have actually gone to trial. There we have held that, "even in the absence of showing of cause for the procedurally default," habeas corpus will be granted "where a constitutional violation has probably resulted in the conviction of one who is actually innocent" or a "miscarriage-of-justice."

Again, this honorable court needed to applied this same standards to Truesdale's appellate counselors Kimberly N. Hopkins, Esq. and James M. Moorman, Esq. was ineffective for failing to raise Truesdale's Batson claims, ("preserved ")in the trial transcript proceedings, at trial, for his (" APPEAL"). Truesdale even filed a "Motion") challenging his Sixth and Fourteenth Amendments rights being violated at trial, by the trial court judge, state attorneys and his own defense attorney. That Truesdale was trial by a unconstitutional jury drawn and impaneled of six white females and a white female alternate to try Truesdale, a black (African-American) man.

And Truesdale not only mailed a copy to the Second District Court of Appeal, but Truesdale also mailed a copy to his appellate counselors. After Truesdale received a copy of the appellate counselors original (Brief of Appellate Appeal) and saw they did not raise my Batson claim, or Neil inquiry, I " preserved at trial." Before Truesdale got his ("Trial Transcript Proceedings") from the appellate counselors, the Second District Court of Appeal ("stricken it as unauthorized ") stating Truesdale had counselors. Where counselors only filed a (21) Twenty One page (" BRIEF") they had opportunity or time, to have (AMENDED) their original (Brief of Appellate Appeal) before the court response to their inefficient arguments filed in the brief of appellate appeal.

Plus, Truesdale Postconviction Relief Counsel David F. Ranck, and his (Title Company) the Miami Criminal Defense Firm, letters shows Truesdale told him about being trial with six white females and a white female alternate. That I ("PERSEVERED") the issue at trial for my (Appeal) even filed complaints, concerns being trial with six white females and a white female alternate.

Truesdale Batson claim, and State v. Neil, 457 So. 2d 18 (Fla. 1984) inquiry (preserved) at trial would have succeeded ! ! !

RACIAL ANIMOSITY

Over a century ago, this Court held that the government denies a black defendant equal protection of the laws when it puts him on trial before a jury from which members of his race have been purposefully excluded. Strauder v. West Virginia, 100 U.S. 310 (1879). The principal that the government violates the Equal Protection Clause where it purposefully or deliberately denies an individual's participation on a jury on account of that individual's race has been "consistently and repeatedly" reaffirmed. Batson v. Kentucky, 476 U.S. 79, 84 (1986). As this Court explained in Batson, the harm from discriminatory jury selection extends beyond the defendant alone, and touches the entire community: "[S]election procedures that purposefully exclude black persons from juries undermine public confidence in the fairness of our system of justice." Id. at 87.

To prevent racial bias in juror selection, the Court placed a duty on trial judges, to adhere to Batson's three-step evaluative process. Id. at 89. This process culminates with the court's obligation under step three to assess "the persuasiveness of the prosecutor's justification for his peremptory strike" Miller-EL v. Cockrell, 537 U.S. 322, 329 (2003) (Miller-EL I"). At step three, the trial judge is required to "assess the plausibility of [the prosecutor's race-neutral] reason in light of all evidence with a bearing on it." Miller-EL v. Dretke, 545 U.S. 231, 251-52 (2005) ("Miller-EL II"). This Court has described the duty of assessing the credibility of the prosecutor's proffered race-neutral reason as the "decisive question" in the Batson analysis. Hernandez v. New York, 500 U.S. 352, 365, 395 (1991).

Here, the Florida state trial court attempted to satisfy its obligations under step three of the laws process by engaging only in a brief colloquy and abbreviated review of relevant evidence (T:205-07). The Eleventh Circuit ("erred")in their portion of their earlier ("ruling ") by letting stand the state trial court's Batson ruling on appeal, by not ruling on the merits. Yet the Eleventh Circuit's decision squarely conflicts with decisions from the Second, Third, Seventh, and Ninth Circuits, which hold a trial court cannot satisfy its obligation under the third step of the Batson inquiry merely by engaging in a perfunctory exercise. See Jordan v. Lefevre, 206 F. 3d 196, 201 (2d Cir. 2000),Coombs v. Diguglielmo, 616 F. 3d 255, 263 (3d Cir. 2010), United States v. Brown, 809 F. 3d 371, 375-76 (7th Cir. 2016), Lewis v. Lewis, 321 F. 3d 824, 832 (9th Cir. 2003).

This case presents an important question concerning the action a trial court must take to fulfill its responsibilities under step three of the Batson process. The courts of appeals have delivered conflicting answers. Unless the Supreme Court of the United States Court provides guidance, the requirements under step three of the Batson framework will continue to vary circuit by circuit and case by case.

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Unless the Supreme Court of the United States provides guidance, the requirements under step three of the Batson framework will continue to vary circuit by circuit and case by case.

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1 "T" refers to the trial transcript, followed by the page number (e.g. T:26).

A. Batson's Three-Step Process

Batson v. Kentucky, 476 U.S. 79 (1986), establishes a three-step procedure for determining whether a peremptory challenge violates the Equal Protection Clause: The first step requires the opponent of a peremptory challenge to make a prima facie case of racial discrimination. Id. at 94. Second, if a showing is made under step one, the government must offer a race-neutral justification for the strike. Snyder v. Louisiana, 552 U.S. 472, 476-77 (2008). Finally, the trial court must evaluate all relevant evidence and determine whether the opponent of the strike has proved purposeful discrimination. Miller-EL II, 545 U.S. at 252 (citing Miller-EL v. Dretke, 545 U.S. 231 (2005).

Here, to response to Truesdale's Batson objection, the state prosecutor offered a purported race-neutral justification mooting step one of the Batson process; Hernandez v. New York, 500 U.S. 352, 359, 365, 395 (1991) and ostensibly satisfying step two (T:205).

CERTIFICATE OF APPEALABILITY ("COA")

This certificate of appealability ("COA") therefore turns on step three of the Batson inquiry, which requires the trial judge to "assess the plausibility of [the prosecution's race-neutral] reason in light of all evidence with a bearing on it." Miller-EL II, U.S. at 252, see also Snyder, 552 U.S. at 478 (holding "[A]ll of the the circumstances that bear upon issue of racial animosity must be consulted").

B. The Underlying Case and the Batson Objection.

1. Factual Background.

Truesdale was charged with 2nd degree murder (T:37). Truesdale pled not guilty, and the state trial court set jury trial to begin on August 28, 2007 (T:9). The jury was selected that same day (T:212). The jury comprised six white females and a white female alternate to try Truesdale, a black man, charged with second degree murder of a woman. (T:213).

2. The Venire

The venire comprised 37 people, five or six of which were African American ("black"), and one ethnic minority (Syrian?) (T:206, 209, 212).

3. The "Victim of Crime" Question on the Jury Questionnaire

Before the trial, each potential jurors submitted answers to the court's Jury Questionnaire, which sought information concerning name, age, marital status, prior jury service, relationship with law enforcement officials, witness to /victim of/ or accused of a crime, occupation, employer, spouse's occupation/employer (T:24-27).

HAVE YOU OR ANY MEMBER OR YOUR
IMMEDIATE FAMILY OR ANY CLOSE FRIEND:

3. BEEN THE VICTIM OF A CRIME?

Several venire members who were questioned about "are you a victim of crime?", and responded during voir dire, also check " YES" ("Victim of Crime ") on the Juror Questionnaire, specifically Juror Nos. 4 Easterterday, 5 Faulkner, (T:150-51), 8 Jamal (T:151-52), 14 Montague (T:156), 15 Kronauge (T:155), 17 Ms. Harrison (T:154), 19 Kelley (T:153), and 24 Walton (plus four other jurors not reached during final selection).

Two jurors actually selected for the jury also checked " YES" to the "Victim of Crime" question, specifically Juror No. 3 Ms. Maloy, and Juror No. 6 Ms. Alvarez. But neither the court, the State, nor defense inquired further on Juror No. 3 (T:94-95, 159-60, 168-70) or No. 6 (T:9) (both white females) regarding the "Victim of Crime" question.

But the prosecutor would later use a peremptory strike against ethnic minority Juror No. 8 Jamal, concerning the potential juror's response to the "Victim of Crime" questions was the reason the prosecutor "challenged" her (T:205).

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2 (AMENDED) This re-write PETITION FOR A WRIT OF CERTIORARI Case NO. 16-1187 "original" prepared by R. Michael Hursey,P.A. (Law Firm) filed by COCKLE LEGAL BRIEFS, re-filed by petitioner to the State of Florida Supreme Court whom haded jurisdiction to have responded.

4. The Voir Dire

The state trial court conducted the initial voir dire. During the defense questioning, Juror No. 8 Jamal was asked to expand upon her response on the juror questionnaire regarding "3. Been the victim of a crime?"This exchange took place:

MR. POTTS (defense attorney): Ms. Jamal, you- somebody you knew was a victim?
PROSPECTIVE JUROR JAMAL: Me .
MR. POTTS: And when was it, if you don't mind me asking?
PROSPECTIVE JUROR JAMAL: It was a hate crime.
MR. POTTS: How long ago was that?
PROSPECTIVE JUROR JAMAL: A couple of years ago.
MR. POTTS: Was that resolved to your satisfaction?
PROSPECTIVE JUROR JAMAL : No, it wasn't.
MR. POTTS: Did it go to court?
PROSPECTIVE JUROR JAMAL: No.
MR. POTTS: Do you have any animosity or problem with the police or anything because of that?
PROSPECTIVE JUROR JAMAL: Well, I wasn't happy with the way it came out, but, no, I don't have any problems with them.
MR. POTTS: You could be fair to both sides?
PROSPECTIVE JUROR JAMAL: Yes. (T:151-52)

Potential Juror No. 32 William Harrison (black) was struck by the State for cause became of answers about his distrust of the system, lawyers, etc., and the credibility issues regarding the testimony of law enforcement compared to that of other witnesses (T:67-73). Juror No. 32 said he could be fair (T:73-77). This strike for cause can be reviewed to show a "pattern" by the State of striking minorities.

5. The Peremptory Challenges

The Truesdale prosecutor exercised 6 peremptory challenges with respect to the 37 potential jurors, and no peremptory challenge with respect to the alternate juror (T:202-05).

The State's peremptory challenge of Juror No.8 Ms. Jamal
(Batson challenge)

The prosecution exercised its fifth peremptory challenge with respect to ethnic minority Excluded Juror 8, Ms. Nazipha Bebi Jamal (T:205). Defense counsel objected (T:205-07).

