

22-7109

No. _____

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IN THE

SUPREME COURT OF THE UNITED STATES

ORIGINAL

In re FREDDIE A. LAND,

(Your Name)

— PETITIONER

vs.

STATE ATTORNEY, et al.,

— RESPONDENT(S)

EXTRAORDINARY WRIT OF HABEAS CORPUS

(Article 1 § 9 USCA)

SIXTH JUDICIAL CIRCUIT COURT

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

EXTRAORDINARY WRIT OF HABEAS CORPUS

(Article 1 § 9 USCA)

Freddie A. Land D.C. # R15055

(Your Name)

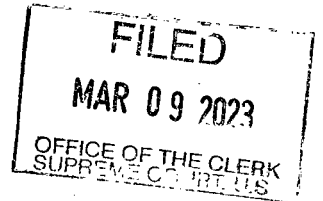
Sumter C.I. 9544 County Road 476B

(Address)

Bushnell, Florida 33513

(City, State, Zip Code)

(Phone Number)



LIST OF PARTIES

- [] All parties appear in the caption of the case on the cover page.
- [X] All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

Middle District of Florida (Tampa) ? See below.

JOSEPH A. BULONE, Sixth Circuit Judge;

STATE ATTORNEYS' OFFICE, Sixth Judicial Circuit Court;

GEORGE M. JIROTKA, Sixth Circuit Judge;

Sixth Judicial Circuit Court;

Ricky Dixon, Secretary, Department of Corrections.

RELATED CASES

Land filed his Notice of Intent to Sue and a Writ of Habeas Corpus/Relief from Void Judgment in the Sixth Judicial Circuit Court July 2, 2019. See documents attached, case no.: 19-8030-CI.

The Sixth Circuit arbitrarily dismissed the writ of habeas corpus August 6, 2019. Circuit judge GEORGE M. JIROTKA refused to order default against his colleague judge JOSEPH A. BULONE, the defendant, and arbitrarily dismissed the Complaint October 20, 2022. Land's Second Motion to Oppose & Rescind Order submitted November 1, 2022, is still pending.

Land submitted a Title 42:1983, in regards to the above issue to the Middle District of Florida (Tampa) filed January 9, 2023, and have paid the \$402⁰⁰ filing fee. See Case no.: 8:23-cv-00059-MSS-AAS.

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STATUTES AND RULES

Florida Statutes § 913.10; 939.03; 960.293(2); 960.294(4).
 Florida Statutes § 794.01(2); 775.082(1); 921.141.
 Florida Rules of Criminal Procedure Rule 3.270; 3.700(c)(1).

OTHER

JURISDICTION

This Supreme Court has jurisdiction over the Great Writ of Liberty pursuant to Article III of the United States Constitution. This honorable Court held, "There is no higher duty of a court, under our Constitutional system, than the careful processing and adjudication of petitions for writ of habeas corpus, for it is in such proceedings that a person in custody charges that error, neglect, or evil purpose has resulted in his unlawful confinement and that [Land] is deprived of his freedom contrary to law. This Court has insistently said that the power of the federal courts to conduct inquiry in habeas corpus is equal to the responsibility which the writ involves: The language of Congress, the history of the writ, the decisions of this Court, all make clear that the power of inquiry on federal habeas corpus is plenary." Harris v. Nelson, 394 U.S. 286, 292, 89 S.Ct. 1082, 1086-87 (1969). See also, Fay v. Noia, 372 U.S. 391, 83 S.Ct. 822 (1963) ("Necessity of hearing in federal habeas corpus proceedings challenging validity of conviction of crime."); Ex parte Yerger, 8 Wall. 85, 95, 75 U.S. 85, 95 (1868) ("The great writ of habeas corpus has been for centuries esteemed the best and only sufficient defence of personal freedom").

The Habeas Corpus Act of 1867, gives this Court the power to grant Land's writ of habeas corpus. Judicial Act of February 5, 1867; Ex parte McCordle, 6 Wall. 318, 325-26, 18 L.Ed. 816 (1868).

THE RIGHT TO THE GREAT WRIT OF HABEAS CORPUS SUSPENDED IN FEDERAL COURT

Land's writ of habeas corpus was submitted to the Eleventh Circuit Court of Appeals April 13, 2022. The Clerk responded April 27, 2022, advising that an "Application" for a writ of habeas corpus must be made to the appropriate district court. Land assumes the Clerk transferred his writ of habeas

corpus to the Middle District Court in Tampa, Florida. See notice attached. Land does not believe this is careful processing and adjudication.

