No. 22A526

IN THE
SUPREME COURT OF THE UNITED STATES

JEFFERY T. CRYSTAL – Petitioner

vs.

STATE OF FLORIDA – Respondent(s)

on

PETITION FOR WRIT OF CERTIORARI

to

FIRST DISTRICT COURT OF APPEAL STATE OF FLORIDA

(Name of Court that last ruled on the merits of your case)

PETITION FOR WRIT OF CERTIORARI

JEFFERY T. CRYSTAL
FDOC #T40726
JEFFERSON CORRECTIONAL INSTITUTION
1050 BIG JOE ROAD
MONTICELLO, FLORIDA 32344

QUESTION(S) PRESENTED

I. Did the "verdict form" agreed upon by the jury failure to specify "GUILTY" as to Count 1 violate 6th Amendment right to a jury determination of Guilt?

II. Did trial court's instruction to jury on uncharged alternative theories violate right to trial by jury, right to be informed of criminal charges and double jeopardy?

III. Did the Okaloosa State Attorney filing vague criminal charges retrospectively interfere with constitutional right to legal contracts contravene ex post facto clause and Supremacy clause?

LIST OF THE PARTIES

[ ] All parties appear in the caption of the case on the cover page.

[√] All parties do not appear in the caption of the case on the cover page. A list of all parties to the proceedings in the Court whose judgment is the subject of this petition is as follows:

Office of the Attorney General of Florida

PL-01 The Capitol

Tallahassee, Florida 32399-1050

Kristina Samuels

Clerk First District Court of Appeal

2000 Drayton Drive

Tallahassee, Florida 32399-0950

IN THE

SUPREME COURT OF THE UNITED STATES

CERTIFICATE OF INTERESTED PERSONS AND CORPORATE DISCLOSURE STATEMENT (CIP) AS REQUIRED BY RULE 29.6

In alphabetical order, with one name per line, please list all trial judges, attorneys, persons, associations of persons, firms, partnerships, or corporations that have an interest in the outcome of this case or appeal, including subsidiaries, conglomerates, affiliates, parent corporations, any publicly held corporations that owns 10% or more of the party's stock and other identifiable legal entities related to a party.

1. Attorney General of Florida
2. Judge John Brown
3. Scott Clines, Esq.
4. Ginger Madden State Attorney
5. Judge William F. Stone

ALL PROCEEDINGS IN STATE AND FEDERAL

TRIAL AND APPELLATE COURTS

I. First District Court of Appeal

Case No: 1D22-1571

Date Judgment entered: Petition for Writ of Habeas Corpus alleging plain-error and an illegal detention dismissed on August 10, 2022

II. Motion for Rehearing: Denied on September 30, 2022

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Appendix L	Original copy judgment and sentence reflects sentence for first degree felony – illegal detention and violation of 8th Amendment.
Appendix M	Exhibit inventory sheet showing Retail Buyers Order as states Exhibit 3. State Attorney withheld exculpatory evidence of paragraph H. Also see Retail Buyers submitted to evidence and Arrasola v. MGP Motor Holdings paragraph H example.
Appendix N	True and correct copy of petition for Writ of Habeas Corpus alleging plain error and entitlement to immediate release from an illegal detention denied on August 10, 2022.
Appendix O	Motion for Rehearing pursuant rule 9.330(a) Court overlooked and misapprehended controlling points of law and facts denied on September 30, 2022.

Appendix P	Trial transcripts page 293 prosecutor arguing mileage and joyriding in opening and closing argument. Appellate counsel being ineffective arguing the State using mileage and joyride to prove intent, however the State used mileage and joyride to allege uncharged theory of Grand Theft Auto in conjunction with the misleading jury instruction. "Criminal intent is for a jury to decide". "Misstatement of law is for a Court to decide."
Appendix Q	Original copy of affidavit of complaint showing the complainant acknowledged a legal contract to purchase a vehicle.