The prosecution stated these rationale for exercising a peremptory challenge on ethnic minority Juror 8:
MS OLNEY: State would strike Jamal.
MR.POTTS: And Judge we ask a reason, please.
THE COURT: Ms. Olney.
MS.OLNEY: Judge, the State is challenging Ms. Jamal because of her dissatisfaction with a hate crime that was committed upon her, and her dissatisfaction of the lack of prosecution in that case.
THE COURT: Did she indicate that occurred in this jurisdiction?
MS. OLNEY: Yes, Judge.
THE COURT: Mr. Potts, did you have anything more to say to that?
MR. POTTS: I think she expressed an ability to go forward.
MS. OLNEY: It's not a cause it's a --
THE COURT: Yeah, yeah, yeah.
MR. POTTS: It still has to be an adequate reason. I'm not going to stipulate to that as an adequate reason --
THE COURT: I'm giving you a chance to challenge the reasonableness of their - their rationale. That's what we're doing right now.
MR. POTTS: And I was just stating my reason, Judge, and I was just told that this was not a cause challenge. My recollection, when I spoke to her about that -- and it didn't rise to any real level of concern with me - she didn't express any real level of concern about it, that experience.
THE COURT: I'm going to ---
MS. OLNEY: Judge ---

The State's peremptory challenge of Juror No. 8 Ms. Jamal (Batson challenge)

The prosecution exercised its fifth peremptory challenge with respect to ethnic minority Excluded Juror 8, Ms. Nazipha Bedi Jamal (T:205). Defense counsel objected (T:205-07)

(T:205-06)

Although the court did not explicitly rule the asserted race-neutral challenge was credible, it ruled the prosecutor "has a reasonable rationale" (T:206). This was so even though defense counsel had quickly articulated both procedural and substantive problems with the peremptory challenge (T:206). The court, however, overruled the defense's objection (T:206).

But the court misapprehended its role. To satisfy step three of the Batson test, a legitimate reason is not a reason that makes sense, but a reason that does not deny equal protection. Purkett v. Elem, 514 U.S. 765, 766 (1995). Truesdale's equal protection rights were so violated when the court applied its self-styled " reasonable rationale" standard.

Truesdale himself asked of the court, ". . . but I don't understand why No. 8 [Ms. Jamal] had to be striked" (T:208-09). The court attempted to buttress its prior Batson ruling by noting:

> THE COURT: Well, yeah, I'm going to let Mr. Potts explain that to you, because it's sort of a complicated back-and-forth legal issue, but she was not struck for being - she was not struck for cause. She was not struck for cause. It's just that's because she is a member of the minority group, so if you strike her without cause, you've got to give - you're got to show that it is not from prejudice, a reasonable prejudice.
>
> In other words, they struck her because they're trying to get -- I don't know where the lady is from , but let's assume she is Pakistani or, you know, Syrian. You know, they were -- if they were trying to keep all Muslims off the jury or something, it would be necessary to show that that's not what they were doing, but it was for some other reason.
>
> By the way, I don't know the lady's ethnicity and if she's a follower of Islam. And from her name, I assume she's from somewhere -- from somewhere east of Europe. (T:209)

The above improper statements by the court show it focusing on whether Juror No. 8 is Muslim, or a follower of Islam, or from Pakistan or Syria. But certain other settlements made off the record by the trial court regarding Jurou No. 8 (Ms. Jamal) reveal the court's true feeling regarding putting an ethnic minority on the jury. The court said words to the effect of "Why would we allow Juror No. 8 on your jury? She's not even from here, she's from some foreign country, and doesn't belong here. She would probably vote you 'not guilty. ' " After this remark, most of the staff, the judge, and the attorneys laughed. But this remark by the judge was not included in the trial transcript. All of these remarks by the trial court show it did properly apply step three of the Batson procedure for looking at the underlying reason the prosecutor used a peremptory strike on Juror No. 8. It appears the trial court is in collision with the prosecutor to " cover up " the real reason for the State's peremptory strike (she is an ethnic minority).

In Pena-Rodriguez v. Colorado, 580 U.S. ___ (2017)(Slip op. March 6, 2017), the Court recently reiterated: " [T]he central purpose of the Fourteenth Amendment was to eliminate racial discrimination emanating from official sources in the States. " Citing McLaughlin v. Florida, 379 U.S. 184, 192 (1964). Id. Time and again, this Court has enforced the Constitution's quarantee against state-sponsored racial discrimination in the jury system, and struck down laws and practices that systematically exclude racial minorities from juries. Neal v. Delaware, 103 U.S. 370 (1880). Id. The remarks by the Truesdale trial court about Juror No. 8 " not being from here" , etc., show state-sponsored racial discrimination in the jury system contra Pena- Rodriguez, supra.

Further, the Truesdale trial court erred when it used its own "reasonable prejudice" standard in deciding step three of the Batson procedure. This is not a proper standard for the Batson analysis. Further, it is revealing that the State neither used a cause challenge on Juror No. 8 Ms. Nazipha Bebi Jamal, nor used a peremptory challenge on her the twelve prior times she was previously tendered as a member of the prospective 6-member jury panel. (T: 202- 05).

It is telling that the prosecutor accepted two white female jurors (No. 3 Ms. Malay and No. 6 Ms. Alvarez) on the final panel selected, who also indicated on the Juror Questionnaire they were "victim of crime." The prosecutor did not even make further inquiry of either Juror No. 3 (T: 94-95, 159-60, 168-70) or Juror No. 6 (T:9) regarding the facts behind their being " victim of crime." Also, the prosecutor could have used a peremptory challenge on either Juror No. 3 or Juror No. 6 any of the nineteen times they were tendered as jurors on the presumptive panel (T: 202-08). So this shows the "Victim of Crime" reason for striking Juror No. m8 Ms. Jamal was pretextual reason for striking her because she is an ethnic minority.

In Snyder, supra, the Court held a side-by-side comparison of stricken blacks to seated whites also is appropriate. 552 U.S. 472, 483, 489. Such a chart comparison in Truesdale of a stricken minority (Juror No. 8 Ms. Jamal) to seated whites (Juror No. 3 Malay and Juror No. 6 Ms. Alvarez) shows the alleged reasons for the prosecuter striking Juror No. 8 were pretextual:

ALTERNATE FROM THE RECORD'S

The court said words to the effect of "Why would we allow Juror No. 8 on your jury? She's not even from here, she's from some foreign country, and doesn't belong here. She would probabilities vote you 'not guilty." After this remark, most of the court staff, the judge, and the attorneys laughed. But this remark by the judge was not included in the trial transcript. All of these remarks by the trial court show it did properly apply step three of the Batson procedure for looking at the underlying reason the prosecutor used a peremptory strike on Juror No. 8. It appears the trial court is in collusion with the prosecutor to "cover up" the real reason for the State's peremptory strike (she is an ethnic minority).

OTHERWORDS SAID BY THE TRIAL COURT
JUDGE THAT ALTERED FROM THE RECORD

The night before Truesdale's trial August 28, 2007. The trial court judge daughter, August 27, 2007 haded a new born baby girl, the trial judge was showing photographs on his computer to the court officials, state attorneys and the defense attorney, of his new granddaughter. The trial court judge said:

"we got to remove people like you, from society,
so my new born granddaughter will be safe,
at this point, all mention above, not by names
laugh, including Truesdale defense attorney."

Henry v. Cockrell, 327 F. 3d 429, 431 (5th Cir. 2003). Where a district court denies a motion on procedural grounds without reaching the underlying constitutional claim, a COA should issue when the movant shows at least, that jurists or reason would find it debatable whether the motion states a valid claim of a denial of a constitutional right and that jurists of reason would find it debatable whether the district court was correct in its procedural ruling, Id.

Further, Miller-EL v Cockrell, 537 U.S. 322, 327, 123 S. Ct. 1029 (2003) (citation omitted), cited United States v. Williams, 536 F. Appx. 169, 171 (3rd Cir. 2013).

See Alexander v. Johnson, 211 F. 3d 895, 898 (5th Cir. 2000)(" holding a district court may sua sponte rule on a certificate of appealability because " the district court that denies a petitioner relief is in the best position to determine whether the petitioner has made a substantial showing of a denial of a constitutional right on the issue before the court has just ruled on would be repetitions").

Where appellate counsel failed to raise a claim on appeal that was so obviously valid that any competent lawyer would have raised it, no further evidence was needed to determine whether counsel was ineffective for not having done so. No conceivable reason that counsel might have proffered would have made her failure to pursue the claim reasonable. Her, failure to raise it, standing alone, established her ineffectiveness. Clearly, petitioner's Batson claim would have succeeded.

Again, this Court needed to applied these standard's to Truesdale claim, that appellate counselors Kimberly N. Hopkins,Esq. and James M. Moorman, Esq. was ineffective from failing to raise Truesdale Batson claim (" preserved at trial ") in the records.

This court also needed to applied this same standard to Truesdale postconviction relief attorney David F. Ranck, Esq. his (Title Company) The Miami Criminal Defense Firm, who hold my Trial Transcript Proceedings and Legal Documents, (from 2009 until Jan. 27, 2011) knowing I would not have enough time to find another (attorney) to help his (Colleagues) prosecutor's and former prosecutor's (Time-barred) my case, then returned back to his old job, at the Miami - Dade County prosecuting office, (same) Trial Transcript Proceedings and Legal Documents that Michael Hursey, P.A. (Law-Firm) received with my additional documents I filed.

TRUESDALE JUROR SELECTION
(side-by-side comparison)

	Juror No. 8. Jamal (excluded) Batson challenge	Juror No. 3. Maloy (accepted on jury)	Juror No. 6. Alvarez (accepted on jury)
Race	Ethnic minority (Syrian?)	White	White
Gender	Female	Female	Female
"Victim of Crime" per juror Ques-tionnaire	Yes	Yes	Yes
"Victim of Crime" per statements in voir dire	Yes	Not asked questions about "victim?" during voir dire	Not asked questions about " victim?" during voir dire
# of times accepted by State on presumptive panel	12	19	19
Dissatisfied with investigation/ results	Yes	Not asked questions about " dissatisfied?" during voir dire	Not asked questions about "dissatisfied?" during voir dire
Cause challenge	No	No	No
Peremptory challenge	Yes-by State	No	No

3 Truesdale (AMENDED) (T:268-270 et seg.) Juror No. 6 Ms. Alvarez Telephone call to Judge Day at 9:40, or thereabouts August 29,2009 these Three (3) Pages (enclosed) proves this information should been disclose to the Court, State and Defense, during Jury Questionnaire Voir Dire, she could have approach the judge at bench or chamber, and disclose her "marital problem" or "bad relationship" et al., our impaneled should been strike for cause, not No. 8.

4 Petitioner has reproduced un-redacted excerpts from the voir dire transcript, day one of the jury trial, and Juror Questionnaire in this Petition.

5 The Appendix (App.1 - App. 30) is not " re-write" in this petition. The " original petition" is enclose as Appendix to be review with this re-write petition.

6 The "Victim of Crime" Question on the Jury Questionnaire is (AMENDED) adding Juror No. 6 Ms. Alvarez non-disclosure bad marital status to this partition at end of argument.

7 Petitioner also (AMENDED) Florida Supreme Court "controlling case" State v. Neil, 457 So. 2d 481, 486 (Fla. 1984) to this "original petition" Case No. 16_1187 filed in the Supreme Court of the United States by R. Michael Hursey, P.A. prepared by COCKLE LEGAL BRIEFS.

6. The Result

After empaneling the all-white, all-female jury and white female alternate, the trial court conducted the remainder of the three-day trial (T:214-941). On the first day of trial, Juror No. 6 Ms. Alvarez, called the Judge and asked to be dismissed from jury duty because of a dispute with her husband. She was replaced by the white female alternate Jorur No. 26 Ms. Mc Nay (T:268-70). The jury convicted Truesdale as charged (T:941). The trial court sentenced him to life in imprisonment with 25 years mandatory minimum under the 10/20life statute (T:973 - 4).

