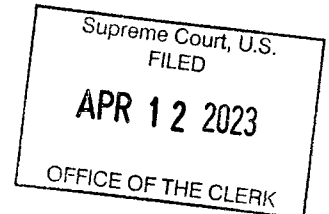


No. 22-7331

IN THE
SUPREME COURT OF THE UNITED STATES



MARIA NAVARRO MARTIN — PETITIONER
(Your Name)

vs.

STATE OF FLORIDA — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEAL FOR THE ELEVENTH CIRCUIT
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

MARIA NAVARRO MARTIN
(Your Name)

#19032311- B Damm - OCCD
(Address)

Orlando, Florida P.O. Box 32802-4970
(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

Are the Facts alleged in a Petition for Writ of Habeas Corpus deemed accepted as True, if the Clerk of Court is denying proceed in appeal for Want of prosecution, who is engaged in the presentation of perjured evidence and malicious prosecution ?

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

- * Navarro Martin v. Florida, US Court of Appeal for the Eleventh Circuit, Case N: 22-13409-J, District Court Docket N: 5:22-CV-00405-TPB-PRL, order rendered on December 8, 2022.
- * Navarro Martin v. Florida, US Court of Appeal for the Eleventh Circuit Case N: 22-12175-F, District Court Docket N: 6:22-CV-00804-RBD-LHP, order rendered on February 3, 2023.

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7. Carpenter v. United States, 138 S Ct 2006 (2018)	
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9. State v. Cowen, 545 S.2d 894, 1989 (Fla. 4th DCA 1989) affid.	
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STATUTES AND RULES

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18 USC § 3662 (c)(3)

18 USC § 3662 (b)

28 USC § 2250

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OTHER

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 A 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☒ is unpublished.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 B 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 February 03, 2023.

☒ 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 _____.

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 _____.
A copy of that decision appears at Appendix _____.

☐ 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 _____.

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

1. Supreme Court Rule 10 (2) - A United States Court of appeals has entered a decision in conflict with the decision of another United States Court of appeal on the same important matter, as to call for an exercise of this Court's supervisory power.
2. Const. Law § 840 - Due Process - Conviction upon perjured evidence.
"The Constitutional requirements of due process is not satisfied where a conviction is obtained by the prosecution testimony known to the prosecuting authorities to be perjured."
3. Const. Law § 520 - Due Process - Conduct of prosecuting officers.
"The action of prosecuting officers on behalf of the State may constitute state action within the purview of the due process clause of the Fourteenth Amendment."
4. Const. Law § 171 - Duty of State Court to protect Constitutional Rights
"State Court equally with Federal Court are under an obligation to guard and enforce every right secured by Federal Constitution."
5. Const. Law §§ 520, 850 - Due Process - appeals - Fraud in preparing of Transcripts.
6. Const. Law § 275 - Evidence - Presumption - Jurisdiction of State Court to protect Constitutional Rights.
7. Constitution of United States, Amendments. IV, V, VI, XIV
8. Supreme Court Rule 12 (2)

STATEMENT OF THE CASE

Comes now, the petitioner to request respectfully to this honorable Court review on Certiorari a decision of the United States Court of Appeal for the Eleventh Circuit entered on February 3, 2023 denying review a Petition for Writ of Habeas Corpus, for want of the prosecution; because the appellant Maria Navarro Martin has failed to pay the filing and docketing fees to the district Court within the time fixed by the rules, a decision contrary and in direct conflict, to the order(s) rendered on *Kincade v. Sparkman*, 117 F.3d 949, 1997 Fed. App. 0192 P (6th Cir 1997); *Gaga v. Thaler*, 585 F.3d 888 (5th Cir 2009), *Hughes v. Beck*, 161 Fed App. 797 (10th Cir 2006); *Malone v. Hendrick*, 271 F.3d 1139 (8th Cir 2001); *Paul v. Marberry*, 658 F.3d 702 (7th Cir 2011). *Williams v. Marshall*, 795 F.Supp. 978, 92 M2 1168 (1992).

The Petitioner alleged as grounds of the Petition for Writ of Habeas Corpus, the presentation of perjured evidences, an unlawful Search Warrant and malicious prosecution in a Florida Statute previously declared unconstitutional and which is entitled to retroactively have her Conviction vacate.

Persuant 28 USC § 2248, the allegations of a return to the Writ of Habeas Corpus if not Traverse, shall be accepted as True. "An application to raise in his first habeas petition is not a second or successive application." (Breyer Justice *Magwood v. Patterson*, 561 US 320; 130 S.Ct. 2788, 177 L. Ed. 2d 592 (2010)).

"The Court erred in summarily denying the petition for Habeas Corpus without acting on the application." See *Walker v. Johnston*, 312 US 275, 85 L. Ed. 830 61 S.Ct. 574, 28 USC § 2243; Since that "unchallenged allegations must be accepted as True", See *United States ex rel. Edelson, v. Thompson*, 175 F.2d 140 (2nd Cir 1949), *Vitale v. Hunter*, 206 F.2d 826 (10th Cir 1953), which "the dismissal of an appeal for want of prosecution is clearly not an affirmation of the judgment." See *Drummond v. Hudson*, 141 U.S. 6, 61, "Within purview of Due Process Clause of Fourteenth Amendment", See *Mooney v. Halcham*, 294 US, 103 S.Ct. 340, 79 L. Ed. 791. (1935)

ARGUMENTS QUESTION N° 1.-

Is the Order rendered by the Court(s), declaring invalid the Federal Laws, 28 O.S.C.S. § 1915(b)(4) and the Florida Rule of Appellate procedure 9.430(d)(B) ?

On June 16, 2022, the United States Court of Appeals for the Eleventh Circuit, Case N° 22-11351-J, rendered a Order declaring invalid the 28 O.S.C.S. § 1915(b)(4). "Assuming without deciding, that Martin has satisfied § 1915(d)'s poverty requirements, her mandamus petition is nevertheless Frivolous and so her proceed in forma Pauperis (IFP) motion is due to be denied."

Previously on May 25, 2022, the same Court send a letter to the petitioner where stated: The above-styled Cause shall be transferred to the United States District Court Middle District of Florida, Orlando Division. Case N° 6:22-cv-804-PBS-LHP.

On April 22, 2022, the Fifth District Court of Appeal send a letter to the petitioner that stated: "This Notice of Appeal should be filed in the United States Court of Appeal"

On June 23, 2022, the United States District Court of Appeal Middle District of Florida, Orlando Division, ordered: "This case is dismissed without prejudice" due to the failure to file an Affidavit of Indigency.

On June 01, 2022, the Supreme Court of Florida delivered a letter that stated: "Please be advised that the United States Supreme Court is the appropriate Court to review a decisions of this Court."

The Order(s) rendered by the United States Court of Appeal and for Eleventh Circuit; and by the District Court, Middle District of Florida, Orlando Division; are in direct conflict with the followings decision of another District Court:

1. "District Court erred in ordering habeas petitioner to pay filing fee because was inapplicable to habeas Corpus proceedings under 28 USC § 2254." *Hughes v. Beck*, 161 Fed. App. 797 (10th Cir 2006).

2. "The Tenth Circuit will no longer require mandatory fees under Prison Litigation Reform Act for filing petition for Writ of Mandamus seeking to Compel District Court." *In re Phillips*, 133 F.3d 770, 1998 Ck J. Car. 103. (10th Cir 1998).