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CITATIONS OFFICIAL AND UNOFFICIAL OPINIONS

IN THE

SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

OPINIONS

[ ] For cases from Federal Courts:

The opinion of the United States Court of Appeal appears at Appendix N/A to the petition and is;

[ ] reported at _____; or,

[ ] has been designated for publication but is not yet reported; or,

[ ] is unpublished.

[ ] For cases from State Courts:

The opinion of the highest State Court to review the merits appears at Appendix N/A to the petition and is;

[ ] reported at _____; or,

[ ] has been designated for publication but is not yet reported; or,

[ ] is unpublished.

JURISDICTION

[ ] For cases from Federal Courts:

The date on which United States Court of Appeal decided my case was: N/A.

[ ] No petition for rehearing was timely filed in my case. N/A.

[ ] A timely petition for rehearing was denied by the United States Court of Appeal on the following date. N/A.

[ ] An extension of time to file the petition for Writ of Certiorari was granted to and including N/A on N/A.

[X] For cases from State Courts:

The date on which the highest State Court decided my case was August 10, 2022. A copy of that decision appears at Appendix A.

[X] A timely petition for rehearing was thereafter denied on the following date: September 30, 2022. A copy of the order denying rehearing appears at Appendix B.

[X] An extension of time to file the petition for Writ of Certiorari was granted to and including January 28, 2023 on December 14, 2022 in application No. 22A526.

The jurisdiction of this Court is invoked under 28 U.S.C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

I. The Constitution of the United States

Article VI Clause 2

. . . This Constitution, and laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land: and the judges in every state shall be bound thereby, anything in the constitution or laws of any state to the contrary notwithstanding.

II. Amendment I

Congress shall make no law . . . abridging the freedom . . . to petition the government for redress of grievances.

III. Amendment V

. . . This case involves the Fifth Amendment Due Process Clause obligatory upon states via 1868 adoption of the Fourteenth Amendment, that also embodies the Equal Protection Clause, procedural due process and substantive due process. "Which concerns the fairness and lawfulness of decision making methods used by the courts and the executive branch."

. . . Government actors violate due process when they frustrate the fairness of proceedings. Such as when a prosecutor fails to disclose evidence to a criminal defendant that suggest they may be innocent of the crime, i.e., failure of the prosecutor to disclose paragraph H of retail buyers order. Or when a Judge is biased against a criminal defendant, i.e., charging the jury with a Grand Theft of a Motor Vehicle instruction uncharged and

illegally sentencing petitioner to thirty (30) years which exceeds the statutory maximum for Grand Theft of a Motor Vehicle. The Court also attributes to due process clause a notice requirement that applies to statutes rather than executive and judicial action. A statute that is extremely unclear can be, in the Court's terms, void for vagueness. This is because it does not provide sufficient notice, i.e., the prosecutor formally charging Grand Theft over $100,000 812.014(1)(a) and (b) and (2)(a) . . . however at trial presenting evidence argument and jury's instructions for the uncharged statute of Grand Theft of a Motor Vehicle 812.014(2)(C)6 that was not charged thus exposing petitioner to double jeopardy. See Cole v. Arkansas, 92 L.Ed. 644 333 U.S., 196-202 (1948).

IV. Amendment VI

. . . This case involves the right to a trial by jury which includes a right to a unanimous verdict in Federal and State Court trial, i.e., Petitioner's case was presented to the jury on evidence and argument on the uncharged theory of Grand Theft of a Motor

Vehicle and the unconstitutional charged theory of Grand Theft over $100,000.

. . . Right to be informed of the criminal charge, i.e., Petitioner was left in the dark about exactly the crime with which he was charged. Grand Theft over $100,000 812.014(1)(a) and (b) and (2)(a) formally charged; or Grand Theft of a Motor Vehicle 812.014(2)(C)6 uncharged however evidence, argument and jury instructions charge Grand Theft of a Motor Vehicle.

. . . Right to assistance of counsel. Trial counsel failed to object to a fundamentally unfair trial – uncharged theory and because "Grand Theft of a Motor Vehicle was not charged or on the verdict form we have no way of knowing that Petitioner was not convicted on the basis of the unconstitutional Grand Theft of a Motor Vehicle – auto instruction." Sandstrom v. Montana, 442 U.S. 510, 61 L.Ed. 2d 39, 99 S.Ct. 2450 (1979).