C. The Court of Appeals' Decision

The Eleventh Circuit did not reach the merits of the trial court's Batson ruling, holding Truesdale was time-barred from raising that issue (App. 5-7).
Truesdale had been previously time-barred from raising the Batson issue at the U.S. District Court in Tampa, FL, before appealing to the Eleventh Circuit (App. 10-30). Truesdale raised the instant Batson issue in pro she briefs in both his 28U.S.C. § 2254 petition in federal trial court, and the appeal of that decision to Eleventh Circuit.

To the extent Truesdale reasserts his claims for relief, he presents new evidence showing his innocence that would permit the review of time-barred petition. See McQuiggin v. Perkins, 133 S. Ct. 1924, 1927-28 (2013).

REASONS FOR GRANTING THE WRIT

A. The Courts Of Appeals Are Divided Over The Actions That A District Court Must Take To Fulfill Its Responsibilities Under Step Three Of The Batson Procedure

At issue here is whether Truesdale's trial court's brief colloquy and cursory review of evidence relevant to a Batson challenge on Juror No. 8 (Jamal) is sufficient to satisfy its obligation under Batson's step three to consider " all of the circumstances that bear upon the issue of racial animosity." Snyder, 552 U.S. at 478. Decisions from the United States Court of Appeals for the Second, Third, Seventh, Ninth, and Eleventh Circuits clarify that it is not.

The Second Circuit concluded in Jordan v. Lefevre, 206 F.3d 196 (2d Cir. 2000), the trial judge " could not properly decide the third Batson step" because he provided defense counsel "no time to identify the relevant facts and assess the circumstances necessary to decide whether the race-neutral reasons given were credible and nonpretextual." Id. at 201. There, defense counsel objected under Batson to the prosecutor's use of peremptory challenge after the prosecution had struck several potential African-American jurors. Id. at 199. The trial court, however, to "save ... an awful lot of time," ruled summarily on the Batson challenge after an extremely brief colloquy, and resisted defense counsel's efforts to make an additional statement regarding the Batson challenge to create a full record.Id.

The Second Circuit determined that the trial court's "cursory treatment" of defense counsel's Batson objection did not satisfy the third step of the Batson inquiry, which demands that the trial court consider "all relevant circumstances surrounding a defendant's prima facie showing of discrimination." Id. at 201. According to the court of appeals, the trial court engaged only in a "perfunctory exercise designed to speed the proceedings along," which did not constitute the "meaningful inquiry into the question of discrimination," as mandated by Batson. Id.

Similarly, the Third Circuit Court of Appeals concluded in Coobms v. Diguglielmo that a trial court failed to conduct a "full and complete" Batson third step analysis where it unreasonably limited defendant's opportunity to prove that the prosecution's reasons for striking potential African-American jurors were pretextual. 616 F.3d 255, 263 (3d Cir. 2010). In Coombs, both the prosecution and defendant raised Batson challenges, the prosecution raising a "reverse Batson" challenge based on the defendant striking three potential white jurors, and the defendant raising a Batson challenge based on the prosecution's use of two peremptory strikes on African-American venire members. Id. at 257_58. After both attorneys proffered their race-neutral justifications, the trial judge denied both motions, stating that both attorneys were "much too good lawyers to do something like that'" Id. at 258 (internal quotations omitted). At the close of voir dire, defendant again raised the Batson challenge, but before the prosecutor could offer a race-neutral justification, the trial court stated: " I'm not finding there's another pattern."Id. (internal quotations omitted).

Although the prosecution offered race-neutral explanations, the trial court only responded by stating "[l]et's go. Are we ready to? Do we have the bills?" Id. (internal quotations omitted). When defendant then inquired whether the court was accepting the government's justifications and denying the Batson challenge, the court replied "[y]es.Id. (internal quotations omitted). The trial court conducted no further inquiry into the prosecution's explanation. Id.

In determining that the trial judge failed to satisfy step three of Batson, the Third Circuit in Coombs, supra, clarified that trial courts fail to engage in the required analysis when they " fail [ ] to examine all of the evidence to determine whether the State's proffered race-neutral explanations [a]re pretextual." Id. at 262 (internal quotations and citations omitted). The Coombs court of appeals also explained that Batson's three-step process "allows the trial court to respond to a Batson challenge in a meaningful, rather than a pro forma, manner." Id. Applying this standard, the court of appeals concluded that the judge "effectively omitted the third step of the Batson inquiry" by " unreasonably limiting" the defendant'a opportunity to show that the proffered race-neutral reasons were pretextual. Id. at 263.

The Third Circuit stressed the trial court's insistence that the trial proceed quickly prevented any inquiry into whether one of the prosecutor's proffered reasons for excluding a potential African-American juror -- i. e., that the juror " didn't check off many boxes [on the jury questionnaire]" -- applied equally well to white venire members who the prosecutor did not exclude. Id. at 263. According to the court of appeals, that side-by-side comparison, "would have been essential part of any meaningful inquiry into prosecutor's' explanation." Id.

In this vein, the Seventh Circuit opined in United States v. Brown, 809 F.3d 371, 375-76 (7th Cir. 2016), the trial court's abbreviated inquiry in Batson's third step was adequate (holding in the third step of the Batson analysis, the trail court must determine whether the defendant has shown purposeful discrimination here the government's justification was "sincere").

Similarly, the Ninth Circuit concluded in Lewis v. Lewis that the trial court failed to fulfill "affirmative duty" under Batson's third step to determine whether purposeful discrimination occurred where the trial court conducted only an "abbreviated review" of the record and stated that the prosecutors' third race-neutral reason was "probably... reasonable." 321 F.3d 824, 832 (9th Cir. 2003) (internal quotations omitted). In Lewis, an African-American potential juror provided information about the employment history of her relatives, stating that her niece worked as a nurse officer and her nephew as a jailer, but not indicating at which facilities her relatives were employed. Id.at 827. The potential juror later stated that one relative worked locally and one worked out of town. Id. After the defendant objected to the prosecutor's strike under Batson, the prosecutor proffered several race-neutral reasons, including that the potential juror might receive information about the jail housing the defendant through her employed relative. Id. at 827 -28. Although the district court rejected several of the prosecutor's reason concerning the jail was "probably... reasonable." Id. at 832 (internal quotations omitted). Yet the trial court also offered a conflicting description of its recollection of the record, stating both it was unclear which relative worked in the jail but also stating that "[the relatives] would be working any place but the jail.!" Id. at 832 (internal quotations omitted).

Considering these facts, the Ninth Circuit in Lewis, supra, concluded that the trial court failed to satisfy step three of the Batson process, explaining that the trial court did not conduct a "meaningful step-three analysis" where it conducted only an "abbreviated review of the record" that produced, at best, equivocal support for the prosecutor's justification. Id. at 832.

Finally, in the Eleventh Circuit, the court is also concerned about the judge giving short shrift to step three of the Batson analysis. In Atwater v. Crosby, 451 F.3d 799, 806-07 (11th Cir. 2006), the court noted that when a judge merely repeats the proponent's reason for exercising the strike, the judge has not satisfied the third part of the Batson inquiry.

The Eleventh Circuit has additional precedent which shows how Truesdale's jury selection violated Batson. Although the ultimate composition of the jury does not nullify the possibility of gender discrimination, it is a significant factor in the highly deferential review the appellate court affords to the district court's conclusions. United States v. Tokars, 95 F.3d 1520, 1532- 33 (11th Cir. 1996). Accord J.E.B. v. Alabama, 511 U.S. 127 (1994). So Truesdale's all-white all-female jury and white female alternate smack of sexual and racial discrimination. That a defendant may have had "unclean hands" because he, too, violated Batson does not excuse the State's violation. Eagle v. Linahan, 279 F.3d 926, 942-43 (11 th Cir. 2001). So defense counsel striking black female juror No. 31 Eaton is of no moment. A Batson violation may never be deemed harmless. Batson does not require there be a "pattern" of discrimination to establish a prima facie case. Rather, the challenging party must establish an inference of racial discrimination through any means. Madison v. Commissioner, Ala. Dept. of Corrections, 677 F.3d 1333 (11th Cir. 2012).

The number of black jurors struck is not dispositive of whether a prima facie case has been established. United States v. David, 803 F.2d 1567, 1569- 71 (11th Cir. 1986). A comparison of stricken whites with stricken blacks is relevant to a Batson claim a comparison of stricken blacks to seated whites also is appropriate. Snyder, supra, 552 U.S. 472, 483, 489 (concluding the prosecutor's reason for exercising a strike against a potential black juror applied equally to a white juror who the prosecutor did not strike, casting doubt on the legitimacy of this explanation). Davis v. Secretary for Dept.of Corrections, 341 F.3d 1310, 1316 -17 (11th Cir. 2003) (predicting in context of habeas corpus petition, Florida appellate courts would find Batson violation may not be deemed harmless).

The above cases clarify that in the Second, Third, Seventh, Ninth, and Eleventh Circuits, a trial court cannot satisfy its obligation under the third step of the Batson inquiry merely by engaging in a perfunctory exercise. See Jordan, supra, 206 F.3d at 201 (finding perfunctory exercise designed to speed proceedings along did not satisfy third step of Batson) Coombs, 616 /F.3d at 263 (trial court failed to conduct a "full and complete" Batson step three analysis where it unreasonable limited defendant's opportunity to prove that the prosecution's proffered reasons for striking potential African-American jurors were pretextual) Lewis, 321 F.3d at 832 (holding trial court's "abbreviated review of the record" and statement that prosecutor's reason was "probably... reasonable" did not satisfy Batson's third step).

Yet the Eleventh Circuit's decision in Truesdale is squarely at odds with the decisions from the Second, Third, Seventh, and Ninth Circuits, discussed above. Here, after defense counsel objected to the state's use of a peremptory strike on ethnic minority Excluded Juror 8, the prosecution proffered its purported race-neutral justification: victim of a crime, dissatisfied with lack of prosecution based on Excluded Juror 8's answer in court during voir dire (T:205 -06) But before defense counsel could fully respond to the state's proffered justification, the court declared using its own standard the State " has a reasonable rationale", and granted the State's peremptory strike (T:206).

Notably, the trial court made no findings concerning similar responses of other potential jurors (T:206). Instead, the trial court conducted the Batson analysis with undue haste and ruled in a summary fashion (T:205-06).

The trial court did not genuinely provide Truesdale a meaningful opportunity and time to review all relevant evidence, and present arguments concerning it (T:205-06). The "comparison" argument (comparing struck black jurors, with white jurors with similar traits not struck) may well have been raised had the trial court conducted a full and completed Batson inquiry. If defense counsel had been afforded the opportunity to review all of the jury questionnaires, he would have pointed to weaknesses in the prosecutor's proffered reason, such as similarly situated non-African American jurors who the State did not strike (Juror No. 3 Ms. Maloy and Juror No. 6 Ms.Alvarez).