3. "Prison Litigation Reform Act's fee requirements do not apply to habeas Corpus Petition filed under 28 USC § 2254, not to motions to Vacate Sentence." See *Kincade v. Sparkman*, 117 F.3d 949, 1997 Fed App. 0192 P. (6th Cir 1997).

4. "District Court did not have discretion or inherent power to require petitioner prisoner to pay appellate filing fee." See *Garza v. Thaler*, 585 F.3d 888 (5th Cir. 2009).

5. "Prison Litigation Reform Act's Filing fee provisions are inapplicable to habeas Corpus Actions." See *Malone v. Hendrick*, 271 F.3d 1139 (8th Cir 2001).

6. "Requiring inmates to pay filing and docketing fee in full... was improper because inmate was entitled to take previous dismissals of his cases at face value." See *Paul v. Narberry*, 658 F.3d 702 (7th Cir 2011).

7. "District Court complied with requirements of 28 USC § 1915(b)(4), by permitting him skip monthly payments if he could show Cause." See *Childs v. Ortiz*, 259 Fed App. 139 (10th Cir 2007).

8. "Fl. Rule App.P. 9430; provides that an appellate Court may presume that an incarcerated defendant remains indigent in the absence of evidence of the contrary." *Ferenc v. State*, 697 So2d 1262, 1997 App. Lexis 8490 (Fl. 5th DCA, 1997). Overruled by *Hall v. State*, 752 So2d 575 2000 Fl. Lexis 6624 Fla.

9. "Because a decision of the Supreme Court of Florida, provided no guidance as to when the F.R.A.P. 9430 should be adhered to and when it should be ignored, as required by Rule 9430 and Fl. R. Jud. Admin. 2040(c)(3), both which rules contemplated action by the Trial Court in ordering that a litigant was indigent." *McFadden v. West Palm Beach Police Officer*, 658 So2d 1045, (Fl. 4th DCA 1995).

10. "For Purpose of F.R.A.P. 9040, an affidavit filed with the District Court serves the same purpose as an Order of indigency from Circuit Court". *McFadden v. Fourth District Court of Appeal*. 682 So2d 1068, 1996 (Fla. Lexis 730) (Fl. 1996).

11. "Inmate's Petition for a Writ of Mandamus challenging a determination was improperly dismissed under Fl. Statute § 57.085(6); because the action was a collateral proceeding exempt from prisoner indigent Statute. See *Mayfield v. McDonough*, 940 So2d 592, 2006, Fla. App Lexis 16219 (Fl. 1st DCA 2006).

12. "Thrust of Fl. Statute § 57.085 is undoubtedly substantive to the right of indigent to proceed without payment of Court Cost and fees is a matter of substantive law properly defined by the Legislature. *Galway v. State*, 730 So2d 861, 1999 Fl. Lexis (1st DCA 1999).

13. The Fl. Statute § 28.241(2) which provides that the Clerk is to defer payment of Cost Appellate filing fees if a party is determined to be indigent. See *Casen v. Crosby*, 892 So2d, 536 Fl. App. Lexis 55 (Fl. 1st DCA 2005).

14. "Court erred in dismissing indigent defendant's petition for a Writ of Habeas Corpus on grounds that indigent had failed to provide certain document pursuant to the Court's order, including those establishing defendant's indigency, pursuant Fl. 57085; Gonzalez v. Moore, 743 S.2d 158, 1999 Fla App Lexis 13716 (Fl. 1st DCA 1999)

15. "Inmate may proceed with lawsuit challenging of his confinement without prepayment of fees or cost." See Williams v. Marshall, 795 F.Supp. 978, 92 BAP 11168 (1992)

16. "Clerk of Court improperly refused to accept a prisoner's petition for writ of Habeas Corpus... because was a collateral criminal proceeding to which that Statute did not apply." Hughes v. Weiss, 870 S.2d 87, 2003, Fl. App Lexis, 17546 (Fl. 2nd DCA 2003)

17. "Court committed procedural err in determining that a defendant was not adjudicated indigent because defendant submitted an affidavit of indigency (as was send to the United States Court of Appeal for the Eleventh Circuit), in which he listed pursuant F. Statute § 57085(7) one prior adjudication of indigency. See Drayton v. Moore, 807 S.2d 819, 2002 Fla App. Lexis. 2075 (Fl. 2nd DCA 2002).

18. "Since the procedural hurdles caused by the copy requirement of the prisoner indigency Statute § 57-085, can and in some cases do rise to the level of access to the Courts, it is unconstitutional under Florida's access to Court provisions, Fl. Constitution Art. I, § 21; Interest of justice requires that Court apply this new rule to all inmates who file motions seeking to restate their cases, See Mitchell v. Moore, 786 S.2d 521, 2001 Fl. Lexis, 736 (Fl. 2001)

ARGUMENTS - QUESTION N° 4-

Is it Fundamental Error to Convict a Defendant under a Perjured Warrant Arrest Affidavit; contrary to the Florida Statute, Chapter 933; Florida Statute § 37.02; to the Electronic Communication Privacy Act and the Amendment IV, V and XIV of the United States Constitution?

The Appellant alleged that the Trial and Post-Conviction Court erred by summarily denying the presentation of her evidence as the Defendant's Cellular (cell phone device), that was seized during the incident Arrest; without a Search Warrant.

At Trial, Defendant requested the presentation to the Court without any ruling by the Court. At appeal, the appellant, presented evidence of the unlawful Search, without any ruling by the Court.

By the affirmance of the appeal, the Fifth District Court of Appeal; is declaring invalid the Florida Statute, Chapter 933, the Florida Rule of Criminal Procedure 3.220, and the Amendment IV, V and XIV of the United States Constitution.

Is it an obstruction to the Justice and to the Due Process of the Law, the narrative of the Warrant Arrest Affidavit and the State's Response Motion to the Defendant's Motion for Post-Conviction Relief, that contain the following statements:

1) The Narrative of the Warrant Arrest Affidavit, stated: "Homeland Security Agent Thomas Semmerdorf was present during the arrest. There were other agents present and they confiscated Ms. Navarro - Martin cell-phone".

Since Mr. Semmerdorf is an agent of the Medicaid Fraud Control Unit, an unit of the State of Florida (See Investigative Notes attach); an affidavit with false statements was presented.

2) The Statements gave by the prosecutor Ms. Shannon Laurie; during the State's Response Motion filed on May 13, 2020; also confirm the unlawful Search: "The Cellular device was taken search incident to arrest. The State did not seek a Search Warrant for the device and did not image the phone" (P.16).

3) The Statements gave by the prosecutor Ms. Shannon Laurie, also presented perjured Testimony in the State's Response Motion, when stated: "Defense alleges that the State executed a Search Warrant where it obtained emails from Judith Genech's google account, that were not provided to the defense Counsel. Defendant's is referencing her other criminal case, 2017-CF-001586-A.O."

Since that the discovery Exhibit filed by the State, show as Exhibit B: DVD Disc B and C-Flash Drive; available upon inspection containing discovery from Criminal Case # 2017-CF-001585-B.O., the defendant can show as were concealed exculpatory evidence before the Trial; when the google communication showed, that was requested by the Unit of Medicaid Fraud, access to a account not described on the Warrant, "angelstherapycenter@gmail.com"; as also show the Exhibit 8 of the Motion filed by the State on May 13, 2020; access to three different accounts not described on the Warrant upon subpoenas delivered to Google Subpoena Compliance, on March 27, 2017, where all the defendant's emails were deleted, but the State is in possession of it; as show the discovery filed. "The government violates the Constitution's Due Process Clause if it withholds evidence that is favorable to the defense, and material to defendant's guilt or punishment." (quoting *Shirley v. Cain*, 575 U.S. 73, 75, 132 S.Ct. 627, 181 L.Ed.2d 571 (2012)).