. . . This case also involves the prosecutor arbitrarily withheld exculpatory evidence that is the reverse side of page two (2) of the prosecution's Exhibit 3 Retail Buyers Order ""RBO"" paragraph H, of the Arbitration and Limitation Acknowledgements governed by the Federal Arbitration Act 9 U.S.C.A. 1 et. seq..

. . . This case involves the Sixth Amendment right to a "jury determination of "Guilt" on every element of the crime with which he is charged, to and beyond a reasonable doubt." See Apprendi v. New Jersey, quoting United States v. Gaudin.

Petitioners verdict form is devoid of a determination of guilt pursuant to Count One (1) Grand Theft over $100,000 as charged. See Appendix G. Petitioner's sentence is unlawful.

V. Amendment VIII

Prohibition against cruel and unusual punishments;

Petitioner Crystal has been imprisoned based upon evidence – facts, arguments and jury instructions which constitute Grand Theft of a Motor Vehicle – auto. Fla.Stat. 812.014(2)(C)6.

"It is necessary to refer to the essential elements of the crimes as defined by State law." Wilcox v. Ford, 813 F.2d 1140, 1143 (11th Cir. 1987); see also Jackson v. Virginia.

Based upon Florida law when the property obtained is a vehicle the Florida legislative intent is Grand Theft of a Motor Vehicle – Auto. Regardless of fair market value of the "Vehicle". See Appendix K.

Petitioner is currently being illegally detained by an illegal sentence of 360 months . . . however the maximum sentence for Grand Theft of a Motor Vehicle – Auto is sixty (60) months which is punishment disproportionate to the particular elements of the crime. See Appendix K and L.

VI. Article I Section 9 Clause 2

Provides that the privilege of a Writ of Habeas Corpus, which allows a prisoner to challenge his or her imprisonment in Court cannot be suspended except in extreme circumstances such as rebellion or invasion, where the public is in danger.

VII. Ex Post Facto Clause Article I Section 9

The Supreme Court has held that the due process clause protects criminal Defendants against action by the judiciary that would contravene the ex post facto clause and supremacy clause.

This case involves the executive and judicial branches retrospectively charging and altering the definition of criminal conduct or increasing the punishment for buying a car and/or Grand Theft Auto. See Appendix Q, original copy of Affidavit of Complaint that confirms a legal contract, nothing in the complaint supersedes the arbitration and limitation acknowledgements and paragraph H governed by the Federal Arbitration Act.

STATEMENT OF FACTS AND CASE

On June 29, 2011 Porsche of Destin salesman/manager, Robert "Bob" Graubman called Petitioner via the phone in what Mr. Graubman described an end of month push to sell additional vehicles. Petitioner had previously visited and negotiated the price three (3) times prior to June 29, 2011 but was unable to reach a contractual agreement.

On June 30, 2011 Petitioner arrived at Porsche of Destin driving his 2010 Lincoln MKS that was not being traded. Petitioner and salesman Graubman negotiated a final sales price that included nine thousand dollars of accessories.

Petitioner executed a Retail Buyers Order Contract "RBO" with arbitration and limitation acknowledgements governed by the Federal Arbitration Act 9 U.S.C.A. 1 et. seq. . . . and a Retail Installment Sales Contract "RISC". The arbitration and limitation acknowledgements clause specifically states: The parties agree to submit all claims to binding arbitration as set forth in paragraph H. However, the prosecutor withheld the exculpatory evidence of paragraph H from

Petitioner in the discovery process and from all other parties including the Court and jury at trial. See Appendix M.

After execution of all contracts "RBO" and "RISC" that included a personal credit report and a Dun & Bradstreet Business Credit Report. Petitioner informed salesman Graubman he would return to take physical delivery of the vehicle on Saturday, July 9, 2011 after the transfer of funds was secure, and a friend could provide help with transportation to dealership to retrieve vehicle.