Review is needed here because the Eleventh Circuit has decided this case in a way that conflicts with decisions of other courts of appeals. This Court should resolve this issue to achieve uniformity in the lower court' application of Batson's three-step evaluative process. Resolution of this issue is significant. This Court has emphasized repeatedly that the harm from discriminatory jury selection practices undermines the very integrity of the courts. Miller-El II, 545 U.S. at 238 (finding "[T]he very integrity of the courts is jeopardized when a prosecutor's discrimination 'invites cynicism respecting the jury's neutrality,'... and undermines public confidence in adjudication." (quoting Powers v. Ohio, 499 U.S. 400, 412 (1999)))

AMENDED

B. Peremptory Challenges on Racial, Ethnic, or Gender Grounds

1. The right to exercise peremptory challenges in a completely unfettered. The law prohibits the use of peremptory challenges to exclude prospective jurors because of their membership in a district protected group. This issue of racially motivated peremptory challenges was first addressed by the United States Supreme Court in Swain v. Alabama, 380 U.S. 202, 85 S.Ct. 824 (1965). In Swain, the Court created a presumption that challenges were exercised to secure an impartial jury and required that purposeful discrimination by the use of peremptory challenges be proved by a defendant only by a showing of discriminatory practices employed systematically in a number of similar cases or contexts. Swain's demand to make out a continuity of discrimination over time was characterized as imposing an "impossible burden" and a "crippling burden of proof" citing Neil v. State

> The primary purpose of peremptory challenges is to aid and assist in the selection of an impartial jury. It was not intended that such challenges by used to encroach upon the constitutional guarantee of an impartial jury.

The initial application of the Neil to peremptory challenges based on race was eventually expanded on a step-by-step basis. The initial decision concerned African-American jurors. Subsequently, the Florida Supreme Court held that Hispanic are a "cognizable class." The Court stated the "impartial jurors cannot be peremptory challenged on their membership in a particular ethnic group." Jews were determined to constitute an ethnic group.
The concept was extended and prospective jurors who are white were determined to constitute a distinct racial group.

The Supreme Court extended its Batson rationale to peremptory challenges made on basis of a juror's gender. The Court stated that the "Equal Protection Clause prohibited discrimination in the jury selection on the basis of gender, or on the assumption that a individual will be biased in a particular cases for no reason other than the fact that the person happen to be an woman or happened to be a man." The Supreme Court of Florida specifically followed this ruling and the Melbourne guidelines apply to claim of gender-based discrimination. Melbourne v. State, 679 So. 2d 759, 764 (1996).

A trial court must hold a hearing when a party objects, to the discriminatory used of peremptory challenge. This requirement was described by the Supreme Court of Florida as follows:

When a Neil objection is properly raise . . . the time for the hearing has come. The requirement established by Slapp cannot be met unless the hearing is conducted during the voir dire process. . . . Only at this time does the court have the ability to observe and place on the record relevant matters about juror's responses or behavior that may be pertinent to a Neil inquiry. State v. Slappy, 552 So. 2d 18 (Fla. 1998) citing Neil inquiry.

The action that a trial court must take if it finds that a peremptory challenge is racially motivated was specifically addressed in Neil. There the Supreme Court of Florida stated that "the trial court should dismiss the jury pool and state voir dire over with a new pool."

The court in Neil predicted this remedy on the fact that a number of jurors had already been excluded from the jury pool for discriminatory reasons. The rationale behind striking the entire jury panel is to provide the complaining party with a proper venire and not one that had been partially or totally stripped of potential jurors through the use of discriminatory challenges. The court did not intend for a new jury pool to be the exclusive remedy for the discriminatory use of peremptory challenges.

In Williams v. Florida, 339 U.S. 79 (1970) 339 U.S. at 100, S. Ct. at 1905. the Court reaffirmed that the "purpose of the jury trial, as noted in Duncan, is to prevent oppression by the Government." Providing an accused with the right to be tried by a jury of his peers gave him an inestimable safeguard against the corrupt or overzealous prosecutor and against the complaint biased, or eccentric judge.

Duncan v. Louisiana, 391 U.S. 145 (1968) [391 U.S.] at 156, 88 S. Ct. at 145. See Apodace v. Oregon, 406 U.S. 404, 410, 92 S. Ct. 1628 (1972), (opinion of White, J.) this purpose in attained by the community in determination of built or by the application of the common sense of layman who, as juror's consider the case. Neil, a simple objection and allegation of racial discrimination is sufficient, e.g., I object.

Jordan v. Fisher, 576 U.S. 1071(2015). Here, the Fifth Circuit engaged in precisely the analysis Miller-EL and the COA statute forbid: conducting, across more than five full pages of the Federal Reporter, a detailed evaluation of the merits and the concluding that because Jordan had "[fail]ed to prove '" his constitutional claim, 756 F. 3d at 407, a COA was not warranted. But proving his claim was not Jordan's burden. When a court decides whether a COA should issue, "[t]he question of the underlying constitutional claim, not the resolution {2015 U.S. LEXIS 13} of that debate. '" Miller-EL 537 U.S. at 342 S. Ct. 1029, 154 L. Ed. 2d 931. Where, as here, " a court of appeals sidesteps this process by first deciding the merits of an appeal, and then justifying its denial of a COA {576 U.S. 1078} based on it adjudication of the actual merits, it is in essence deciding on appeal without jurisdiction, " Id., at 336-337, 123 S. Ct. 1029, 154 L. Ed. 2d 931.

This is not the first time the Fifth Circuit has denied a COA after engaging in an extensive review of the merits of the habeas petitioner's claims. See, e.g. Tabler v. Stephens, 588 Fed. Appx. 297 (2014), Reed v. Stephens, 739 F. 3d 753 (2014), Foster v. Quarterman, 466 F. 3d 359 (2006), Ruiz v. Quarterman, 460 F. 3d 638 (2006), Cardenas v. Dretke, 405 F. 3d 244 (2005).

Nor is it the first time the Fifth Circuit has denied a COA over a dissenting opinions. See, e.g., Tabler, 588 Fed. 297, Jackson v. Dretke, 450 F. 3d 614 (2006). Although I do not intend to imply that a COA was definitely warranted in each of these cases, the pattern they and others like them form is troubling

{192 L. Ed. 2d 953}

The barrier the COA requirement erects is important, but not insurmountable. In cases where a habeas petitioner makes a threshold showing that his constitutional rights were violated, a COA should issue. I believe Jordan has plainly made that showing, for that reason. I would grant Jordan's petition and summarily reverse the Fifth Circuit judgment. I respectfully dissent from the denial of certiorari.

This written opinion by Justice Ms. Sotomayor should be apply to Truesdale petition and denial of his constitutional rights or claims. This pattern is not only "[t]roubling being followed by the Fifth Circuit, but its being followed by the Eleventh Circuit in Truesdale's case, where Truesdale have makes a threshold showing that his constitutional rights were violated. A COA in Truesdale case should issue.

" [A] COA ruling is not occasion for a ruling on the merits of [a] petitioner's claim." Id, at 331, S. Ct. 123 S. Ct. 1029, 154 L. Ed. 2d 931. It requires only " an overview of the claims in the habeas petition and a general assessment of their merits. " Id., at 336, 123 S. Ct. 1029, 154 L. Ed. 931.

It took Mr. Hursey (Law-Firm) from last week of December 2016 to March 30, 2017 to filed Truesdale PETITION FOR A WRIT OF CERTIORARAI Case No. 16-1187 In The Supreme Court of the United States, the Batson issue should been filed my the attorneys mention above, but Mr. Hursey, P.A. haded to go behind them, to prove I was denied my (Constitutional Rights, and Statutory Rights) as well as my rights under the Act of Congress ! ! !

A district court must first issue a certificate of appealability (" COA ") Id. "A [COA] may issue only if the applicant has made a substantial showing of a denial of a constitutional right." Id. at 2253(c)(2). To make such a showing, defendant " must demonstrate that reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong. " Tennard v. Dretke, 542 U.S. 274, 282, 124 S. Ct. 2562 (2004)(quoting Slack.

A certificate of appealability should be sought first, in the district court, if denied, then sought in the circuit court of appeals having jurisdiction. Edwards v. United States, 114 F. 3d 1083 (11th Cir. 1997).

The Court depart from the restrictive Swain test in Batson v. Kentucky, 476 U.S. 79, 100 S. Ct. 1712 (1986) and utilized the equal protection to uphold a defendant right not to be tried by a jury that was selected through a procedure employing purposeful racial discrimination. In contrast to its decision in Swain, the Court held " that a defendant may establish a prima facie case of purposeful discrimination in selection of the permit jury solely on evidence concerning the prosecutor's exercise of peremptory challenges at the defendant's trial. In Flowers v. Mississippi, _____ U.S. _____, 139 S, Ct. 2228 (2019). 1. the Court emphasized that equal justice requires may not be use to exclude prospective jurors on the base of race and explained;

"The primary purpose of peremptory challenges is to aid and assist in the selection of an impartial jury. It was not intended that such challenges by used to encroach upon the constitutional quarantee of an impartial jury.

The initial application of the Neil test to peremptory challenges based on race was eventually expanded on a step-by-step basis. The initial decision concerned African-American jurors. Subsequently, the FLORIDA Supreme Court held that Hispanic are a "congnizable class". The Court stated the "impartial jurors cannot be peremptory challenged on their membership in a particular ethnic group". Jews were determined to constitute an ethnic group. The concept was extended and prospective jurors who are white were determined to constitute a distinct racial group.

The Supreme Court extended its Batson rational to peremptory challenges made on basis of a juror's gender. The Supreme Court stated that the "Equal Protection Clause prohibited discrimination in the jury selection on the basis of gender, or on the assumption that a individual will be biased in a particular case for no reason other than the fact that the person happen to be am woman or happen to be a man". The Florida Supreme Court spectically followed this ruling and the Melbourne guidelines apply to claim of gender-based discrimination. Melbourne v. State, 679 So. 2d 759, 764 (Fla. 1996).

The Florida Supreme Court reasoned in State v. Neil, 457 So.2d 481, 486 (Fla. 1984) that both the state and the defendant are entitled to an impartial jury. In Kibler v. State, 546 So. 2d 710, 712 (Fla. 1993), the Florida Supreme Court, in Holland v. Illinois, 493 U.S. 474, 110 S. Ct. 803 (1990) held that a prosecutor's challenge of a juror on racial grounds violated the equal protection interest of the juror and that a white defendant may protect those interests.

A trial court must hold a hearing when a party timely objects to the discriminatory use of a peremptory challenge. This requirement was described by the Florida Supreme Court as follows:

When a Neil objection is properly raise . . the time for the heading has come. The requirement established by Slappy cannot be met unless the hearing is conducted during the voir dire process. Only at this time does the court have the ability to observe and place on the record relevant matters about juror's responses or behavior that may be pertinent to a Neil inquiry. State v. Slappy, 552 So. 2d 18, 22 (Fla. 1988).

The action that a trial court must take if it finds that a peremptory challenge is racially motivated was specifically addressed in Neil. There, the Florida Supreme Court stated that "the trial court should dismiss the jury pool and start voir dire over with a new pool. "

The Eleventh Circuit, in Hunter v. United States, 101 F. 3d 1565, 1584 (11th Cir. 1996), held that this statute continued to permit district judges to issue certificate of appealability in habeas corpus and postconviction relief proceedings.