The Middle District issued an order May 2, 2022, stating, "Land applies under 28 U.S.C. § 2254 for the writ of habeas corpus... Also Land's Application is not written on the form requested in the district for a person applying for relief under section 2254."

Note: Land did "NOT" apply for relief under 28 U.S.C. § 2254 he exercised his right to the Great Writ of Liberty pursuant to Article I § 9 to the United States Constitution.

Trying to get the writ of habeas corpus signed and issued Land submitted this "Application" June 2, 2022, and paid the \$5.00 filing fee. The Middle District then dismissed its case June 28, 2022. See case no.: 8:22-cv-976-TPB-LPT. Land does not believe this is careful processing and adjudication.

Land then submitted his writ of habeas corpus with a motion for action back to the Eleventh Circuit July 21, 2022. The Clerk responded July 26, 2022, with the same form letter sent to Land back on April 27, 2022. Land must assume that the federal courts threw his writ of habeas corpus out because he never heard back from either court. This is not careful processing and adjudication.

Land then submitted his writ of habeas corpus to this honorable Court via a writ of certiorari November 18, 2022. The honorable Clerk, Lisa Nesbitt, on December 1, 2022, returned the writs stating, "the case must first be reviewed by a United States Court of Appeals or by the highest state court in which a decision could be had."

Land returned the writ of certiorari and his writ of habeas corpus to this Court December 12, 2022, and advised the Clerk that Land had went to the Eleventh Circuit and the Middle District in Tampa, Florida and both those courts suspended Land's privilege to the Great Writ of Liberty. Land paid the \$300⁰⁰ filing fee and prayed this honorable Court would abide by its law and process and adjudicate the writ of habeas corpus. The Clerk again returned the writs January 12, 2023, utilizing the same form letter.

Note: The Clerk returned the check for \$300⁰⁰ which Land received February 6, 2023.

Land then submitted a writ of habeas corpus, with the writ of habeas corpus sent to the Eleventh Circuit attached, to this Court January 23, 2023. The Clerk again returned the writs February 21, 2023, which Land received March 1, 2023.

Land will now try to submit his writ of habeas corpus has instructed by the Clerk, and prays the Constitution is the Court's cornerstone, and will carefully process and adjudicate Land's Great Writ of Liberty.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The "Bill of Rights"

Article III United States Constitution

Article I § 9 USCA ; 14 Amendments

Florida Constitution Article I Sections 2, 9, 12, 15(a), 17, and 22.

Article III Florida Constitution.

Article V Section 17., Florida Constitution.

STATEMENT OF THE CASE

(1.) The issue now before this Court began, when Land was charged by information and then arrested February 19, 1997. The charge alleged Land violated Florida Statutes § 794.011(2), a "capital felony" pursuant to the State's Legislature. See Case no.: CRC97-03114CFAND; UCN: 521997CFDD314XXXXND.

This action, "color of law," violated Land's inalienable rights under Article I Section 2, 9, 12, and 15(a) to the Florida Constitution and the 4th, 5th, and 14th Amendments to the United States Constitutions.

(2.) This charge against this alleged capital felony proceeded to jury trial March 2, 1999. The trial court, judge FRANK QUESADA, allowed the State to alter the date in the information and gave Land a partial jury of six (6) persons who found Land guilty of the accusation that day.

This action, "color of law," violated Land's inalienable rights under Article I Section 9 and 22 to the Florida Constitution, Florida Statutes § 913.10, Florida Rules of Criminal Procedure, Rule 3.270, and the 5th, 6th, and 14th Amendment to the United States Constitution, Article III Section 2, The Trial of all Crimes shall be by [impartial] Jury.

(3.) Land was sentenced March 17, 1999, by judge W.D. BAIRD. The jury was not present and it was alleged that QUESADA was in traffic court that morning. The statute was turned back into a capital felony, Land was sentenced to an indefinite sentence, i.e., natural life.

This action, "color of law," violated Land's inalienable rights under Article I Section 2, 9, and 17 to the Florida Constitution; Florida Rules of Criminal Procedure Rule 3.700(c)(1), and the 5th, 8th, and 14th Amendments to the United States Constitution.

