IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 22-12141-A

VICTOR WILSON,

Petitioner-Appellant,

versus

SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, et al.,

Respondent-Appellee.

Appeal from the United States District Court
for the Middle District of Florida

ORDER:

Victor Wilson's motion for a certificate appealability is DENIED and his motion to proceed on appeal *in forma pauperis* is DENIED AS MOOT.

/s/ Robert J. Luck
UNITED STATES CIRCUIT JUDGE

No. _____

_____

IN THE

SUPREME COURT OF THE UNITED STATES

_____

VICTOR WILSON — PETITIONER,

vs.

THE STATE OF FLORIDA — RESPONDENT

TABLE OF APPENDICES

Appendix
(A)
Appendix/Exhibit "A" EXHIBIT

Supreme Court of Florida

WEDNESDAY, FEBRUARY 11, 2015

CASE NO.: SC14-2235
Lower Tribunal No(s).: 1D14-4289,
162012CF012271AXXXMA

VICTOR KEITH WILSON vs. STATE OF FLORIDA CR-E

Petitioner(s) Respondent(s)

The petition for writ of prohibition is hereby transferred to the Circuit Court of the Fourth Judicial Circuit in and for Duval County, Florida, for consideration in the context of Case No. 162012CF012271AXXXMA. The transfer of this case should not be construed as an adjudication or comment on the merits of the petition, nor as a determination that the transferee court has jurisdiction or that the petition has been properly denominated as a petition for writ of prohibition. The transferee court should not interpret the transfer of this case as an indication that it must or should reach the merits of the petition. The transferee court shall treat the petition as if it had been originally filed there on the date it was filed in this Court. Any determination concerning whether a filing fee shall be applicable to this case shall be made by the transferee court. Any and all pending motions in this case are hereby deferred to the transferee court.

Any future pleadings filed regarding this case should be filed in the above mentioned circuit court at 501 West Adams Street, Room 2356, Jacksonville, Florida 32202.

A True Copy
Test:

John A. Tomasino
Clerk, Supreme Court

FILED
FEB 20 2015
CLERK CIRCUIT COURT

sh
Served:

HON. RONNIE FUSSELL, CLERK
HON. JON S. WHEELER, CLERK
HON. PAMELA JO BONDI
VICTOR KEITH WILSON

Appendix (B)

AO 241 (Rev. 09/17)

PETITION UNDER 28 U.S.C. § 2254 FOR WRIT OF HABEAS CORPUS BY A PERSON IN STATE CUSTODY

United States District Court	District: Middle
Name (under which you were convicted): Victor K. Wilson	Docket or Case No.:
Place of Confinement : DADe CORRECTIONAL INSTITUTION	Prisoner No.: DC# J00910
Petitioner (include the name under which you were convicted): Victor K. Wilson	Respondent (authorized person having custody of petitioner): v. State of Florida / MARK INCH
The Attorney General of the State of:	

PETITION

1. (a) Name and location of court that entered the judgment of conviction you are challenging:
the 4th Judicial CIRCUIT DUVAL county JACKSONVILLE Florida

(b) Criminal docket or case number (if you know): Lt. case# 2012-012271

2. (a) Date of the judgment of conviction (if you know): NOV. 18, 2015

(b) Date of sentencing:

3. Length of sentence: Life

4. In this case, were you convicted on more than one count or of more than one crime? ☑ Yes ☐ No

5. Identify all crimes of which you were convicted and sentenced in this case: Second degree MURDER, POSSESSION OF A FIREARM BY CONVICTED FELON, AGGRAVATED ASSAULT

6. (a) What was your plea? (Check one)

☑ (1) Not guilty ☐ (3) Nolo contendere (no contest)

☐ (2) Guilty ☐ (4) Insanity plea

(b) If you entered a guilty plea to one count or charge and a not guilty plea to another count or charge, what did you plead guilty to and what did you plead not guilty to?

(c) If you went to trial, what kind of trial did you have? (Check one)

☐ Jury ☑ Judge only

7. Did you testify at a pretrial hearing, trial, or a post-trial hearing?

☑ Yes ☐ No

8. Did you appeal from the judgment of conviction?

☑ Yes ☐ No

9. If you did appeal, answer the following:

(a) Name of court: 1st District court of Appeal

(b) Docket or case number (if you know): L.t. case# 2012-012271

(c) Result: Per curiam Affirmed

(d) Date of result (if you know): Oct. 7, 2019

(e) Citation to the case (if you know): 1D17-4513

(f) Grounds raised: trial court committed fundamental error by not taking Petitioner to trial before 180 days expired, Petitioner also filed a motion to demand and the State granted the speedy trial demand on March 19, 2014 but Petitioner never recieved his constitutional right to a public speedy trial 3.191(a)(b)