JURY REQUEST TO REVIEW EVIDENCE
OR FOR ADDITIONAL INSTRUCTION:
(Doc. 1, Pages 28-32)

Truesdale's bring the Court attention again to: (T:268-270),(T:609-614, 641, T:662-663, T:934-940): it pertinent in relevant parts:

(T:609-613) trial court, state attorneys, and defense attorney, will "proffer Margaret Smith" as an Expert Witness in violation of Fed. R. Evid. R. 702. My sister notice it was two different tapes spliced. The tapes in it entirety are over 40 some minutes, (" Alter or Docket to 5 1/2 minutes). While she is watching the tapes in open court, the jury not present, so I can place objections on the "records in present of the juries" State Ms. Olney, left from behind the states desk's, and walk over the courtroom to the defense's desk's, (stand in front of the accused/defendant Truesdale's, to block my view, from seeing their alter or docket visitation tapes) of me and my sister!!!

No Objective from defense attorney Mr. Potts, because he is part of their commitment (" conspiracy-plot, agreement among conspirators ") to admitted (" fraudulent evidence "). . . later during trial to the juries.

(T:662-63) trial judge don't want the jurors to no, my sister said, the (" tapes are splice up and put together and they are making something out of nothing"), (T: 612-13). The trial court judge, don't want the jurors to no, what Ms. Smith said about the tapes. (T:934-940) the jurors request to review the ("jail visitation tapes"), I'm not present to make objections on the (" Recorded ") nor did my sister was proffer in open court in present of the jurors.

Truesdale would have objected in open court in present of the jurors, on the record or requested all (" 40 some minutes of the splice up or altered or docketed or embezzled, jail visitation tapes ") be play in its entirely to the jurors. Because they did not wanted the jurors to known, (they used some kind of electronic device or some kind of technology device to featured elements in the tapes, by way of embezzlement from the original, adding elements that was not said, or happen during my sister visited) to obtained an illegally conviction, because they haded (No Physical Evidence) to tried the case, only perjury evidences.

And because Truesdale was denied his constitutional rights to be present at a " . . . critical stages . . . " of his trial proceedings, and place objections on the records, were counsel not objecting and affirmatively approve the trial decision it was reversal erred.

State v Bouchard, 922 So. 2d 424 (Fla. App. 2 Dist. 2006). And attorney failure to preserved issues for appellate review may constitute ineffective assistance of counsel. Truesdale demonstrate that trial counsel had no excuse for overlooking the objections and that the outcome of the underlying case at the trial level would have been different had the objections been made.

Please keep in mind Truesdale (Appeal) was Per Curiam Affirmed without attached opinion by the Second District Court of Appeal Case No. 2D07-4430 Initial Brief of Appellant, most of these cases cited is from (same) second district court of appeal.

Under the Sixth Amendment's Confrontation Clause, a defendant enjoys a right to be present during all material stages of his trial. See Kentucky v. Stincer, 482 U.S. 730 (1987) (" A defendant is guaranteed the right to be present at any stage of the criminal proceeding that is critical to the outcome of his presence would contribute to the fairness of the procedure "). United States v. Schaflander, 743 F. 2d 714 (9th Cir. 1984)(constitutional claims may be raised on collateral review even if not raised on appeal).

RIGHT TO BE PRESENT:

A leading principal that pervades the entire law of criminal procedure is that, after indictment found, nothing shall be done in absence of the prisoner. " Lewis v. United States, ____ U.S. 370, 372, 13 S. Ct. 136 (1892), see Rushen v. Spain, 464 U.S. 114, 117-18 (1983)(per {1997 U.S. App. LEXIS 23} curiam)(right to be personal presence at all critical stage of the trial is a "fundamental right [ ] of each defendant), Diaz v. United States, 223 U.S. 442, 456 (1912). (" It is the right of the defendant in cases of felony . . . to be present at trial. . . and is rooted in both Sixth Amendment Confrontation Clause and the Fifth Amendment Due Process Clause, see Snyder v. Massachusetts, 291 U.S. 97, 107-08 (1934), Holt v. Utah, 110 U.S. 574, 579 (1884)(" ' If [a] defendant be deprived of his life or liberty without being . . . present, such deprivation would be without due process of law required by the constitution, " '). The right extends to all stages of trial, (quoting United States v. Curtis, 173 U.S. App. D.C. 185, 523 F. 2d 1134, 1135 (D.C. Cir. 1975).

See Ivory v. State, 351 So. 2d 26, 28 (Fla. 1997), in Ivory, the court held, that it was prejudicial error for the trial court to respond to a request from the jury for additional instructions, definitions, and copies of certain statements unless the defendant, the defendant counsel, and the prosecute are present and have opportunity to participate in formulating a response to the request. See Ivory, 351 So. 2d at 28 (England, J., concurring)(recognizing that the majority decision in Ivory was intended to the strictures of rule 3.410).

Meek v. State, 487 So. 2d 1058, 1059 (Fla. 1986). However, the supreme court responds to a jury request, the defendant has a right, through defense counsel, to participate in the proceedings, and this right to make full argument as to why the jury request should or should not be honored. Id. Moreover, the supreme court in Bradley v. State, 513 So. 2d 112 (Fla. 1987) in response to the argument that defense counsel was in fact present during the trial court's consideration of the jury's question, held: " ' Notice is not dispositive. The failure to respond in open court is alone sufficient to find error. ' " Id. (quoting Curtis v. State, 480 So. 2d 1277, 1278 n. 2 (Fla. 1985)). As the supreme court had concluded, " [w]ithout this participation process, it is impossible to determine whether prejudice has occurred during on the most sensitive stage of the trial. " Colbert v. State, 569 So. 2d 433, 435 (Fla. 1990). A rule 3.410 violation constitute per se reversible error. Bradley, 513 So. 2d at 112-13.

In United States v. Fontanez, 878 F. 2d 33, 37-38 (2rd Cir. 1989), the court stated the violation of the defendant's right to be present is not harmless, if his " absence created ' any reasonable possibility of prejudice. "

CONCLUSION I

See (T: 609-613) trial court, state attorneys, and defense attorney, will " proffer Margaret Smith" as a Expert Witness in violation of Fed. R. Evid. 702. My sister notice it was two different tapes spliced. The tapes in it entirety are 40 some minutes, (Alter or Docket to 5 1/2 minutes). While she is watching the tape in court, the jurors not present, so I can place objecting on the "records in present of the juries " State Ms. Olney, left from behind the state desk, walk over to the defense desk, stand in front of me, to block my view from seeing the "tapes". I told Mr. Potts, " if he haded let me known they was going to play this alter or docket tape," I would had subpoena Corporal Ms. Thomas, as my witness. Because they haded somebody standing their, with (Paper and Pencil or Pen Written Notes), Ms. Smith, is not a Lawyer, I was in an "Protected Custody Cell" in Pinnellas County Jail, under "Video Cameras", that will show I never left my (cell, with no paper, or pencil, or pen), to go visited my sister, she is not a lawyer. I've known right then they was setting me-up, because they haded (No Physical Evidence) tieding Truesdale to no crime. They trying to say, the part, I'm talking about, was Leroy Johnson, or Verlet Smith, (Shotgun). If they haded played the "tapes in it entirety," the jurors would have seen I was talking about (2) two parts as follows: 1) a brake light switch, for Sharon Marcus car, I got from the dealer, they gave me a bad switch so I took it back for them to order another one, and 2) I put a new starter own the semi-cab truck, I drop it putting it own, and (break the cycle switch, on top of the starter). I was telling my sister to tell my nephew get another "starter cycle - switch to put on the semi-truck. See (T: 662,663) trial judge don't want the jurors to no, my sister waited the "tapes are splice up and put together and they are making something out of nothing. (T: 612,613). The trial court judge, don't want the jurors to no, what Ms. Smith said about the tapes are splice up, and they are making something out of nothing (T: 934-940) the jurors requested to review the ("tapes"), I'm not present in court to make " objection on the recorded nor did they proffer my sister in open court in the present of the jurors. See White v. State, 31 So.3d 816 (Fla. App. 2 Dist 2010),(quoting Meek v. State, 487 So. 2d 1058, 1059 (Fla. 1986), Bradley v. State, 513 So. 2d 112, 114 (Fla. 1987),(citing Ivory v. State, 351 So. 2d 26, 28 (Fla. 1977), United States v. Fontonez, 878 F.2d 33 (2nd Cir. 1989) the defendant rights to be present when jurors request to review evidence, should be done in open court and the defendant has a right to be present and put objection on records, these rights constitutional rights Truesdale was denied, State and Federal Laws.

See Forensic Technical Mr. Brent Goodman (T:518, 528, 529, 534, 539, 540, 545, 456, 550), it mention the Shotgun, the Shotgun Shell/Fingerprint of Verlet Smith, I'm being Denied, and Newport Cigarette.

At trial State Attorney Ms. Olney introduce into evidence the Newport Cigarette, drop at the crime scene by the (" PERPETRATOR"). I ask to see the 180 Photographs, and introduce No. 5 in evidence the 305 Cigarette proven I smoked 305's not Newport Cigarette. . . Ms. Olney, took the Newport Cigarette after I requested (" DNA TESTING "), back out the * * * [Aluminum - Foil] * * * in open court, in present of the jurors, * * * [throw it on the floor, crushing it up, with her foot, looking at me laughing]. * * * While Judge Jack Day, State Aaron Slavin, Defense Gary L. Potts, the Court-Room Reporters, the White Court Sheriff's Officer, all ("LAUGHING") except the Black Sheriff's Officer sitting next to me, shaking his head, "Mumming Uh - Huh."

See Detective Karl Sauer (T:623, 650, 666-672) these pages mention the ("Newport Cigarette") drop at the crime scene by the (Perpetrator) that State Ms. Olney * * * [DESTROYED EXCULPATORY DNA EVIDENCE OF THE PERPETRATOR] * * * during trial. Now, at the Police Station Detective Karl Sauer send (1)One of the Officer's to buy me something to eat, and smoke, " guest what was the name brand of the cigarette was (" Newport Cigarettes"), did Detective Sauer, (" planted that Newport Cigarette at the crime scene"), is that why, when I request DNA Testing on the Newport Cigarette, State Ms. Olney "destroyed it in open court."

This is the kind of trial defendant Truesdale haded August 28-31 of 2007 a set-up, even by my so call defense counsel Mr. Potts, somebody needs to ("NOTICE") the black court room Sheriff's Officer and get his statements how I was set-up ! ! !

ISSUE II

A. Rule 3.800(a) provides :

A court may at any time correct an illegal sentence imposed by it, or correct an calculated made by it in sentencing scoresheet, or a sentence that does not proper credit for time served when it is affirmative alleged that the record demonstrate on face of entitlement to that relief, provided that a party may may not file a motion to correct an illegal sentence during the pendence of a direct appeal. Fla. R. Cir. P. Rule 3.800(a).

Here, Truesdale argue pursuant to his Fla R. Cir. P. Rule 3.998(a) Criminal Punishment Code Scoresheet, sentence computation the maximum sentence provided in s. 775.082 F.S. is less than 363 points, a life sentence with 25 years mandatory minimum provisions could not been imposed, without illegally amending the Felony Information at trial.