By the affirmance of the appeal, the Court is declaring invalid the Fl. Statute § 837.02 and the F.R.C.P. 3220 (b)(1); and is it in direct contradiction with the following decisions of another Court(s):

The defendant requested on the Motion to Compel filed before the Trial; at the Trial; and before the evidentiary hearing; filing a Motion for Nelson Inquire; the presentation of her evidence as the Cell-phone Device; taken by the State without a Search Warrant; without any action by her Counsel; even the appellate Counsel Mr. David Varet, presented perjured Testimony when stated, during the hearing "With regards to the defendant's Cell-phone, 'I don't know anything; there is nothing was requested to me'."

The Appellant presented also a Motion her impeachable evidences at Court; on the Ninth Circuit, without any ruling by the Court, and on Motion filed on the Fifth District Court; being dismissed.

"Although defense Counsel repeatedly expressed satisfaction with the proposed instruction that was given by the Court, failure to give the correct instruction is fundamental error." See McNeal v. State, 622 So2d 373, 374 (Fla. 5th DCA 1995).

"Before this exception applies, defense Counsel must be aware of the omission, alterations or incomplete instruction and affirmatively agree to it." See also Pignataro v. State, 834 So2d 965, 966 (Fl. 2nd DCA 2003). At Trial, the Court specifically directed the parties, have questioned - without making any definitive ruling on the matter - whether waiver further requires the record to reflect that Counsel knew the omission itself was erroneous.

"The Court held that Convict guilty of tampering with a witness was improper because the Trial Court admitted inflammatory evidence of appellant's arrest." See Ernest Jack Taylor Jr. v. State of Florida, 508, So2d, 1265, 1987 Fl. App. Lexis, 8425, (1987).

"It would be a closer question on whether the Trial judge abused of discretion in allowing the evidence if he had permitted the appellant to inform the jury... the propriety of carefully orchestrating and controlling context... is discussed in Jackson v. State, 498 So2d 406, 410 (Fl. 1986) (Portfield J. dissenting). Taylor v. State, 508, So2d, 1265 (1987).

On December 29, 2021, the Trial Court, rendered an Order denying the appointment of a Public Defender for Appeal Purpose, declaring invalid the Criminal Law § 46.5 - right to Counsel-appeal; the Sixth Amendment requirement that "the accused shall enjoy the right... to have assistance of Counsel for his defense is made obligatory on the State by the Fourteenth Amendment."

On Certiorari, the Supreme Court held that the Constitutional right to Counsel requires that on an indigent's appeal from his conviction, Court appointed Counsel support the appeal; "A Court-appointed lawyer would not deem the appeal to be wholly frivolous." See *Anders v. California*, 387 S.Ct. 1396, 18 L.Ed. 2d 493, 386 U.S. 738.

The Petitioner presented evidence, as unfair searches and Seizure were made by the Medicaid Fraud Control Unit and not agent of Homeland Security, as shown the narrative of the Arrest, despite of the facts. Mr. Ryan Belanger, presented a No-Fault Brief and Withdrawal of the above-styled Cause; without be appointed a new Counsel to the defendant/Appellant, at Time.

The Stored Communications Act, 18 USC § 2701, et seq., prohibits a person or entity providing an electronic communication service to the public from knowingly divulging to any person or entity the contents of a communication while in electronic storage by the service, 18 USC § 2702(d)(1). The Act also create private right of action that entitles any person aggrieved by any action that entitles by any violation to recover from the person or entity, other than United States, which engaged in that violation such relief as may be appropriate, 18 USC § 2707(d) 139 S.Ct. 1041 (2021) *Frank v. Gaes*.

"To indicate a right private need only allege an invasion of that right to establish standing." *Spokeo Inc. v. Robins*, 578 U.S. 136 S.Ct. 1540, 194 L.Ed. 2d 633 at 650 (2016). (Justice Thomas, concurring).

On April 21, 2022, the Clerk of the Supreme Court of United States, requested the Order (s) of the Lower Tribunal, with the date of the previous filing.

The following Motions attached, can show as was received by the Clerk a previous notice of Appeal. The petitioner rely, adapt and incorporate, the Facts stated on the Motion and Petition; to request to this honorable Court the review of the proceedings on the Ninth Judicial Circuit Court

The Order rendered by the honorable Alvaro Chad on July 9, 2021, is in direct contradiction with the order rendered by the honorable Keith White on July 31, 2020, on the same styled-Cause.

The honorable Keith White ordered, 2: An evidentiary hearing is granted on Ground Four of the Defendant's pro se motions for Post-Conviction Relief. The honorable Alvaro Chad stated: "and there's some confusion in the record. I think the Court's order previously said it was ground three." "It's called ground Four in the order. It's actually ground three in the Motion, correct? Despite of this fundamental error, the Court denied the ground Four of the State's Response Motion.

Another direct contradictory decision in the above-styled Cause was rendered by Two Court(s). The United States Court of Appeal for Eleventh Circuit, ordered on June 16, 2022. "In any case, Martin also has the adequate alternative remedy of challenging the Constitutionality of her state conviction and sentence by filing a 28 USC § 2254 habeas Corpus Petition, an Order in direct contradiction with the order rendered by the Fifth District Court of Appeal; Ordered that petitioner's Writ of Habeas Corpus, file January 9, 2022, is treated as Petition for Ineffective Assistance of Counsel. Order that the Supreme Court of Florida, rendered Lack of Jurisdiction to review this Order, that direct Con-

Trudict, another decision of a District Court; that held: "The Failure of Defense Counsel to move dismissal on the District Court decision constituted ineffective assistance." "Whether his attorney simply failed to recognize a valid defense, in which instance, ineffective assistance may be provided. Accordingly Summary denied of this portion of the motion was improper." See *Bell v. State*, 585 So2d 1125 (1991). "Because we held that neither contemporaneous objection nor plenary appeal is essential to preserve this question, we need not speculate whether, in the event ~~Content~~ govern the present case, the Failure of defense Counsel to move dismissal based on the District Court decision constitute ineffective assistance of Counsel." (Per Curiam, Opinion).

Due To That The State found the Charge N-2 "First degree Felony" Nolle Contendere, after Trial, a error in the defendant's score-sheet should be object. "The Failure to object to the scoring placed defendant in a higher guideline range and finding that the sentence imposed were in excess." Was proper of Ineffective Assistance of Counsel. See *Kirkland v. State*, 696, S2d. 465 1997 (Fl. 2nd DCA, 1992). "It is unprofessional conduct of a prosecutor to recommend and indictment on less probable cause... they will be able to establish the suspect's guilt beyond a reasonable doubt. *United State v. Ewell*, 383 U.S. 116, 152 Ed. 2d 627, 86 Sct, 773 (1966). The sentence imposed for the conviction of a first degree felony that was found Nolle Contendere, were illegally in excess of the Statutory maximum.