It was discovered in 2001 that the probable cause affidavit was a perjured document.

(4.) As stated above Land was charged by Information, tried, adjudicated guilty, and sentenced to die in Florida's prison system for allegedly violating a capital felony. See attached FDLE document showing Land was found guilty of violating a capital felony. Judge JOSEPH A. BULONE, an assistant state attorney at the time, filed this Information in bad faith knowingly violating Article I Section 15(a), and Article V Section 17 to the Florida Constitution. The former is proven by the fact that the accusation was alleged to have occurred October 5, 1996, and § 794.011(2) was clearly defined as a capital felony with the punishment found in the capital felony sentencing scheme. This would mean Land's inalienable right to due process of law and personal Liberty guaranteed by Florida's Constitution and the United States Constitution was violated thus, leaving this imprisonment, this contract with society, is "brutum fulmen"

But, is § 794.011(2) a capital felony and does this statute have the support of Florida's Constitution and the Florida supreme court.

(5.) The Florida supreme court defined the term capital case. "A capital case is a case in which a person is tried for a capital crime. A capital crime is one for which the punishment of death is inflicted." Adams v. State, 56 Fla. 1, 14, 48 So. 2d 219, 224 (1908). This Court held the same, "the death penalty must be a possible punishment in all capital cases." Fitzpatrick v. United States, 178 U.S. 304, 44 L. Ed. 1078, 20 S. Ct. Rep. 944 (1900). Mr. Justice Brown speaking for the Court said, "The test is not the punishment which is imposed, but that which may be imposed under the statute." The Florida supreme court held, "eliminating the sentence of death may not destroy the entire statute, but it most certainly would no longer be a capital felony." Donaldson v. Sack, 265 So. 2d 499 (Fla. 1972) citing Fitzpatrick.

Therefore for § 794.011(2), to be a capital felony the sentence of death "must" be a possible punishment.

(6.) In 1981, the Florida supreme court abolished the sentence of death for sexual battery. Butford v. State, 403 So.2d 943 (Fla.1981). As stated above, eliminating the sentence of death in §794.011(2), the statute would no longer be a capital felony. In fact, the Florida Supreme court held that murder in the first-degree is the only existing capital felony. Rowe v. State, 417 So.2d 981 (Fla.1982). See also Heuring v. State, 513 So.2d 122 (Fla.1987) ("sexual battery is not a capital offense"). Why then did the statute in 1996 define § 794.011(2), as a capital felony with the punishment found in § 775.082 and § 921.141.

(7) The Florida supreme court held in Mills v. Moore, 786 So.2d 532 (Fla.2001), "The plain language of section 775.082(1) is clear that the maximum penalty available for a person convicted of a capital felony is death. When section 775.082(1) is read in pari materia with section 921.141, there can be no doubt that a person convicted of a capital felony faces a maximum possible penalty of death. Both sections 775.082 and 921.141 clearly refer to a capital felony." (emphasis added).

Black's Law Dictionary defines capital as punishable by execution; involving the death penalty. (7th ed.1999). Merriam Webster's Collegiate Dictionary defines capital as punishable by death... involving execution.

(8.) When a portion of a statute is declared invalid the remaining portions thereof which are severable ordinarily should be recognized as valid, and it is the duty of the court to preserve their validity whether or not a severability clause was included. Severability is a judicial doctrine recognizing the obligation of the judiciary to uphold the constitutionality of legislative enactments where it is possible to strike only the unconstitutional portions. This is problematic for §794.011(2), because it is not possible to strike the sentence of death and still define the statute as a capital felony.

(9.) The application of the capital felony sentencing scheme in conjunction with § 794.011 is contrary to the fundamental rudiments of law because the offense is not by definition a capital felony and is not recognized by the courts as a capital felony for the purpose of charging and trying the offense. Based on the foregoing, the statute cannot be a capital felony just for the purpose of imposing an indefinite term of imprisonment, cannot be conjoined with the capital felony sentencing scheme because the sentence of death was abolished, leaving the statute unadministrable and Constitutionally defective. See Alvarez v. State, 358 So.2d 10,14 (Fla. 1978), ("an unadministrable statute is constitutionally defective."). The sentence imposed is also at odds with Article I § 17.