B. Felony Information

1. State (Exhibit C: Felony Information) charge Truesdale with (2) Florida Statute 782.04(2)/775.087

§ 782.04 Murder

(2) The unlawful killing of a human being, when perpetrated by any act imminently dangerous to another and evincing a depraved mind regardless of human life, although without any premeditated design to effect the death of any particular individual, is murder in the second degree and constitutes a felony of the first degree, punishable by imprisonment for a term not exceeding life or as provided in s. 775.082, s. 775.083. or s. 775.084.

§ 775.087 Possession or use of weapon aggravated battery felony reclassification minimum sentence.

C. Amendment of Indictment

The alternation of the charging terms of a indictment, either literally or in effect, after the grand jury has made a decision on it. The indictment usu.can- not be amended at trial in a way that would prejudice the defendant having a trial on matters that were not contained in the indictment. To so would violate the defendant Fifth Amendment right to indictment by grand jury.

It is widely accepted that sentences for certain crimes have gotten too long and too expensive over the last forty years, increasing sentences far above what the sentencing method of the current Criminal Punishment Code (CPC) code score called for. This is primarily due to the mandatory minimum sentence statutes (such as the 10-20-Life and the Prisoner Releasee Reoffender (PRR) laws) and the so-called enhancement statutes which reclassify and increase the degree punishment of a crime (such as a deadly weapon during a crime and the Habitual Felony Offender law) that enacted over time. By now repealing those statutes and applying them retroactively to prisoners previously sentenced, sentences could be reduced to what the proper sentence would have been at the time of sentencing (without mandatory minimums or enhancements).

Here, the State responded: ORDER DENYING DEFENDANT'S "MOTION TO VACATE, SET ASIDE, OR CORRECT AN ILLEGAL SENTENCE" July 02, 2018 is in conflict with their case's cited, and Truesdale case's cited, with bring a ("Question of Great Public Importance") to the State of Florida, highest court, the Supreme Court of Florida, (citing Bienaime v. State, 213 So. 3d 927 (Fla. 4th DCA 2017), Denegal v. State, 263 So. 3d 842 (Fla. 5th DCA 2019), and Espinoza v. State, _____ So. 3d _____ (Fla. 5th DCA 2019).

To pursue an enhanced mandatory sentence as the 10-20-Life statute [prescribed] the state must alleged the grounds for enhancement in the charging document. Bienaime , (citing Lane v. State , So. 2d 206 (Fla 4th DCA 2008)). The statutory elements for such enhancement must be "precisely charge" in the information. Lewis v. State , 177 So. 3d 64, 65 (Fla. 2d DCA 2015) (quoting Davis v. State , 884 So. 2d 1058, 1060 (Fla. 2d DCA 2004)). "[I]f the state wishes to give notice of an enhancement by reference a statute in the charging document, the state must refer to the specific subsection which subjects the defendants to the enhanced sentence." Bienaime , 213 So. 3d at 939-30 (citing Inman v. State ,932 So. 2d 518 (Fla. 4th DCA 2006)). An information's failing to cite the specific statutory subsection, while simultaneously failing to precisely charge the elements, "cannot be cured by a jury's factual finding" Id. at 929 (citing Altieri v. State , 835 So. 2d 1183 (Fla. 4th DCA 2002)).

Hear , the information charge Truesdale in violation of Florida Statutes 782.04(2)/775.087 as written in (ISSUE II) State (Exhibit C: Felony Information). The statutory elements for enhancement must be "precisely charge" in the information since the information "did not precisely charge , nor cite the specific subsection for enhancement," Truesdale must be sentence pursuant to his Florida guidelines case, scored (of 246.15 months) after you removed the illegal enhancement score from the State of New Jersey, (city Mitchell v. State , 880 So. 2d 666 (Fla. App. 2 Dist. 2004).

Article I, Section 16, of the\ Florida Constitution, provides: In all criminal prosecution the accused shall, upon demand, be informed of the nature and cause of the accusation, and shall be furnished a copy of all charge... "This Court, citing centuries-old United States Supreme Court precedent, :
has stated that "to apprise the accused of the specific charge against him, an information or indictment must contain all facts essential to the 'offence intended to be punished." Insko v. State , 969 So. 2d 992, 995 (Fla. 2007) (quoting United States v. Carll , 105 U.S. 611, 612 (1881)). "Historically, the 'elements of a crime' are the facts 'legally essential to the punishment to be inflicted.' " Id. (quoting Harris v. United States , 536 U.S. 545, 561 , 122 S. Ct. 2406 (2002)).

In addition to the violation of a defendant right to be fully informed of the charges against him under Article I, Section 16, of the Florida Constitution, a defendant right to due process under Article I, Section 9, is denied when there is a conviction on a charge not in the information or indictment'. Due process of law requires the state to allege every essential element when charging a violation of law to provide the accused with sufficient notice of the allegations against him. Art. I, 9, Fla. Const. M.F. v. State , 583 So. 2d 1383, 1386-87 (Fla. 1991). There is a denied of due process when there is a conviction on a charge not made in the information or indictment. See State v. Gray , 435 So. 2d 816, 818 (Fla. 1983). See also Thornhill v. Alabama , 310 U.S. 88, 60 S. Ct. 736 (1940) De Jonge v. Oregon , 299 U.S. 353, 57 S. Ct. 255 (1937). For an information to sufficiently advice the accused of the specific crime with which he is charged . See Rosin v. Anderson , 155 Fla. 673, 21 So. 2d 143, 144 (Fla. 1945). Generally the test for granding relief based on a defect in the information is actual prejudice to the fairness of the trial. See Gary v. State 435 So. 2d at 818 (citing Lackos v. State , 339 So. 2d 217 (Fla. 1976). Price v. State , 995 So. 2d 401, 404 (Fla. 2008) (some parallel citations omitted). "[A]n information is fundamentally detective where it fails to cite a specific section and totally omits an essential element of the crime ." Figueroa v. State , 84 So. 3d 1158 ,1161 (Fla. 2d DCA 2012).

"[A]n information is fundamentally defective where it fails to cite a specific section and totally omits an essential element of the crime.Figueroa v. State , 84 So. 3d 1158, 1161 (Fla. 2d DCA 2012)."

In addition to the constitutional bases of both , Article I, Section 16, of the Florida Constitution pertaining specifically to the charging documents , and the general protection of due process of law under Article I, Section 9, of the Florida Constitution, the Florida Rules of Criminal Procedure address the issue specifically Florida Rule of Criminal Procedure 3.140(d)(1) requires that an information allege all "essential facts" of each crime charged as well as the statutory citation for each crime.

Petitioner Truesdale seek relief from custody of conviction /or indictment because the State (Exhibit C: Felony Information) as charged "did not charge" Truesdale with the " specific subsection " of the 10-20-Life statutes, in the information charged, or 775.07 non-exist statute, with subject Truesdale's to an enhanced sentence.

Truesdale argue pursuant to his State of Florida Rule 3.998(a) Criminal Punishment Code Scoresheet, sentence computation the maximum sentence provided in s. 775.082 F.S. is less than 363 points, a life sentence with 25 years mandatory minimum provisions could not be imposed, with - out illegally amending the Felony Information at Tried.

State responded: ORDER DENIEDING DEFENDANT'S "MOTION TO VACATE, SET ASIDE, OR CORRECT AN ILLEGAL SENTENCE" is in conflict with their case's cite and Truesdale case's cite, again , see Bienaime v. State, 213 So. 3d 927 (Fla. 4th DCA 2017), Denegal v. State, 263 So. 3d 842 (Fla. 5th DCA 2019), and Espinoza v. State, _____ So. 3d _____ (Fla. 5th 2019).

State (Exhibit C: Felony Information) did not charged Truesdale with the 10-20-Life statute [prescribed] were the state must alleged the grounds for enhancement in the charging document, Bienaime, (citing Lane v. State, 996 So. 2d 206 (Fla. 4th DCA 2008). The statutory elements for such enhancement must be "precisely charge" in the information. Lewis v. State, 177 So. 3d 64, 65 (Fla. 2d DCA 2015)(quoting Davis v. State, 884 So. 2d 1058, 1060 (Fla. 2d DCA 2004).

D. VERDICT (form)

WE, the Jury, find as Follows:

(√). A. The defendant is guilty of MURDER IN THE SECOND DEGREE, as charged in the information.

(√) 1. The defendant did actually possess and discharge a firearm during the commission of the offense, causing death or great bodily harm.

Again, the felony information charge the defendant by shooting into a residence with a shotgun, contrary to Chapter 782.04(2)/775.087 Florida Statutes.

The VERDICT (form) as defined, the jury did not find defendant Truesdale guilty of shooting into a residence with a shotgun.

An information's failing to cite the specific statutory subsection, while simultaneously failing to precisely charge the elements, cannot be cured by a jury's factual finding. Id. at 929,(citing Altieri v. State, 835 So. 2d 1183 (Fla. 4th DCA 2002).

The State of Florida ". . . cannot sentence Truesdale to actually possess and discharge a firearm during the commission of the offense, causing death or great bodily harm . . . . " Were the State (Exhibit C: Felony Information) charged Truesdale (" by shooting into a residence with a shotgun "), the jury cannot find me guilty on an elements not charge in the state felony information charge.

Harris v. United States, 536 U.S. 545 (2002), Harris was overruled by Alleyne v. United States, 570 U.S. 99 (2013), which held, that any fact that increase a mandatory minimum sentence is an element of the crime and must be submitted to the jury and proven beyond a reasonable doubt. Id. at 103.

White v. State, 31 So. 3d 816 (Fla. App. 2010), Defendant convicted of second degree murder with a firearm, filed petition alleging ineffective assistance of counsel, based on appellate counsel's failure to argue that trial court committed per se reversible error.

HOLDING: The District Court of Appeal, Morris, J., held that trial counsel's violation of criminal rule governing the reading of trial testimony or the giving of additional instructions to the jury was per se reversible error. West's F.S.A. RCrP. Rule 3.410 see Van Loan v. State, 872 So. 2d 330 (Fla. 2d DCA 2004), determined that postconviction relief was warranted due to counsel's failure to object when the court provided the jury with incomplete jury instruction for use during deliberations, in violation of Florida Rules of Criminal Procedure Rule 3.400(a)(3).

ILLEGALLY TRANSFER TO CUSTODY

The State of Florida, also : charges , trial and indicted, WILLIAM JAMEL TRUESDALE (" Not") WILLIAM JAMES TRUESDALE .