By the dismissal of the Petition for a Writ of Habeas Corpus by the United States Court of Appeal, Middle District Court of Appeal of Florida, Orlando Division; The Appellant was deprived of her right of Access to the Courts, where "A Federal habeas relief may be granted on a State Statute declared Unconstitutional" 14

Under "Case of Law" doctrine, all points of law which have been previously adjudicated by a majority of this Court may be reconsiderate only where a subsequent hearing of the trial develops material changes as evidence, or where exceptional circumstances exists whereby reliance upon the previous decisions would result in manifest injustice. See Henry v. State, 649 S.2d 1361, 1364 (Fla. 1994), cert. denied, 516 U.S. 830, 1331 S.Ct. 101 (1995), See also Preston v. State 444 S.2d, 939, 942 (Fla. 1984).

The States' Exhibit 1, "Charging Document", and State's Exhibit 3, "Evidence Receipt", presented to the jury, contain a charge #2, that after trial, was found *Nolle Contendere* by the prosecution, and the Exhibit 3, is a Evidence receipt that was not signed by the former Defendant's Counsel; and upon State's witness Testimony it Evidence receipt was signed by him; false evidence presented to the jury when the prosecutor stated that the Recorded proffer was not delivered to the prior defense Counsel.

The State's Exhibit 2, contain a documents with a Spanish Written; that the Trial Counsel knew have be Translated to the jury, being denied by the Court the presentation of this Evidence; the State's Exhibit 2 was not delivered to the jury's room to deliberation; and the Counsel agreed offer improper instruction to the jury.

The Cell-phone Cellular was requested by the defendant be presented as Evidence without any Court ruling. The defendant's Counsel agreed what the Testimony of the State's Witness was not presented during the trial, denying the defendant's requested testimony and allowed that the State, presented false testimony when stated, not knew about this Witness Testimony being interviewed by the investigators previously, and declaring inadmissible.

The State 914.22 (a)(d), which the appellant was found guilty; stated: "tampering with a witness, victim or informant is a (d): felony of the first degree, punishable by a term of years not exceeding life... where the official proceeding affected involves the investigation or prosecution of a first degree felony."

The charging document with a "first degree" felony, showed to the jury, was found Nolle Contendere by the prosecutors after the trial. Its malicious procurement and the omission of this records on Appeals as Exhibit 1, 2 and 3, also were described as grounds to the Appeal.

In the trial now under review, the State was allowed over objection, to place in evidence a copy of the information charging (Count 2) and the Court allowed to the State's witness testify that the appellant had been arrested for those charges. In addition to the introduction of the inflammatory evidence, the trial Court allowed to the State, over objection, to highlight the former charge in opening statements and closing argument. See *Jackson v. State*, 498 S2d 406, 410 (Fl. 1986). "Although defense counsel repeatedly expressed satisfaction with the proposed instruction that was given by the Court; failure to give the correct instruction is fundamental error". See *McNeal v. State*, 662 S2d 373, 374 (Fl. 3rd DCA 1995). "Before this exception applies, defense counsel must be aware of the omission, alteration or incomplete instruction and affirmatively agree to it. See also *Pignataro v. State*, 834 S2d 965, 966 (Fl. 2nd DCA 2003).

At trial, the trial Court specifically directed the parties, have questioned without making any definitive ruling on the matter whether waiver further requires the record to reflect that

Counsel knew the omission of the State's Witness Testimony as call the Defense Witnesses Erika Peña, Javier Chavez, and the previous State's Witness list; the omission itself was erroneous; the omission of the Exhibit 2 on the jury's room was erroneous; the omission of the Spanish written was erroneous; and the presentation of the State's Exhibits 1 and 3 was erroneous. Trial transcripts T44-14, can show that the former Counsel "Not sing ferit."

Given that present day Criminal procedure generally required the disclosure of witness on the part of the State, pursuant the F.R.C.P. 3220, the names would be available to an accused sometimes before the trial in any event. Further Florida provided substantial criminal penalties for both perjury and tampering with witness FL STAT. 8837.02 and 914.22; and its Courts had subpoena and contempt power available to bring recalcitrant witnesses to the stand so to additional at best and insufficient to outweigh the First Amendment Interest in speech involved." See *Butterworth v. Smith*, 494 U.S. 624 110 S.Ct. 376 108 L Ed 2d 572, 1990, U.S. Lexis 1533 (US 1990). "Trial Court erred by denying motion for directed verdict upon his conviction for witness tampering of the FL Statute 914.22; where there was no evidence as to what incriminating information he intended to hinder, delay or prevent the communication of." *Gill v. State*, 622 So2d, 92, 1993 Fla. App Lexis 7670 (Fla. 2nd DCA 1993). "The Court erred in denying defendant's motion for a judgment of Acquittal because the witness's reaction to, (her documents) were irrelevant to the crime, there was no evidence that defendant had the means or the desire to intimidate her. See *Benegas-Membran v. State*, 182 So3d, 865, 2016, Fla. App Lexis, 237 (Fla. 4th DCA 2016).

Since the Government has ready access to the F.B.I. computerized "rap sheet" and defendant does not, it is appropriate that the Government make the requested disclosure. There is an affirmative obligation on the part of the prosecution to produce certain evidence actually or constructively in its possession or accessible to it in the interests of inherent fairness." See *Calley v. Callaway*, 519 F.2d 184, 223 (5th Cir. 1975). Due process prohibits the suppression by the Government of evidence favorable to the accused or discrediting its own case. Upon defendant's request, the Government must disclose all such information. *Brandy v. Maryland*, 373 U.S. 83, 83 S.Ct. 1194, 10 L.Ed. 2d 215 (1963).

As observed by the Supreme Court in *Napue v. Illinois*, "the jury's estimate of the truthfulness and reliability of a given witness may well be determinative of guilt or innocence, and it is upon such subtle factors as the possible interest of the witness in testifying falsely that a defendant's life or liberty may depend." 360 U.S. at 269.

By the concealing of the witness's proffer testimony given by Judith Benech, an inadvertent discovery violation was found by the Court.

This requirements of disclosure include any information which concerns witnesses' credibility as well as matters concerning the guilt or innocence of the defendant; See *Giglio v. United States*, 405 U.S. 150, 92 S.Ct. 763, 31 L.Ed. 2d 104 (1967), *Napue v. Illinois*, 360 U.S. 264, 79 S.Ct. 1173, 3 L.Ed. 2d 1217 (1959). since that the State was paying to the witnesses by their testimony (See Trial T. - P. 293-112).

The Contradictory statements gave at Trial by the prosecutors Ms. Darlene Simmons and Shannon Laurie, regarding to the delivery of the recorded Proffer of Ms. Judith Benech, and the concealing of the State's Exhibit 3, shown to the jury as evidence receipt, in the Records on Appeal, has been recognized that the timing of disclosure should be inappropriate to allow proper implementation of *Brandy v. Maryland* and the disclosure may come too late if it is only given at Trial. See *State United v. Campagnolo*, supra *United States v. Harris*, 458 F.2d, 670, 677 (5th Cir. 1972). 517 F.2d 145 (1972).

The Order denying the Defendant's Motion for Judgment of Acquittal, rendered by the honorable Keith White on April 22, 2022, is in direct Conflict with the decision of another District Court and the Supreme Court of Florida, rendered on State v. Cotton, 568, S.2d, 49 (1990).