Saleman Graubman pleaded that he needed this sale to count for the month of June and today (June 30, 2011) was the last day of business for June. Salesman Graubman also stated that he could hold check for five (5) business days until the transfer of funds was complete . . . Porsche of Destin was a small market dealer and this delivery would help the dealership reach its bonus.

However, contrary to his words on Thursday, June 30, 2011 Porsche of Destin deposited Petitioners check on Friday, July 1, 2011. On Tuesday, July 5, 2011 Fidelity Investments phoned Petitioner to

inform him that a check in the amount of $109, 588.74 was attempting to clear Petitioner's Fidelity account and funds were not sufficient.

Petitioner immediately called Porsche Credit and requested to void his retail installment sales contract "RISC" and informed Mr. Graubman he was returning the vehicle.

On October 13, 2011 Okaloosa County Judge Grinsted issued a felony warrant for Grand Theft over $100,000 812.014(1)(a) and (b) and (2)(a) and; worthless check – for services goods, or things of value · $150 or more 832.05(4). On January 15, 2014 the Okaloosa State Attorney files a formal charging Information that is essentially void for vagueness, making the accusation of Grand Theft over $100,000. However, the Florida legislature states that when the property is a vehicle, the crime charged is Grand Theft of a Motor Vehicle – Auto.

Thus contravene of the ex post facto clause, supremacy clause, right to legal contract, Federal Arbitration Act, right to trial by jury, right to be informed of criminal charges – sufficient notice, double jeopardy and cruel and unusual punishments inflicted.

EXTRAORDINARY CIRCUMSTANCES

Statement of the Facts: concerning petition for Writ of Habeas Corpus alleging plain error and entitlement to immediate release from an illegal detention:

Petitioner alleged he is being illegally detained and serving an illegal sentence of 360 months for the offense of Grand Theft over $100,000 812.014(1)(a) and (b) and (2)(a) because evidence, argument and vehicle of Porsche of Destin elements presented to the jury was Grand Theft of a Motor Vehicle – Auto. See Appendix H jury instructions verbally charged to jury – the trial court never filed any written jury instructions.

Petitioner is convicted of Grand Theft of a Motor Vehicle - Auto a charge not made by the Information. Which is a denial of due process. See Thornhill v. Alabama, 310 U.S. 88 60 S.Ct. 736 84 L.Ed. 1093 (1940): See also Cole v. Arkansas: **To sustain a conviction on the ground that the evidence supports a charge not made would be a sheer denial of due process.** See Appendix J.

Therefore, based upon the evidence presented at trial the Grand Theft can only be a Motor Vehicle that the Florida legislative branch

has classified as a third degree felony punishable by a maximum of five (5) years in prison, 812.014(2)(C)6. See Appendix N and O correct original copy of petition for Writ of Habeas Corpus alleging plain error and entitlement to immediate release from an illegal detention . . . and a correct original copy of the Motion for Rehearing . . . original copy of notice of supplemental authority.

Petitioner has been detained on this cause since December 13, 2013, exceeding the legislative intent for punishment of a third degree felony.

HOW THE ISSUES IN THE HABEAS CORPUS WERE DECIDED

On August 10, 2022, the First District Court of Appeal for Florida dismissed Petitioner's Petition for Writ of Habeas Corpus – original jurisdiction.

The First District Court of Appeal noted Baker v. State of Florida, 878 So.2d 1236 (Fla. 2004) and White v. Dugger, 511 So.2d 554 Fla. 1987.

- Petitioner's circumstances are extraordinary and to prevent a miscarriage of justice – plain error the law of case doctrine does not apply. However, limited exceptions must apply because the issues raised were not decided on direct appeal or 3.850. See Florida v. McBride, Baker v. State, White v. Dugger. Because of ineffective assistance of counsel at trial and direct appeal – initial review . . . Petitioner has been denied fair process and fair trial because of counsel's prejudicial errors and the failure of counsel to raise and or preserve the claims to obtain an adjudication on the merits of his constitutional claims. See Martinez v. Ryan, 132 S.Ct. 1309, 182 L.Ed. 2d 272; (2012).