APPENDIX G:

Appellant Exhibit A : TRIAL TRANSCRIPT PROCEEDINGS : (T:1) Jury Trial Volume I, Case NO.CRC05-2500CFANO August 28, 2007
STATE OF FLORIDA
v.
WILLIAM JAMEL TRUESDALE
Defendant

APPENDIX H :

Appellant Exhibit B : STATE OF FLORIDA
UNIFORM COMMITMENT TO CUSTODY
OF DEPARTMENT OF CORRECTIONS
The Circuit of Pinellas in the Spring Term , 2007 in the case of
UCN 522005CO25009XXXXNO. Ref No.(s) CRO05-25009CFANO
State of Florida
vs
WILLIAM JAMEL TRUESDALE SPN : 01946022
Defendant

IN THE NAME AND BY THE AUTHORITY OF THE STATE OF FLORIDA, TO THE SHERIFF OF SAID COUNTY AND THE DEPARTMENT OF CORRECTIONS OF SAID STATE, GREETING :

THE above named defendant having been duly charged with a offense specific herein in the above styled Court, and he having been duly convicted and adjudged guilty of and sentenced for said offense by said Court, as appears from the attached certified copies of Indictment/Information, Judgement and Sentence, and Felony Disposition and Sentence Data from which are hereby made part hereof:

The above (a/k/a) of WILLIAM JAMEL TRUESDALE , means the State of Florida haded ("No Subject Matter Jurisdiction / To - Wit") making the duly convicted and adjudged guilty of and sentenced , ("void/or null") and WILLIAM JAMES TRUESDALE, is being illegally detained in custody by the State of Florida and Florida Department of Corrections .

* See (Doc. 1, Pg. 42) Issue II Truesdale petition it pertinent in relevant part Appendix H:

STATE OF FLORIDA UNIFORM COMMITMENT TO CUSTODY OF DEPARTMENT OF CORRECTIONS:

State of Florida Ref. No.(s) CRC05-25009CFANO
vs
WILLIAM JAMEL TRUESDALE SPN:01946022

Petitioner William James Truesdale "illegally" UNIFORM COMMITMENT TO CUSTODY OF DEPARTMENT OF CORRECTIONS, by the State of Florida, Florida Department of Corrections and now Sheila Baker, Warden DeSoto Correctional Institution Annex 13617 S.E. Hwy 70 Arcadia, Florida 34266-7800.

That the Trial Court and Prison Officials have violated 944.17(5), Fla. Stat. by a trial of me, and admitting me, William James Truesdale in and (A/K/A Name) of William Jamel Truesdale inwith is (NOT) my Legal Birth Name.

I should be transferred back to the custody of the sentencing court, based on the facts I was admitted to the Department of Corrections on the basis of an incomplete Uniform Commitment to Custody Form. That prison officials should have never accepted me William James Truesdale into custody in the first place, in (2007).

See Sykes v. State, 974 So. 2d 1133, 2008 Fla. App. LEXIS 18052008 Fla. App. LEXIS 1805, 33 Fla. L Weekly D 46233 Fla. L. Weekly D 462 CASE NO. 1DO7-2363

Judges: VAN NORTWICK, LEWIS and THOMAS, J.J., CONCUR. CASE SUMMARY PROCEDURAL POSTURE: Appellant inmate filed a petition for writ of habeas corpus against appellees, Florida and warden, alleging a prison had violated 944.17(5),Fla. Stat., by admitting him on the basis of an incomplete Uniform Commitment to Custody Form. The Baker County Circuit Court (Florida) dismissed the petition. The inmate appealed. Assuming arguendo that an inmate's claim that a prison violated 944.17(5), Fla. Stat., by accepted custody of him was within the jurisdiction of the habeas court, etc.

OVERVIEW: The trial court denied the petition on grounds, inter alia, that the inmate's arguments were a collateral attack on his judgment and sentence. The appellate court agreed that a habeas corpus lacked the authority to consider such attacks. However, the inmate's arguments under 944.17(5) did not constitute a collateral attack on his judgment and sentence, as he did not request any change in them. Instead, he requested that he be transferred back to the custody of the sentencing court, based on his argument that the prison never should have accepted him into custody in the first place.

OUTCOME: The appellate court affirmed the order and ruled that the inmate could file a new petition in the habeas court if he could demonstrate that he exhausted all administrative remedies.

{974 So. 2d 1134} PER CURIAM:
We disregard the Department of Corrections' motion for rehearing or certification, which was filed by an attorney who is not of record in this case, because it is a legal nullity.

See Bortz v. State, 675 So. 2d 622, 624 (Fla. 1st DCA 1996). Accordingly, we deny Melvin Sykes' motion to strike, an moot. On our own motion, however, we withdraw our previous non-final opinion and substitute the following for the purpose of clarification.

See Carthane v. Crosby, 776 So. 2d 964, 965-66 (Fla. 1st DCA 2000)(considering the merits of a petition for writ of habeas corpus that alleged DOC had violated section 944.17(5)). Appellant did not request any change in his judgment or sentencing court, based on his argument that the Baker County Correctional Institution never should have accepted him into custody in the first place.

Again, William James Truesdale (NOT) William Jamel Truesdale states that DOC should never accepted him into custody in the first place, based on an (" Incomplete Uniform Commitment to Custody Form) in violation 944.17(5), Fla. Stat., (2007) try in a A/K/A name given to me by the State of Florida and the prosecuting office.

ISSUE III

768.28 Waiver of sovereign immunity in tort actions recovery limitation on attorney fees statute of limitations exclusions indemnification risk management programs. - -

See Truesdale Appellant Exhibit C:

REGISTER OF ACTIONS
Case No. 0525009CFANO

STATE OF FLORIDA vs. TRUESDALE, WILLIAM JAMEL

Case Type: FELONY
Date: 12/19/2005
Location: Division B
Judicial Officer: ANDREWS MICHAEL F
Case Number History: CRC0525009CFANO
UNIFORM CASE NUMBER: 522005CF025009XXXXNO

FILED: 08/28/2009 LOGGED: 08/31/2009
DEFENDANT'S TRUESDALE'S:

NOTICE/INTENT TO SUE/WAIVER OF SOVEREIGN IMMUNITY/NOTICE OF INTENT TO PURSUE CRIMINAL CHARGES and CRIMINAL INDICTMENTS/NOTICE OF INTENT TO PURSUE CIVIL ACTION WAIVER/NOTICE OF INTENT TO PURSUE CHARGE and OF EVIDENCE OF FALSE TESTIMONY BY STATE WITNESSES/NOTICE OF INTENT TO PURSUE CHARGES and INDICTMENTS AGAINST STATE WITNESSES OF FALSE STATEMENTS and PERJURY BY CONTRADICTORY STATEMENTS/NOTICE TO INTENT TO PURSUE CRIMINAL CHARGE and INDICTMENT OF SUBORNATION OF PERJURY and DEPRIVATION OF RIGHTS UNDER COLOR OF LAW - -

You notice it shows : State of Florida vs. Truesdale, William Jamel, I do believe Michael F. Andrews is the individual whom illegally chance my (" NAME ") from Truesdale, William James and gave me this A/K/A and Bernie McCabe State Attorney Pinellas County, Florida

Again, see Allen v. McCurry, 499 U.S. 90, 95-96 (1980). The Court of Appeals for the Eight Circuit, 606 F. 2d 795, reversed and remanded. Certiorari was granted. The Supreme Court, Justice Stewart, held that: (1) rules of collateral estoppel applied to actions brought under Civil Right Act of 1871 and encompass state-court judgments or decisions, be they civil or criminal, and (2) fact that under Stone v. Powell, 428 U.S. 465 (1976), plaintiff was unable to obtain federal habeas corpus relief on Fourth Amendment claim did not render doctrine of collateral estoppel inapplicable.

A. Civil Rights

Main goal of Civil Rights Act of 1871 was to override the corrupting influence of the Ku Klux Klan and its sympathizers on the government and law enforcement agencies of the Southern States and one strong motive behind its enactment was great Congressional concern that the State Court had been deficient in protecting federal rights. 42 U.S.C.A. 1983.

In Florida, personal injury claims are governed by Florida Statutes 768, which provides for a prescriptive period of four (4) years from the date of injury or damage, control by Truesdale August 28, 2009 SUE/WAIVER " . . . not detain or still pending . . . " in the trial court, (citing Wallace v. Kato, 549 U.S. 384 ( ) Wilson v. Garcia, 471 U.S. 261, 275, 105 S. Ct. 1938 (1985) Jacobsen v. Osborne, 133 F. 2d 315, 319 (5th Cir. 1998), Moore v. McDonald, 30 F. 3d 616, 620 (5th Cir. 1994)

Because there is no federal statute of limitations for § 1983 claims, the district court looks for comparison to the forum states statute of limitations for personal injury claims. In Florida, personal injury claims are governed by Florida Statutes 768, which provides for a prescriptive period of four (4) years from the date of injury or damage, control by Truesdale August 28, 2009 Sue/Waived "not detain" or "still pending" in the trial court citing Wallace v. Kato, 549 U.S. 384 ; Wilson v. Garcia, 471 U.S. 261, 275, 105 S. Ct. 1938 (1985) Jacobsen v Osborne, 133 F. 3d 315, 319 (5th Cir. 1998) Moore v. McDonald , 30 F. 3d 616, 620 (5th Cir. 1994) Elzy v. Roberson, 868 F. 2d 794 (5th Cir. 1989).

On the other hand, federal law determines when a § 1983 occrues. Moore 30 F. 3d at 620. In the context of such a claim for wrongful arrest and confinement, it is this petitioner knowledge of those two events that trigger the limitation period.

The date when the Clerk of Court receives the complaint, rather than the formal filing date, usually establishes the time of filing in forma pauperis complaints. Martin v. Demmer, 831 F. 2d 69, 71 (5th Cir. 1987). However, in the pro se prisoner context, a "mailbox rule " applies, so that the date when prison officials received the complaint from the prisoner for delivery to the Court is considered the time of receive, is considered the time of filing for limitations purposes, citing United States v Petty, 530 U.S. 361, 368 n. 1 (5th Cir. 2008) Cooper v. Brookshire, 20 F. 3d 377, 375 (5th Cir. 1995).

In addition to applying the form state's statute of limitations federal court should give effect to any applicable tolling provisions provided by state law, Lopez-Vences , 74 F. App x at 398; Clifford v. Gibbs, 298 F. 3d 328,1333 (5th Cir. 2002) Gertrell , 981 F. 2d at 257. The running of prescription under Florida law may be suspended or tolled for equitable reasons, which have been expressed in the civilian legal principle of contra non valentem. Under the theory, there are four situations in which the four-years prescriptive period for delictual actions will not run. 1) if there was some legal cause which prevented the court or their officers from taking cognizance of or acting on the plaintiff's action 2) if their was some condition coupled with the contract or connected proceeding which prevented the creditor from suing or acting 3) if he debtor himself has done some act effectually to prevent the creditor from availing himself of his course (2011 U.S. Dist. LEXIS 15) of action, and 4) if the cause of action is not known or reasonably knowable by the plaintiff, even though his ignorance is not induced by the defendant(s).

B. -- TOLLED -- Case

1. Here, again, Petitioner Truesdale criminal conviction Case No. 0525009 CFANO was (TOLLED) August 28, 2009 the day and date I filed my "Notice of Intent to Sue/Waiver of Sovereign Immunity" " ... Never Detain ; or Responded Too, by the Trial Court .... " Truesdale's (" PETITION FOR A EXTRAORDINARY WRIT OR WRIT OF CERTIORARI OR HABEAS CORPUS" OR MANDAMUS OR WRIT OF PROHIBITION "). The Supreme Court of Florida Case No. SC20 -- 556 should have been "detain it on it's legal merits" by Supreme Court of Florida " and the Supreme Court of Florida should have drop Truesdale (" Sued/Waiver ") still ("PENDING") back down to the Sixth Judicial Circuit Court Pinellas County, Florida (trial court) with instruction for that Court to " Detain " my (" Sue/Waiver ") still ("PENDING").