In the Justice Overton McDonald's dissenting is declared that the Statute 914.22(5)(a) not only, the Statute is vague, which violated the Due process Clause of the Florida Constitution; as follows:

"I agree with analysis of the United States District Court in United States v. Kalevas, 622 F. Supp. 1523 (SDNY, 1985), where it dismissed a parallel Federal Statute 18 U.S.C. § 1512-1515 (1982). In Kalevas the Court distinguished between the elements of the offense which must be proven beyond a reasonable doubt and the element of the affirmative defense which are undisputed facts, proof of which by a preponderance of the evidence is sufficient to avoid criminal liability. Neither Section 1512(c) nor subsection 914.22(5)(a), allows the government to prevent an affirmative defense. The Legislature has offered defendants the opportunity to prove such additional facts as would demonstrate that allegedly illegal conduct was, in fact lawful. (McDonald Justice, dissenting) - State v. Cotton, 568, S.2d, 49 (1990).

This decision is in direct Conflict with the rendered by the honorable Keith White who stated on April 22, 2022: "The Statute at issue in this particular case, the language is plain, clear and unambiguous". (Transcript P.66-217); "The Legislature has specified with respect to an official proceeding that it need not be pending" (Transcript P.67-14). "I believe that the case that was pending" (Transcript P.67-213), declaring Invalid the FL Statute 914.22 (5)(a); that established: (5) For Purpose of this Section, (a) An official proceeding... need not be pending... at the Time of the offense."

"A vague Statute is one which is unconstitutionally infirm because its language is so unclear or ambiguous that persons of reasonable intelligence must guess at what conduct is proscribed." See *State v. Ferrari*, 398 S.2d 804 (Fla. 1981). See also *Linville v. State*, 359 S.2d 450 (Fl. 1978).

"The Court held that Convict guilty of Tampering with a Witness was improper because the Trial Court admitted inflammatory evidence of appellant's arrest." See *Ernest Jack Taylor, Jr. v. State of Florida*, 508 S.2d 1265, 1187 (Fl. App. Lexis 8425, 1987).

The Order rendered by the United States Court of Appeal of the Eleventh Circuit; also is in direct conflict with a decision of the Supreme Court of Florida on *State of Florida v. COHEN*, 568, S.2d, 49 (1990).

On July 16, 2022; the United States Court of Appeal stated: "Mandamus is available only in drastic situations, when no other adequate means are available to remedy a clear usurpation of power or abuse of discretion". "Likewise, Martin's request that this Court review her case and find that she was denied due process, is not cognizable because this Court does not have authority in Mandamus to act itself."

The following acts is in direct conflict with this decision;

- 1) The Ninth District Court on the Sentencing hearing of September 20, 2019; found an abuse of discretion (FE, 216).

- 2) The Supreme Court of Florida found on *COHEN v. STATE*, that the Statute 914.22(1)(2); violated Due Process Clause of the Florida Constitution Art. I § 9, and U.S. Constitution Amend XIV.

- 3) "Copy requirements of the prisoner Indigent Status Fl. Stat. § 57085(7) was unconstitutional as a violation of Separation of Power and as a usurpation of Court's exclusive rulemaking authority, because Copy requirement with Court procedure and conflicted with F.R.A.P. 9430. See *Jackson v. Dpt. of Correction*, 790 S.2d, 381, 2000 Fla. Lexis 823 (Fl. 2000).

ARGUMENTS Ground N: J.

The order(s) rendered by the State Tribunal(s), declare valid a Florida Statute, previously declared unconstitutional.

"Trial Court properly held that portions of the Witness Tampering Statute, Fla. St. § 914.22 (1)(a) and 914.22 (3), were unconstitutional for overbreadth and improper burden shifting. *STATE v. COHEN*, 545 So.2d 894, 1989 Fla. App. Lexis 749 (Fla. 4th DCA 1989), *aff'd*, 568 So.2d 49, 1990 Fla. Lexis 1173 (1990).

The defense raise the issue of the constitutionality on the Motion for Judgment of Acquittal and in a Motion for Post-Conviction Relief, "An unconstitutional Statute, saved to retroactively invalidate all convictions imposed." See *Bell v. State*, 585 So.2d 1125, 1191, Fla App. Lexis 9050 (Fla. 2nd DCA 1991).

The Court(s), are declaring invalid "the right guarantee by the Fifth and Fourteen Amendment of the Constitution, that the life, liberty or property may not be taken (by any State) without due process of the Law. That means the governments generally may not deprive a person of these rights without affording her, the benefit of (at least) customary procedures to which freemen were entitled by the old Law of England." *Pacific Mut. Life Inc. v. Haslip*, 499 U.S. 1, 28, 111 S.Ct. 1032, 113 L.Ed.2d 1 (1991) (Scalia J. concurring in judgment).

"But in my view the weight of the historical evidence, show that the Clause sought to ensure that people's rights are never any less secure against governmental invasion than they were common law."

"Lord Coke took this view of the English due process guarantee. L.E. Coke, the Second Part of the Institutes of the Laws of England 50 (1797), explained that Coke's Teaching were carefully studied and widely adopted by the Framers, becoming "almost the Foundations of our Laws." *Klopfer v. North Carolina*, 386, U.S. 213, 255, 87 S.Ct. 988, 18 L.Ed. 2d 1 (1967)." Indefiniteness of languages as affecting validity of criminal legislations or judicial definitions of Common-Law crime - Supreme Court Cases (96 L.Ed. 374).

"How is a Judge Knew? How are the people to know? The implacable facts is that this isn't your everyday ambiguous statute. It leaves the peoples to guess about what the law demand - and leaves judges to make it up. You cannot discern answers to any of the questions this laws begets by resorting to the traditional canons of statutory interpretations. No amount of starting at the Statute's text, structure or history will yield a clue. Nor does the Statute doesn't even ask for application of common experiences. Chase pure and raw, is required. Will, not judgment, dictates the result." (Gorsuch Justice, dissenting).

The Order denying the Motion for Judgment of Acquittal, rendered by the honorable Keith White, on April 22, 2019, stated:

"I do believe it's within the plain and ordinary meaning of withholding testimony to include offering money or pecuniary benefit to a person to not go and enter a plea where the plea agreement calls for that same person to testify against the co-defendant. That that is an inducement to withholding testimony. And that that was the facts in this particular case in the light most viewing the evidence is the light most favorable to the State."

The Order denying the defendant's Motion for Judgment of Acquittal, is declaring invalid the Florida Statute 914.22(5)(a); that (5) for purposes of this Section: (a) An official proceeding (at the time of the offense) need not be pending or about to be instituted at the time of the offense.

Upon Court Statements: "What I believe again, is the plain and ordinary meaning of official proceeding which is, I believe, elsewhere defined in the Statute. I believe that the case that "was pending" against Ms. Benech and Ms. Alvarro-Martin certainly falls under the plain and ordinary understanding of these terms." (Statements given by the honorable Keith White.)

An Arrest Warrant Affidavit, illegally executed stated: "Homeland Security Agent Thomas Sommerderf was present during the arrest. There were other agents present and they confiscated Ms. Navarro-Martin Cell phone". Since that the State's Response Motion stated: "the State did not seek a Search Warrant for the Device and did not image the phone". Being Mr. Thomas Sommerderf a agent of the Medicaid Fraud Control Unit (MFCU) and State entity, and law enforcement official, who executed the Arrest Probable Cause Affidavit in the original proceeding that was "pending" at time of the Arrest, should make and is declaring invalid the Florida Statute 933, to Search and Inspections Warrants in which is established that § 933.14 and 933.06, the warrant affidavit application have to be duly sworn to the issuing, and the judge shall order be returned to the person from whom taken, for use as evidence at trial.", petition made by the defendant at Trial, being without response by the Court.