Notwithstanding, the conviction Petitioner's challenge is to his unlawful detention – imprisonment of thirty (30) years for the theft of a vehicle based upon an alternative theory jury instruction of the uncharged crime Grand Theft Auto – Motor Vehicle 812.014(2)(C)6 F4-L4. (1) An error occurred; (2) the error is plain; (3) the error affects a Defendant's substantial rights; (4) it seriously affects the fairness,

integrity, or public reputation of the judicial proceedings See Rule 52(b) Petitioner's ultimate sentence was affected.

REASONS FOR GRANTING THE PETITION

Question One: The jury never made a finding of GUILT beyond a reasonable doubt Count One (1) on the "Verdict Form" that is Grand Theft over $100,000: as a result, Petitioner is being unlawfully detained in the Florida Department of Corrections serving a thirty (30) year sentence illegally imposed.

To be sure, the verdict form reflects: WE, THE JURY, find as follows, as to the counts charged in the Information:

COUNT ONE

√ Grand Theft (100k+), as charged.

Pursuant to Count One (1) the original verdict form the jury only indicated a finding of Grand Theft $100,000+ as charged in the "information". See Appendix G, copy of original verdict form submitted to bailiff by jury.

The First District Court of Appeal cannot assess the impact of the error(s) on the outcome of trial because there is no jury finding of guilt beyond a reasonable doubt in the first instance, as to Count 1. Count 2 was vacated at sentencing based upon a violation of double jeopardy.

This is not a substantive finding of a guilty verdict for a lawful judgment. See Appendix G, verdict form submitted by jury to Clerk of Court.

Such a finding was not a clear jury finding of guilt and is in violation of the Supreme Court's precedent in Apprendi v. New Jersey, 530 U.S. 466, 120 S.Ct. 2348, 147 L.Ed. 2d 435 (2000); the Court made clear that the Sixth Amendment of the United States Constitution guarantees each criminal defendant the right to a jury determination [of guilt on] every element of the crime with which he is charged beyond a reasonable doubt. Quoting United States v. Gaudin, 515 U.S. 506, 510, 115 S.Ct. 2310, 132 L.Ed. 2d 444 (1995); see also Robinson v. State, 215 So.2d 1262 (Fla. 1st DCA 2017), quoting State v. Iseley, 944 So.2d 227, 231 (Fla. 2006).

"The Florida Supreme Court has clarified that, although a specific finding in an interrogatory on the "verdict form" is preferable. What is ultimately required is a clear jury "finding".

[H]ere, in the case at bar there was no clear finding of a "Guilty Verdict" pursuant to Count One (1) in violation of the Sixth Amendment of the United States Constitution.

Therefore, under Apprendi without an absolute and clear finding of a guilty verdict, Petitioner's imprisonment in the Florida Department of Corrections is unlawful and unconstitutional.

Furthermore, Petitioner's sentence as a First Degree Felony of Grand Theft over $100,000 is illegal because Grand Theft of a Motor Vehicle – Auto is only a third degree felony. To satisfy the Jackson standard, "it is necessary to refer to the essential elements of the crimes as defined by state law." Wilcox v. Ford, 813 F.2d 1140, 1143 (11th Cir. 1987), also see Jackson v. Virginia, 443 U.S. 307, 319 (1979).

Petitioner has sought relief via Habeas Corpus for being charged under an unconstitutional Grand Theft over $100,000 statute because the property is a vehicle . . . and the erroneous jury instruction and thirty (30) year sentence to the State Appellate Court. The law of case

doctrine and res judicata does not apply where its application would result in a manifest injustice, State of Florida v. McBride, 848 So.2d 287 (2003); a sentence is illegal if it imposes a kind of punishment that no Judge under the entire body of sentencing statutes could possibly inflict under any set of factual circumstances.[1]

The maximum sentence for theft of a vehicle in Florida is sixty (60) months . . . Petitioner is serving an unconstitutional thirty (30) year sentence. See Florida legislative statute for 812.014(2)(C)6. Appendix K, Petitioner was not charged with paragraph (2)(a)(3). See United States v. Johnson, Case Number 93-571-CR-Ungaro/Simonton May 29, 2008.