(AMENDED)

QUESTION OF GREAT PUBLIC IMPORTANCE

Petitioner Truesdale states Supreme Court of Florida haded (" Subject Matter Jurisdiction ") to have response's to his original petition(s) : 1) Petition for Writ of Certiorari No. SC09 - 803 Date 4/24/09 2) Petition for Writ of Certiorari / Petition for Writ of Error Coram / Petition for Writ of Error Coram Nobis No. SC10 - 763 Date 4/12/10 3) Petition for Writ of Certiorari No. SC12 - 2683 Date _____ 4) Petition for A Extraordinary Writ or Writ of Certiorari or Habeas Corpus or Mandamus or A Writ of Prohibition No. SC20 - 556 Date 4/13/20 etc.

Inadequacy of original filed Brief :

As previously set forth, the appeal herein was perfected by assigned appellate counselor's. During the period between the date counselors was assigned and the date upon which the original appeal was perfected, my assigned appellate counselor's did not discuss the specific issues which would be included and not included in the original brief ; and I was not notify, or did not have the opportunity to review the original brief prior to its submission to the Court. The brief, as submitted, did not present well - reasoned preserved arguments to the appellate court (variable : demonstrate arguments preserved were not included in the original brief).

Truesdale's original appeal , counselors did not raise well - reasoned preserved argument on (racial animosity or racial bias in the jury selection). That should been raise by the two assigned appellate counselor's that Truesdale even filed a (Notice of Appeal) trying to raise the issues after he received a copy or the " original brief of appellant appeal " on his Batson Objection or Neil Objection preserved at trial, it was stricken by the District Court of Appeal Case No. 2D07 - 4430 and the assigned appellate counselor's did not even try to (Amended) their original brief of appellant appeal, to amended Truesdale Batson Challenge or Neil Inquiry preserved at trial.

See Lanfranco v. Murray, 313 F.3d 112, 118 (2nd Cir. 2002), which notes: "The Sixth Amendment right to effective assistance of counsel can be violated if counsel failed to raise a significant and obvious state law claim. Also Mayo v. Henderson, 13 F.3d 528, 533 (2nd Cir. 1994) : cf. Sellan, 261 F.3d at 310 where the court reviewed a habeas claim that appellate counselor failed to raise a state law challenge to the trial court's jury charges.

It is well established that every criminal defendant has a due process right to effective assistance of counsel on his or her direct appeal from convention. Evitts v. Lucey, 469 U.S. 387 (1985). This requires appellate counsel to act as an advocate, not merely appellant brief , but to marshal legal arguments on the appallant's behalf in order that he might have a full and fair resolution and consideration of his appeal. Anders v. California, 386 U.S. 738 (1967) Douglas v. California, 372 U.S. 353 (1963) Ellis v. United States, 356 U.S. 674 (1958). This also "requires that he support his client's appeal to the best of his ability". Anders v. California, supra, at 744, and the brief he and she , submits must reflect more than " a detached evaluation of the appellant's claim" Evitts v. Lucey, supra, at 394. Appellate counselor's failure to present the omission of a meritorious claim, particular claim's in question "undermine confidence in the outcome" of the original direct appeal. Mayo v. Henderson, supra, at 534.Even though, based apon the law in existense at the time, they could have done so. As a result, Truesdale assigned appellate counselor's did not afford him the quality or representation which he was constitutionally entitled by ignoring meritorious issues.

CONCLUSION II

Newport Cigarette Defendant Exhibit No. 2 In Evidence Copy - Photo of Business Card and Cigarette on Ground. See Defendant Exhibit 5 Copy - Photo Car Seat W/Items: Metal Tool, Lottery Tickets, Lighter and 305 Cigarette Pack. At Trial State Ms. Olney introduce into evidence the Newport Cigarette , drop at the crime scene by the "Perpetrator " I ask to see all 180 Photographs, and introduce No. 5 in evidence the 305 Cigarette proven I smoked 305's not Newport's . Ms. Olney, took the Newport Cigarette after I requested DNA Testing , back out the * * * [Aluminum - Foil] * * * in open court, in present of the juror's , (" throw it on the floor, crushing it up, with her foot, looking at me laughing "). While Judge Day , Aaron Slavin State , Janet Hunter-Olney State, Gary L. Potts Defense Atty ,the Court-room Reporters, all Laughing, except the Black Sheriff Officer ,sitting next to me, [DESTROYING EXCULPATORY DNA EVIDENCE OF THE PERPETRATOR] .

Pursuant to prosecution" Destroying Exculpatory DNA Evidence of the Perpetrator in open Court , framing Truesdale for a crime he did not committed Denieding Truesdale's Defendant's Motion for Records and Records from Attorneys chapter 119 Public Record's Act (4)/ 5 U.S.C.A. 552 Freedom of Information Act (FOIA) the Jail Visitation Tapes being denied the Court Reporters (In Person, In Court Tapes) being denied the fingerprint of Verlet Smith recover on the brass portion of the shell casing used at trial to set-me -up, I'm being denied as well as the Batson/ Neil Objection at trial (Black-Male) trial by a jury drawn and impaneled of Seven (White - Females) in violation of the Act of Congress cites in the body of this petition , etc.

Truesdale asserts that the right not to be framed by law enforcement and prosecutions agents was clearly established in contrast, to Haley v. City of Boston , 657 F. 3d 39, 47-49 (1th Cir. 2011), prior to 1972 that the due process clause protects against the deliberate suppression of evidence.

In Truesdale's case (quoting Limone v. Condon , 372 F. 3d 39 (1th Cir. 2004), the first circuit explained that "if any concept is fundamental to our American system of Justice, it is that those charged with upholding the law are prohibited from deliberately fabricating evidence and framing individuals for crimes they did not commit.

More than 51years ago in (1967) the United States Supreme Court held, that the Fourteenth Amendment cannot tolerate a state criminal conviction obtained by the knowing use of false evidence. Mooney v. Holohan , 294 U.S. 103, 55 S. Ct. 340. There has been on deviation from that established principle. Napue v. People of State of Illinois , 360 U.S. 264, 79 S. Ct. 1173 Pyle v. State of Kansas , 317 U.S. 213 , 63 S. Ct. 177 cf. Alcorta v. State of Texas , 355 U.S. 28 , 78 S. Ct. 103. Their can be no retreat hear, from these principle in Truesdale's conviction obtain through false evidence .

And Defense Attorney Mr. Gary Lee Potts, P.A. setting me-up at trial as the (Third Prosecutor for the Victim) specialy with state witness Sharon Marcus saying : (" Let me, see him, get out of this , turning to Judge Day Laughing , Repeating Himself, Let me, see Him, get out this one ") while the Assistant State Attorneys and Courtroom all (Laughing) except the Black Courtroom Sheriff , saying to me, boy that Lawyer is setting you up !!!

Amended to COCKLE LEGAL BRIEF and Re : Affidavit – filed by
R. Michael Hursey, P.A. (Law Firm) :

I also explained how Trial Judge Day, daughter haded a new born baby girl, August 27, 2007 day before Truesdale Trial August 28, 2007. How Judge Day was showing (" Pictures ") of his new granddaughter on his Court Computer System. How he also during Juror Questionnaire Voir Dire, when I, objected to Ms. Olney " racial profile strike against Ms. Jamal Juror No. 8, Judge Day stated : (" We got to remove, people like you, from society, so my new born granddaughter , will be safe "). How the State Attorney's Mr. Aaron Slavin, Ms. Janet Hunter-Olney, Defense Attorney Mr. Gary L. Potts , and the Courtroom, all started ("Laughing ") , except the ("Black") Sheriff Officer sitting next to me. How the Court Reporters ("Alter or Docket") the Trial Transcript Proceedings Transcribed to cover-up their set-up at trial.

This is why I'm being " Denied" the Trial Court (" In Person, In Court , Court Reporters Tapes") because all this is on those original trial proceedings I'm being denied to (Re-Transcribe) my entirely trial .

C. Other Issues in Briefs

Truesdale has two other issues analyzed by other cases decided by this Court, in which there is a split among the circuits. First, a Florida Department of Law Enforcement ("FDLE") agent testified at trial about a comparison of the pellets fired by the shotgun, and a shotgun shell found in the sleeper compartment of a certain truck (T:534 et seq.). But this goes agaiy this Court's ruling regarding current scientific findings refuting prior FBI "theories that a bullet used in a crime, could be analyzed and chemically matched with a specific box of bullets. Maryland v. Kulbicki, 136 S.Ct. 2 (2015) (finding comparative bullet lead analysis evidence is not accepted by the scientific community and was therefore not probative). See also Paul G. Giannelli, Comparative Bullet Lead Analysis : A Retrospective, Faculty Publications, Paper 97, Case Western Reserve School of Law (2010), http://scholarlycommons.law.case.edu/faculty_publications/97.

Second, the State provided materials per Brady v. Maryland, 373 U.S.83 (1963) and Giglio v. United States, 405 U.S. 150 (1972) on the first day of trial. A shotgun shell with a fingerprint on it (possibly showing Truesdale's nephew was the shooter) , should have been provided by FDLE sooner during discovery (T:534 et seq.). Also, FDLE provided a toxicology report showing the victim (and her friend present at the shooting) had recently smoked marijuana before the shooting incident. This was important because it could have been used to attack the credibility of statements allegedly made by both (plus certain trial testimony) concluding that Truesdale was the shooter.

First, the shotgun shell, was in the semi -cab sleeper with the (" fingerprint on the brass portion of the shell casing ") of Verlet Smith, whom was the original owner of the semi- cab, before I got it ,was working on it, I never clean nothing out the sleeper part of the semi-cab truck, because I was still working on it, to put it back long distance over the road. I was going back and fore to numerous of "Doctors" for the "open in my right leg".

Second, the shotgun, was given to the Police by Leroy Johnson, it came from his resident and belong to him, or Verlet Smith, they used to set-me-up, after Leroy Johnson clean all his, or Verlet Smith fingerprints off the shotgun for the (Deals) on Jermaine Smith cases.

CONCLUSION III

Petitioner Truesdale April 11, 2021 ("PETITION") enclosed shows numerous of APPENDIXES) listed on the TABLE OF CONTENTS - Continued 'Index Page iv and Page v Filed in Truesdale (Doc.1) were I have only re-copy a few appendies, because they are already Filed in the Courts, and available on the courts Web-sites or by request by this Honorable court Justices.

RELIEF SOUGHT

That the Justices of the Supreme Court of the United States place my "PETITION" on this court Docket, for review on it Legal Merits, and GRANTED this petitioner PETITION FOR A WRIT OF CERTIORARI.

Alternatively, Forwarded it back to your lower Court's, to Granted this petitioner Truesdale a ("COA") on the Issues or Questions) Presented on its legal merits of this "PETITION," BASES AND CONSTITUTIONAL GROUNDS" addressed in my petitions, as well as the Acts) of Congress's raised,