"The government violates the Constitution's Due Process Clause if it withholds evidence that is favorable to the defense, and material to defendant's guilt or punishment" (quoting *Smith v. Cain*, 565 U.S. 73, 75, 132 S.Ct. 627, 181 L.Ed.2d 571 (2012)). The Court is declaring invalid the Florida Statute 837.02; perjury in an official proceeding and the Florida Rule of Criminal Procedure 3.220 (b)(1), when the failure of the State to within 15 days after service of the notice, failed to disclose to the defense, the described information that is the State's possession. "A Brady violation occurs when (1) was a favorable evidence, either exculpatory or impeaching, (2) was willfully suppressed by the State unlawfully, (3) the evidence was material, and the defendant was prejudiced. See *Bailey v. State*, 283 U.S. 2d 782, 789 (Fla. 2019) (quoting *Taylor v. State*, 62 So.3d 1102, 1114 (Fla. 2011)).

"A government of laws cannot never tolerate that arbitrary Power" (quoting *Gorsuch J. dissenting*)

In proceedings for Indirect contempt, "due process of the law requires that the accused be given notice of the charge and a reasonable opportunity to meet it by way of defense or explanation." See *Geary v. Kelly*, 137 S.2d 267, 263 (Fla. 3rd DCA 1982). *Giblin v. Sullivan*, 157 Fla. 496, 26 So.2d 509 (1946). An Indirect contempt should be established, when the petitioner was not in the scene of the crime, and upon records of depositions taken under oath omitted of records on Appeal, the petitioner never offered pecuniary benefit to the Co-defendant and never said, "not enter in a plea".

The Chapter 73, obstruction to the justice, 18 U.S.C. § 1512, is established that it prohibits tampering with any record, document or tangible object in an attempt to obstruct a federal investigation.

"Prosecution violate Due Process rule of *Brandy v. Maryland*, (373 U.S. 150, 92 S.Ct. 763, 31 L.Ed.2d 104 (1967)), by hiding (prosecution witness testimony contrary to State's Exhibit presented to the jury) and misleading represent(ing) to the defense counsel that it had complied in full with its Brandy disclosure obligations. See *Banks v. Dretke*, 500 U.S. 688 (2004).

The normal meaning of "knowingly" or "indirect contact," made nonsense both linguistically and in its statutory scheme, where, (a) only persons conscious of wrongdoing could be said to knowingly... corruptly persuad(e) and (b) limiting criminality to persuaders conscious of their wrongdoing sensibly allowed § 1512, to reach only those with the level of culpability that the Supreme Court usually required in order to impose criminal liability.

The Defendant's cell-phone, that should show favorable and exculpatory evidence, was suppressed by the State without a Search Warrant. The Defendant requested, before the Trial, during the Trial and in the post-conviction proceeding the presentation of this evidence, being concealed by the State.

QUESTION N: 1.-

ARGUMENTS GROUNDS N: 2.

Is whether the prosecution engaged in malicious prosecution?

The United States Constitution, Amendment V and XIV, section 1, establish that NO STATE, shall deprive any person of life, liberty, or property without due process of law. The wrongful procurements were described during all Trial and appeal proceeding where despite of the defense objection was permit offer improper evidence to the jury, connecting to the defendant to a crime, violative of the Due Process, as applied.

1.- On Defendant's Motion for Judgment of Acquittal as to Count Two of the Information; Conspiracy to Commit Witness Tampering, the Court adjudges that the defendant was NOT GUILTY, of said offense.

2.- The petitioner was Judgment and Sentences upon a Charging document that include the violation of Florida Statute, 914.22 (2)(d); that stated: "Tampering with a witness, victim or informant is a: (d) Felony of the first degree, punishable by a term of years not exceeding life... where the official proceeding affected invalidates the investigation or prosecution of a first degree felony."

The Charging document, showed to the jury, as to Count Two, of the information with the "First Degree Felony", was found by the prosecutors NOLLE CONTENDERE, after of the Trial, it malicious procurement; and omission of the Records on Appeal of the State's Exhibit N: 1, presented to the jury at Trial, were highly prejudicial and justified a Habeas Corpus Relief. See *Dickson v. Sullivan*, 849 F.2d 403, 405-08 (9th Cir 1988).

3.- The prosecutors offered pecuniary benefit to the former defendant's Counsel and to the State's Witnesses, without disclose this information to the defense. Before the Trial, the defendant's Counsel stated: "they were even willing to give her \$50,000 to satisfy her legal fee," (Transcripts filed on December 26, 2019, omitted of the records on Appeal.); the prosecutor Mr. Jarrett Brock also stated: "the State is paying for them to be here" (T. 293). Exculpatory's Evidences affecting the credibility of the State's Witnesses were concealed by the prosecutors, as the testimony of Ms. Darlene Simmons, who as former prosecutor and State's Witness, was entitle to a Reward upon the Fla. Statute, 409.92c3 "Rewards for reporting Medicaid Fraud, that stated: the remaining 50 percent of such money (properties seized to the defendant previously) shall be used by the Medicaid Fraud Central Unit." Charging document filed by Ms. Simmons, what after Trial was found Nolle Contendere. "State appellate Court erred in concluding that Confrontation Clause violation was harmless" See Szuchon v. Lehman, 273 F.3d 299 (3rd Cir. 2001). "Prosecutor's knowing presentation of false evidence and failure to correct the records... violate (d) due process." See Holloway v. Horn, 355 F.3d 907 (3rd Cir), cert. denied, 543 U.S. 976 (2004).

4.- Entrapment occurs when investigators or prosecutors use coercion or persuasion to get Targets to commit crimes that they showed no predisposition to commit until undercover or informants entered... An indirect contact, plaintiffed by the former prosecutor Ms. Darlene Simmons, who stated "I made sure she got it," in regards to the Recorded Proffer of the Co-defendant Due Process to a fair Trial, was violate when was showed a State's Exhibit 3, (document receipt), knowingly the recorded proffer was not provided to the Current Counsel or either of the prior defense Counsel (Trial Transcripts omitted of records on Appeal.) (T. 142)

5.- The State's Exhibit 2, that content exculpatory and impeachable information (Package of Information); was not send to the jury room to deliberation, (only available upon request), that contain Spanish written, that despite of the defendant objection; "I'm wondering if that can be translated to English", the Court stated: "No, Evidence is closed" (T.F.322).

6.- An Inadvertent Discovery violation, was found by the Court, during the Trial, making invalid the F.R.C.P. 3200(b)(1), 3200(D), 3200(M)(v); by the lack of disclosure to the defendant of (D) Any written or recorded statements and the substance of any oral statements made by the Co-defendant. Knowing the presentation of false testimony, the prosecutor Ms. Laurie stated: "this recorded proffer was not provided to current Counsel in the case or either of the prior defense Counsel, in the case?" Her answer was: "That's correct". "Brady requires the State to disclose material information within its in possession or control that is favorable to the defense" See *Riechman v. State*, 966 So.2d 298, 307 (Fla. 2007). "The Submission of the Co-defendant Confession by the State to the Court must be timely and it must be total." See *Matthews v. State*, 353 So.2d 1274, (Fla. 2nd DCA 1978).