Question Two: The United States Supreme Court repeatedly determined that every criminal defendant is entitled to a fundamentally fair trial via the due process clause obligatory upon states via the Fourteenth Amendment which provides the same "protection against

[1] Florida's fundamental error doctrine parallels the federal plan error doctrine, whose foundational parameters were based on United States v. Atkinson, 297 U.S. 157, 160 (1936). See also(Rosier v. State of Florida, 276 So.3d 403 (Fla. 1st DCA 2019)(quoting Atkinson).

arbitrary state legislation affecting life, liberty and property, as offered by the Fifth Amendment.

The due process clause guarantees fairness and requires federal and state government to use even handed procedures, so that it is less likely to act in an arbitrary way . . . "Procedural Due Process".

Moreover, the Supreme Court has found that the Fourteenth Amendment's due process clause protects individuals from arbitrary state laws or actions that interfere with fundamental liberties or harming an individual's ability to fully participate in society, e.g., a legal contract to buy a car.

Liberty, the Court held in Meyer v. Nebraska, "denotes not merely freedom from bodily restraint but also the right of the individual to contract, to engage in any of the common occupations of life . . . substantive due process.

In questions one, two and three, Petitioner has been deprived of due process guaranteed by the constitution. The record supports Petitioner's claims he has been deprived of his:

1. "Right to trial by jury", Sixth Amendment, as incorporated against the states by way of the Fourteenth Amendment, requires a

unanimous verdict to convict a defendant of a serious offense. See Thompson v. Utah, 170 U.S. 343, 351, 18 S.Ct. 620 42 L.Ed., quoting Ramos v. Louisiana, 206 L.Ed. 583 (2020). Petitioner did not enjoy a unanimous verdict because of a general "verdict form" we have no way to determine what theory the jury based its decision . . . e.g., Grand Theft over $100,000 812.014(1)(a) and (b) and (2)(a) or Grand Theft of a Motor Vehicle - Auto 812.014(2)(C)6 which was never formally charged. The unconstitutionality of any one of the theories requires that a resulting conviction by the jury be set aside. Sandstrom v. Montana, 442 U.S. 510, 61 L.Ed. 2d 39, 99 S.Ct. 2450 (1979).

2. The record further supports Petitioner was deprived of the "right to be informed of the nature and cause of the accusation", Sixth Amendment.

Petitioner was maliciously informed by Information he was being charged with Grand Theft over $100,000 812.014(1)(a) and (b) and (2)(a). However, at trial the state presents excessive mileage evidence, joyriding argument both synonymous with Grand Theft Auto 812.014(2)(C)6, and the trial court charges the jury with a Grand Theft

of a Motor Vehicle - Auto instruction. Thus leaving Petitioner in the dark about exactly the crime with which he is charged – fair notice. See Appendix J.

Furthermore, Florida legislative intent and enacted laws of Florida "if the property taken is a vehicle the offense is Grand Theft of a Motor Vehicle - Auto regardless of the value of the vehicle", 812.014(2)(C)6 . . . is a third degree felony with a maximum sentence of five (5) years. Petitioner is at minimum serving an illegal sentence of thirty (30) years. Cause and effect, Eight Amendment violation, against punishments that are grossly disproportionate to the particular crime.

Relevant to the facts and law the Florida legislative intent does not authorize or comport to the arbitrary actions of the Okaloosa executive branch or the First District Court of Appeal Judicial Branch. Petitioner was placed twice in jeopardy of life or limb upon charging formally Grand Theft over $100,000 and worthless check for the same vehicle. Thus also causing the information – statutes are . . . so unclear and deficient that the statutes are void for vagueness and unconstitutionally overbroad. See United States v. Davis, 139 S.Ct. 2319; 204 L.Ed. 2d 757 (2019).

