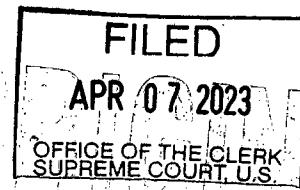


22-7311

No. _____



IN THE
SUPREME COURT OF THE UNITED STATES

RANDAL THOMAS ROSADO — PETITIONER
(Your Name)

vs.

STATE OF FLORIDA — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

FOURTH DISTRICT COURT OF APPEAL, STATE OF FLORIDA
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

RANDAL THOMAS ROSADO, DC# V80740
(Your Name)

WaKulla CI 110 Melaleuca Drive
(Address)

Crawfordville, Florida 32327-4963
(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

1. Does a ten-count conviction under the same statute for a single act of filing one document violate double jeopardy clause of the Fifth Amendment protections against multiple prosecutions and punishments for the same offense?
2. Does a negotiated plea that was altered by the trial court's oral pronouncement waive a double jeopardy claim against multiple convictions from a single criminal act in violation of the principles established by the Fifth Amendment and Blockburger v. United States, 284 U.S. 299, 52 S. Ct. 180, 76 L.Ed 2d 306 (1932)?
3. Does the filing of information (charges) in a criminal court, post expiration of the statute of limitations, violate a defendant's right to effective assistance of counsel and due process under the Sixth and Fourteenth Amendments to the U.S. Constitution?
4. Did the appellate court's issuance of a mandate with pending motions timely filed violate Petitioner's right to due process protected by the Fourteenth Amendment?

LIST OF 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 proceeding in the court whose judgment is the subject of this petition is as follows:

RELATED CASES

TABLE OF CONTENTS

OPINIONS BELOW	1
JURISDICTION.....	2
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	3
STATEMENT OF THE CASE	4
REASONS FOR GRANTING THE WRIT	6
CONCLUSION.....	7

INDEX TO APPENDICES

APPENDIX A -	Fourth District Court of Appeal, State of Florida <u>Order affirming lower court's conviction - January 12, 2023</u>
APPENDIX B -	Fourth District Court of Appeal, State of Florida <u>APPELLANT'S INITIAL BRIEF - July 26, 2022</u>
APPENDIX C -	Fourth District Court of Appeal, State of Florida <u>ANSWER BRIEF OF APPELLEE - September 27, 2022</u>
APPENDIX D -	Fourth District Court of Appeal, State of Florida <u>APPELLANT'S REPLY BRIEF - November 1, 2022</u>
APPENDIX E -	Fourth District Court of Appeal, State of Florida <u>Mandate - February 10, 2023</u>
APPENDIX F -	Fourth District Court of Appeal, State of Florida <u>APPELLANT'S MOTION TO RECALL MANDATE - February 21, 2023</u>

TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
Blockburger v. United States, 284 U.S. 299, 52 S. Ct. 180, 76 L.Ed 2d 306 (1932).	4

STATUTES AND RULES

Florida Statutes:

Section 775.021

Section 775.15

Section 843.0855

OTHER

United States Constitution

Sixth Amendment

Fifth Amendment

Fourteenth Amendment

IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix _____ to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

The opinion of the United States district court appears at Appendix _____ 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 _____ to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

The opinion of the _____ court appears at Appendix _____ 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 the United States Court of Appeals decided my case was _____.

No petition for rehearing was timely filed in my case.

A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ___ A _____.
S

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

For cases from **state courts**:

The date on which the highest state court decided my case was January 12, 2023.
A copy of that decision appears at Appendix A.

A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ___ A _____.
S

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

United States Constitution - 5th, 6th and 14th Amendments;

Florida Statutes - Sections 775.021, 775.15 and 843.0855

STATEMENT OF THE CASE

Petitioner was convicted on ten counts under the same statute for the act of filing a single document. The charges were filed after the statute of limitations had expired. This was argued on appeal, along with the violation of double jeopardy clause principles established by the Fifth Amendment to the U.S. Constitution and Blockburger v. United States, 284 U.S. 299, 528. Ct. 180, 76 L.Ed 2d 306 (1932).

The trial court judgment was per curiam affirmed by Florida's Fourth District Court of Appeal on January 12, 2023. (Appendix A) The decision conflicts with the court's own rulings and the opinions of other Florida appellate courts on the same issues. The double jeopardy question is of great public importance because no state court has addressed the legislature's intent to allow for multiple units of prosecution for a single act on this specific statute. This argument will very likely come up in future cases.

Petitioner's initial brief argued that the convictions should be reversed and charges dismissed due to being barred by the statute of limitations. In the alternative, petitioner requested that the Blockburger "Same elements test" be applied to determine if the conviction violated the double jeopardy clause. (Appendix B)

The State does not dispute that the charges were filed beyond the expiration of the statute of limitations. Instead, they claim Petitioner is not entitled to relief on direct appeal because the issue was not preserved. As for double jeopardy, "the State suggests Appellant waived this claim when he did not raise it below and reserve it as an issue during his negotiated change of plea." (Appendix C) The answer brief also justifies the

Stacking of the same charges for ten counts because each count had a different victim, and wrongly stated "Appellant filed separate liens," which is not true as the record shows. (Appendix C)

Petitioner's reply brief provided rulings from the Florida Supreme Court and Fourth District Court of Appeal that allowed an unpreserved statute of limitations argument to be raised on direct appeal when ineffective assistance of counsel is apparent on the face of the record. (Appendix D)

The reply rebuts the State's double jeopardy defense by citing multiple cases from the Fourth DCA and other Florida appellate courts that used the Blockburger test to determine double jeopardy was violated even with multiple victims. It also shows that the plea does not waive a double jeopardy claim. (Appendix D)

Petitioner timely filed a motion for extension of time to file a motion for rehearing, but the appellate court ignored the motion and issued a mandate on February 10, 2023. (Appendix E) Prior to receiving a copy of the mandate, Petitioner filed a Motion For Rehearing En Banc, Written Opinion and Certification. In response to the mandate, Petitioner filed a motion to recall mandate and provided evidence of the timely filed motions ignored by the court. (Appendix F)

REASONS FOR GRANTING THE PETITION

Petitioner is guaranteed the protection from the violation of double jeopardy and due process by the 5th, 6th and 14th Amendments of the U.S. Constitution.

CONCLUSION

Constitutional violations are within the U.S. Supreme Court's discretion and jurisdiction.

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Date: April 7, 2023