7. A motion for Confidentiality of the discovery, was scheduled after the Trial; the Court ordered to the previous Counsel, "Mr. Zamora, you will maintain all evidence that you have in your office and you will not provide it to the defendant." False statements were gave by the prosecutors, when stated: "that's the complete discovery" (Before Trial). The Court found a) Abuse of discretion (Sentencing Transcripts) "A Court's ruling on a motion for Continuance (denied before the Trial); will only be reversed when a abuse of discretion is show. *Smith v. State*, 170 S.3d 745, 758 (Fla. 2015).

STATEMENTS OF THE CASE II

CONES NOW, petitioner, MARIA NAVARRO MARTIN, pro se, respectfully request to this honorable Court incorporate this Reply Brief to the petition for writ of Certiorari, previously filed, and in support of this petition allege, as follows:

(1) This honorable Court for its consideration upon receiving an express waiver of the right to file a response by the State to the facts alleged by the petitioner, should find pursuant, *Trump v. Vance*, 140 S.Ct. 2412, 207 L.Ed.2d 907, 2020 US Lexis 3552 (2020), "there is no objection from respondent, and we do so, both petitions for Certiorari and both Stay applications are accordingly ripe for consideration." "Presidents and their official communications, are subject to judicial process, even when the president is under investigation." (Supreme Court docket N: 22-5339)

(2) This honorable Court should review in certiorari not as a matter of rights but of judicial discretion, pursuant, Rule 10(c), "a United States Court of appeal has entered a decision in conflict with the decisions of another United States Court of Appeals on the same important matters, has decided an important federal question in a way that conflicts with a decision by a Court (State) of last resort and has so far departed from the accepted and usual course of judicial proceedings as to call for an exercise of this Court's supervisory power."

After a judgment and sentence on September 20, 2019, a Notice of Removal was filed on Fla. Dept of Corrections, which all the order(s) in State Court of this Court, after this date, "Its subsequent proceedings and judgment are not simply erroneous, but absolutely void." "Every order thereafter made it that Court is *Coram Non Iudice*", pursuant, *Kern v. Hunter*, 103 US, 485, 493, 26 L.Ed. 354 (1981), See also *Roman Catholic Archdi. of San Juan v. Feliciano*, 140 S.Ct. 696, 206 L.Ed.2d 2070, US Lexis 1356, 2nd Fla. L.Wee. Fed. 26 N: 18-921 (2020).

This honorable Court also should review on a writ of certiorari, not as a matter of right but of judicial discretion, the decision of "a State Court or a United States Court of Appeals has decided an important federal question in a way that conflict or has decided an important federal question in a way that conflicts with relevant decisions of this Court."

Under the Supreme Court Act, 4(c) Rule, if court should have jurisdiction within in any proceeding the constitutionality of a statute is drawn into question, which under 28 USC § 2403 (b) may apply and shall be served on the Attorney General of the State of Florida, as also is defined by 28 USC § 451. The initial document also shall state whether that Court, pursuant to 28 USC § 2403 (b), certified to the State Attorney General the facts that the constitutionality of a statute of that State was drawn into question, was is required, this statement by SC Rule 141(e)(v).

Under the SC Rule 11, this honorable Court should granted a petition for a writ of certiorari, will be granted upon a showing that the case is of such imperative public importance as to justify deviation from normal appellate practice and to require immediate determination in this Court, see 28 USC § 2101 (e), in the case defect in this Court. N: 22-5339 and on petitions made in the District Court of the Southern Region of the State of Florida, where the Magistrate Judge Reiter is deciding in this matter.

Under provisions of the Rule 18.2, "When two or more judgments involving identical or closely related questions are sought to be reversed on appeal from the same Court, a notice of appeal for each judgment should be filed with the district Court, but a single jurisdictional statement covering all the judgments sought suffices."

(3) On June 16, 2022, the United States Court of Appeal for the Eleventh Circuit denied the defendant's petitions for a Writ of Mandamus and a Writ of prohibition, which was ordered: "Please note that a copy of this Court's opinion, the judgment and any copy of order or rehearing should be attached as an appendix to any petition for writ of Certiorari filed in the Supreme Court, See Supreme Court Rule 14.1 (i)," order rendered on August 10, 2022.

Persuant Rule 20.3 (d) A petition seeking a writ of prohibition, a writ of Mandamus, or both in the alternative, shall state the names and office or function of every person against whom relief is sought is not available in any other Court.

The petitioner alleged that the Florida Corrections Dept, has not provided the Financial Statements required to proceed in forma pauperis, which the petitioner is deprived of seek federal Court review. "that portion of the order is immediately appealable," See *Robert v. United Dist. Court*, 339 US 844, 845, 70 S.Ct. 954, 94 (8d. 1328) (1950) (per curiam), *Wood v. Dahlberg*, 894 F.2d 187, (6th Cir 1990) (per curiam). *Phillips v. King*, 866 F.2d 824, 825 (6th Cir 1988). "The denial of pauperis status may presently be raised on Appeal," See *Richards v. Washington*, 2021 US App. Lexis 17441 N: 20-2161 (6th Cir 2021). "Summary dismissal through denial of rights to proceed in forma pauperis might constitute 'Abuse of discretion,' if litigant was proceeding pro se," See *Maleng v. Gek*, 490 US at 330, 488, 493-494 (1989) (Per curiam). "Summary dismissal by means of denial in forma pauperis status is reversible error abuse of discretion when district Court inappropriately resolved genuine issues," See *Wesson v. Oglesby*, 910 F.2d, 278, 282 (5th Cir)

"Petitioner was granted Second-Tier Certiorari review of an order dismissed her appeal... because the Court did not provide reasonable notice that petitioner appeal would be dismissed for determination of indigent status," See *Burnett v. Target Corp.* 241 So3d 250, 216 (Fl. 3rd DCA 2018)

The Honorable Robert J. Loefer rendered an order on Case No. 22-11351-J
where accordingly "Martin's ITP motion is hereby denied, as her Mar-
darius petition is frivolous," also ordered: "Martin also has the sole
quote: alternative remedy of challenging the constitutionality of her
state conviction and sentence by filing a 28 USC § 2254 habeas cor. petition."

(4) The petitioner filed a successive petition for writ of Habeas Corpus
pursuant 28 USC § 2241, since that the § 2251, allow disputed facts
judged and "undisputed facts"; in the lower federal court: 2017-CF-
00055-070, which the 28 USC § 2254 only permit review of the judge-
ment and sentence. Pursuant Oghadiri Kpa v. Ashcraft, 342 F.3d
207, 222 (CA3-2003); Wang v. Ashcraft, 320 F.3d 130, 143 (CA2-2003)
"We hold that scope of habeas Relief available in 28 USC § 2241... inclu-
des error of law, by direct challenging removal order, including both, Star
Tutory interpretation and application of law to "undisputed facts" or
adjudicated facts." See also Hill v. Hester, 836 F.3d 595 (6th Cir. 2016);
Coffman v. Martinez, 533 US at 351 "We concluded that § 2241 habeas
Corpus proceedings remains available as a form of statutory and consti-
tutional challenges to post-removal detention."
The petitioner request to this honorable court review the disputed
and undisputed facts, which were deemed admitted, stated by the
petitioner in her Motion to Dismiss and Petition for writ of Habeas
Corpus filed before the lower(s) court, the original state habeas
of removal filed on the date of convictions, after the sentence of
September 20, 2019, since that was not a "crime of violence",
as described on Sessions v. Mayes, 584 U.S. 135 (2018), 2017-2018,
549, 2018 US LEXIS 2497 (2018), and pursuant to Rasul v. United States,
762 Fed App. 638, 2019 US App. 4486 (11th Cir. 2019). "Non-citizens con-
victed did not preclude judicial review of factual challenges
to a C.A.T. order"

The petitioner request to this honorable court review the following:
Arguments of the case No. 22-CV-405-TPB-PRL

The Order rendered by honorable TOM BARBER is expressly and in direct conflict with the decision rendered by the United States District Court for the Southern District of Florida, Miami Div. and rendered in the same above-styled Cause on September 9, 2022, that stated:

"In the Case No. 17-CF-1585-B-O, under 28 USC § 2241, district courts are limited to granting habeas relief within their respective jurisdiction." *Rumsfeld v. Padilla*, 542 US 426, 442 (2004) (quoting 28 USC § 2241 (2)), this "for core habeas petitions challenging present physical confinement, jurisdiction lies in only one district: the district of confinement." *Id.* at 443, *The Florida Women Reception Center for the Middle District of Florida*. See (USC § 89 (B)).