(10.) The minute Florida's supreme court abolished the sentence of death for § 794.011(2), the state could no longer be a capital felony, nor could a court simply rule, "while the statute is defined as a capital felony it's really not a capital felony in the sense," as the Second District of Florida Claimed. This is blatantly wrong and violates the ruling in Hays v. State, 750 So.2d 1,4 (Fla. 1999), ("We are not at liberty to add words to statutes that were not placed there by the legislature.").

(11.) Florida Statutes § 775.083(1), states, "A person who has been convicted of an offense other than a capital felony may be sentenced to pay a fine in addition to any punishment described in s. 775.082." Section 794.011(2), is defined as a capital felony therefore we must go to § 960.293(2), "Upon conviction a convicted offender is liable to the state and its local subdivision for damages and losses for incarceration costs and other correctional costs." In subsection (a), "If the conviction is for a capital or life felony, the convicted offender is liable for incarceration cost and other correctional costs in the liquidated damage amount of \$250,000."

(12.) Section 939.03., Execution for costs in capital cases. — In all capital cases the costs in case of conviction shall be entered up against the prisoner, . . . and may be levied upon any property of the prisoner found in the state . . . or the balance unpaid thereon, shall then be audited according to law and such amount shall be paid out of the county treasury. A civil restitution lien is placed against the convicted offender, by the state and their subdivisions. This civil restitution lien, i.e. bond, continues for a period of 20 years after the date of entry of the civil restitution lien. See § 960.294(4), Fla. Stats.

(13.) When the Florida supreme court abolished the death penalty for § 794.01(2), the statute could no longer be a capital felony pursuant to that Court and this Courts' holdings. As well, the civil restitution lien, i.e. bond is fraudulent. When the States' Legislature failed to align the statute with supreme court law it became unadministrable and Constitutionally defective. The contract holding land in bondage is "brutum fulmen." This failure also caused the district courts to make law from the bench, "sexual battery is a life felony." See Hogan v. State, 427 So.2d 202 (Fla. 4th DCA 1983). But, see the strange ruling in State v. Hogan, 451 So.2d 844 (Fla. 1984),

I, Freddie A. Land, the natural person, declares under penalty of perjury that the foregoing is true and correct.

Executed on this 9th day of March, 2023.

Freddie A. Land
FREDDIE A. LAND, Pro se

REASONS FOR GRANTING THE PETITION

The Habeas Corpus Act of 1867, gives this Court the power to grant Lands' writ of habeas corpus. Land brought this due process violation before the lower federal courts and they used procedures to block Land from coming before the court. This is the same thing the State of Florida has been doing to deny me relief and to save the bond. This honorable Court has held, "It has long been said that rights without remedies are no rights at all."

Woods v. Interstate Realty Co., 337 U.S. 535, 69 S.Ct. 1235 (1949).

Article I Section 15(a), to the Florida Constitution states "No person shall be tried for capital crime without presentment or indictment by a grand jury." For decades Florida has held, "One charged with capital offense is entitled to be proceeded against by grand jury's indictment. Hicks v. State, 97 Fla. 199, 120 So. 330 (Fla. 1929). If, § 794.011(2) is a capital felony then the Sixth Circuit is guilty of treason, if not, Lands' imprisonment violates the Constitutions.

The Declaration of Independence put forth that "all" people have certain rights, and that a government must protect those rights. Our Flag stands for justice for all. The State of Florida has a right to make its own laws, and these statutes, but these actions cannot supersede or run afoul of the United States Constitution.

Land has an inalienable right to Liberty and Freedom pursuant to the Constitution. That right can only be abridged by due process of law not color of law. This statute, § 794.011(2), is not law and this contract with society is "brutum fulmen". Land demands his right to Liberty and Freedom be restored.

This United States Supreme Court is now at the perverbial fork in the road, to stand with the Republic or let its honor and integrity fall with democracy.

Florida's judicial system removed the safety in § 794.011(2), put in place by the legislature and the Constitution, to streamline a conviction and to secure a bond. This is shameful and clearly violates due process of law. This Supreme Court must use its power and put an end to the evil action, this color of law, and restore Lands' Liberty and freedom.

CONCLUSION

The petition for a writ of habeas corpus should be granted.

Respectfully submitted,

Freddie A Land

Date: *March 9, 2023*