Within the Motion for Rehearing, Petitioner showed the compelling reasons for this Court to exercise the Court's discretionary jurisdiction . . . and will again do so here.

Millions of Americans travel to Okaloosa County (Destin) to enjoy the emerald coast. This Court has the opportunity to solidify the national importance of the interpretation of substantive due process and protect citizens from arbitrary and capricious enactment of State laws or actions as held in Meyer v. Nebraska, 67 L.Ed. 1042 262 U.S. 390 (1923). Petitioner's arrest, trial, judgment and sentence and imprisonment on Grand Theft over $100,000 812.014(1)(a) and (b) and (2)(a) is unlawful.

Causing the State of Florida actions to be unreasonable.

Question Three: Liberty protected by the Fourteenth Amendment which included the right to legal contract (governed by the Federal Arbitration Act 9 U.S.C.A. 1 et. seq.) may not be interfered with, under the guise of protecting the public interests, by legislative action which is arbitrary or without reasonable relation to some purpose within the competency of the state to effect. The statute in question 812.014(1)(a)

and (b) and (2)(a) is not a legitimate exercise of police power because it was not intended to include theft or perceived theft if the property is a motor vehicle. Moreover, 812.014 impairs the Contract Clause Article I Section 10.

The arbitration and limitation acknowledgements set forth in paragraph H are sufficient to correct any monetary loss by Porsche of Destin. Causing the unreasonable action of the State of Florida to be retrospective and contravene the ex post facto clause and the supremacy clause. See Southland v. Keating, 465 U.S. 1, 104 S.Ct. 852, 79 L.Ed. 2d 1 (1984) and Prima Paint Corp. v. Flood & Conklin Mfg. Co., 388 U.S. 395, 87 S.Ct. 1801, 18 L.Ed. 2d 1270 (1967): quoting Buckeye Check Cashing v. John Cardeana, et al., 546 U.S. 440, 126 S.Ct. 1204, 163 L.Ed. 2d 1038 (2006) on certiorari. The United States Supreme Court reversed and remanded: established that (a) as a matter of substantive federal arbitration law and arbitration provision was severable from the remainder of the contract; (b) unless the challenge was to the arbitration clause itself. The issue of the contract's validity was considered by the arbitrator in the first instance; and (c) this arbitration law applied in state as well as federal court.

In Prima Paint Corp. v. Flood & Conklin this Court set precedent: (2) under the provisions of the Federal Arbitration Act a federal Court can proceed to adjudicate a claim of fraud in the inducement of the arbitration clause itself, but regardless of State law, could not consider claims of fraud in the inducement of the contract generally because the arbitration clause was broad enough to include the claim of fraud in the inducement of the contract.

In Berney v. State of Florida, the Supreme Court of Florida held that the money-property had actually become the property of the Defendant due to the contract. Apparently, the alleged victim should have instituted civil litigation for breach of contract as his only recourse. Berney v. State of Florida, 38 So.2d 55 (Fla. 1948).

Here in Petitioner's case the contract involved interstate commerce governed by the Federal Arbitration Act . . . and for the State of Florida to unilaterally invalidate the "RBO" contract and arbitration clause with paragraph H is retrospective law and violates the supremacy of the United States Constitution.

Congress declared a national policy favoring arbitration and withdrew the power of states to require a judicial forum for resolution of

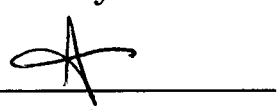
claims which the contracting parties agreed to resolve by Federal Arbitration Act 9 U.S.C.A. 2.

In sum, the State Appellate Court deprived Petitioner of his constitutional rights alleged within this Writ of Certiorari . . . and refused to review the errors alleged in his Writ of Habeas Corpus that include sentencing errors – his imprisonment a further violation of Article I, Section 9 Clause 2 of the United States Constitution.

CONCLUSION

The Court should grant certiorari and schedule this case for briefing and oral arguments to ensure the First District Court of Appeal is in compliance with Article I Section 9 Clause 2 of the United States Constitution and the other constitutional violations.

Respectfully submitted,



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