(5) The Order rendered by the honorable TOM BARBER, to transfer the Case to Orlando Div. and which was previously filed a petition for writ of Habeas Corpus being denied, by the denial of Proceed in forma Pauperis, and being it order in review in the Supreme Court, docket # 22-5339, departed of the essential requirements of Law, upon Constitutional Law § 171, Duty of State Court to protect Constitutional Rights, "State Courts equally with Federal Courts are under an obligation to guard and enforce every right secured by the Federal Constitution," where an Abuse of discretion should be found by "Summarily dismissed by means of denial in forma Pauperis Status is reversible abuse of discretion if litigant was proceeding pro se", See *Maling v. Gek*, 490 US at 330, 488, 493, 494 (1989) (Per. Curiam). See also *Wesson v. Oglesby*, 910 F.2d 278, 282 (5th Cir 1990), and when requirements of 28 USC § 1915 (b)(4) and Fla. R.A.P. 9.430(d)(B), stated, that "no expert shall a prisoner be prohibited from bringing a civil action or appealing a civil action or criminal judgment," and where the Failure, and filing fees are not applicable to Federal Habeas procedure.

"The Court's behavior in summarily denying petitioner habeas Corpus, without acting on the application in either (1) issuing an order to show Cause, or (2) ordering a hearing on the factual matters presented by the allegations of the petition." See *Walker v. Johnston*, 312,

US. 275, 852, ed 830, 61 ST. 574; 28 USC § 2243

(6) The United States Court of Appeals for Eleventh Circuit, also denied proceed in forma pauperis, despite of an affidavit filed which is showed a previous adjudication of Indigency Status to proceed in Forma Pauperis on August 22, 2024.

The orders rendered in the Case (S) N-22-11351-J and 22-11353-J, should be noted was, "FOR WANT OF PROSECUTION", which a response was gave in both cases without file a Traverse as is required by 28 USC § 2248, "If a Traverse, shall be accepted as True", and since that both petitions were a complement to a petition for writ of Habeas Corpus filed.

"The dismissal of appeal for want of prosecution is clearly not an affirmance of the judgment", See *Drummond v. Nelson*, 14 N.Y. 6, 61, "Where petitioner for writ of Habeas Corpus challenged power of Court... unchallenged allegations must be accepted as True", except judge finds from evidence that it is not True". See *United States ex rel. Edelson v. Thompson*, 175 F. 2d, 140 (2nd Cir, 1949), "Uncontroverted allegations of return to petition for writ of Habeas Corpus, must be taken as True", See *Vitale v. Hunter*, 206 F. 2d 826 (10th Cir 1953).

This honorable Court, should find as a matter of judicial discretion, that the Facts stated in the petition for writ of Habeas Corpus, were deemed accepted as True, and enter in this Order for a writ of Mandamus to all the judge (s) and clerk of Court (s) to transmit the records on appeal and any Transcription of the hearings requested to Court Reporter Services, necessary to an understanding of the issues presented. "Neffler, president's memorandum constituted directly enforceable Federal law that should pre-empt state limitations on the filing of successive habeas petitions", See *Medellin v. Texas*, 552 US. 491, 128 Sct. 1346, 170 L. Ed 2d. 190, 2008 US. L. 2912 (2008).

REASONS FOR GRANTING THE PETITION

Justice Gorsuch, Teaching in "Vague Laws Invite arbitrary Power;" should be the first to which one person, arrested and judged by an unconstitutional statute, seek relief by this honorable Court. See *State v. GLEN*, 545 So.2d 894, 1989 Fla. App. Lexis 749 (Fla. 4th JCA 1989), aff. 568 So.2d, 49 1990, Fla Lexis 1173 (1990). "An unconstitutional statute, served to retroactively invalidate all convictions imposed." See *Bell v. State*, 585 So.2d, 1125, 1191 Fla. App Lexis, 950 (Fla. 2nd JCA 1991). "The idea that a law that does not provide sufficient minimal standards to guide 'law enforcement officers', does not adequately protect against arbitrary enforcement." See *United States v. Aguilar*, 515 U.S. 593, 600 (1995) (quoting *McBayle v. United States*, 283 U.S. 27 (1931). *Chicago v. Morales*, 527 U.S. (1992) (Breyer Justice, Concur).

The first date of the evidentiary hearing was scheduled on January 6, 2020, (the same day of the Capitol Riots); being canceled by the Court. The defendant believe, that after the disclosure of privileged information to member of the Congress; with information, as corruptly, were deprived of rights, coverage of services, and an adequate protection to children chronically ill, diagnosed with autism, of the petitioner and her family; where were informed about, the Speliation of evidences, the illegally executed search warrant, the seizure of properties without a search warrant and false statements gave in the Affidavit of Arrest; was the cause of this arbitrary enforcement and prosecution.

The public's threaten of the former Attorney General, calling "inescripable" to the petitioner, the Tweet filed as Exhibit on the Motion of August 6, 2019; the Content of the packet of information, presented as State's Exhibit 2, and the threaten in Open Court of the prosecution "I think I gave you waters, and it is the Florida Supreme Court;" and the information of the Petitioner's cell-phone, (shared on Internet); was the cause of the Omission of Records on Appeal; deem a Brandy Violation, under *Brandy v. Maryland*, 393 U.S. 150, 92 S.Ct. 763, 31 L.Ed. 2d 104 (1967), and a Violation of Due Process Clause under, *Smith v. Cain*, 565 U.S. 7375, 1320 S.Ct., 627, 181 L.Ed 2d 271 (2012). "A government of laws cannot (188 S.Ct. 1234) of men can never tolerate that arbitrary (200. L.Ed. 2d 581). Power (Justice Gorsuch, Concur in the judgment).

This honorable Court, should find as a matter of law, that is petition for a Writ of Certiorari, should be granted to the protection of fathers generations of an arbitrary Power and prosecution, that cannot have place in a Democracy and Fair administration of Justice.

WHEREFORE, by the verification of this writ, the petitioner MARIA NAVARRO MARTIN, submits that the facts stated in this motion, are true and correct, and respectfully request to this honorable Court, that as a matter of Law, on the undisputed facts, the information on the Court one of the information, should be dismissed in its entirety; find as a matter of Law, that the judgment and sentence, can be vacate and set-aside; find as a matter of Law, that the appellant did not received a fair and impartial trial and appeal process; and any and all relief that this honorable Court, deem just and proper.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

MARIA NAVARRO MARTIN

Date: March 31, 2023.