(g) Did you seek further review by a higher state court? ☑ Yes ☐ No

If yes, answer the following:

(1) Name of court: Florida Supreme Court

(2) Docket or case number (if you know): SC-17-308

(3) Result: the case was transfered back to the 4th Judicial circuit court for sufficient consideration

(4) Date of result (if you know): MARCH 7, 2017

(5) Citation to the case (if you know): SC-17-308

(6) Grounds raised: TRIAL COURT VIOLATED PETITIONERS RIGHT TO A PUBLIC AND SPEEDY TRIAL. AFTER THE 180 DAYS EXPIRED, THUS TRIAL COURT VIOLATED PETITIONERS DEMAND FOR SPEEDY TRIAL AFTER 60 DAYS

(h) Did you file a petition for certiorari in the United States Supreme Court? ☐ Yes ☑ No

If yes, answer the following:

(1) Docket or case number (if you know):

(2) Result:

(3) Date of result (if you know):

(4) Citation to the case (if you know):

10. Other than the direct appeals listed above, have you previously filed any other petitions, applications, or motions concerning this judgment of conviction in any state court? ☐ Yes ☑ No

11. If your answer to Question 10 was "Yes," give the following information:

(a) (1) Name of court:

(2) Docket or case number (if you know):

(3) Date of filing (if you know):

(4) Nature of the proceeding:

(5) Grounds raised: N/A

(6) Did you receive a hearing where evidence was given on your petition, application, or motion?

☐ Yes ☑ No

(7) Result: TRIAL COURT ERRORED BY SUE-SPONTE DENYING

(6) Did you receive a hearing where evidence was given on your petition, application, or motion?

☐ Yes ☑ No

(7) Result: N/A

(8) Date of result (if you know):

(d) Did you appeal to the highest state court having jurisdiction over the action taken on your petition, application, or motion?

(1) First petition: ☑ Yes ☐ No

(2) Second petition: ☐ Yes ☐ No

(3) Third petition: ☐ Yes ☐ No

(e) If you did not appeal to the highest state court having jurisdiction, explain why you did not:

N/A

12. For this petition, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground. Any legal arguments must be submitted in a separate memorandum.

CAUTION: To proceed in the federal court, you must ordinarily first exhaust (use up) your available state-court remedies on each ground on which you request action by the federal court. Also, if you fail to set forth all the grounds in this petition, you may be barred from presenting additional grounds at a later date.

GROUND ONE: TRIAL COURT COMMITTED FUNDAMENTAL ERROR BY DENYING PETITIONER'S CONSTITUTIONAL RIGHT TO A SPEEDY TRIAL

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

THE PETITIONER WAS ARRESTED ON DEC. 16, 2012 AND ON JAN 17, 2014 PETITIONER FILED A NOTICE FOR EXPIRATION OF SPEEDY TRIAL WHICH WAS DENIED. AND ON FEB 27, 2014 PETITIONER FILED A DEMAND FOR SPEEDY TRIAL. THE STATE GRANTED THE DEMAND BUT PETITIONER NEVER RECIEVED HIS CONSTITUTIONAL RIGHT TO A PUBLIC AND SPEEDY TRIAL.

(b) If you did not exhaust your state remedies on Ground One, explain why:

(c) **Direct Appeal of Ground One:**

(1) If you appealed from the judgment of conviction, did you raise this issue? ☑ Yes ☐ No

(2) If you did not raise this issue in your direct appeal, explain why:

N/A

(d) **Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

☑ Yes ☐ No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: A State Writ of habeas corpus

Name and location of the court where the motion or petition was filed: filed in the 4th Judicial circuit duval county clerk's office

Docket or case number (if you know): case# 2017-012271

Date of the court's decision: Sept. 25, 2017

Result (attach a copy of the court's opinion or order, if available):

(3) Did you receive a hearing on your motion or petition? ☐ Yes ☑ No

(4) Did you appeal from the denial of your motion or petition? ☑ Yes ☐ No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal? ☑ Yes ☐ No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: 1st district court of appeal 2000 Drayton Drive Tallahassee, Fla. 32399

Docket or case number (if you know): 1D17-4513.

Date of the court's decision: Oct. 7, 2019

Result (attach a copy of the court's opinion or order, if available):

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

(e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground One: Petitioner filed A Motion for his expiration of speedy trial, Plus A demand for speedy trial And A Writ of prohibition + Motion to discharge, See Exhibit

GROUND TWO:

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

N/A

(b) If you did not exhaust your state remedies on Ground Two, explain why:

N/A

(c) **Direct Appeal of Ground Two:**

(1) If you appealed from the judgment of conviction, did you raise this issue? ☐ Yes ☐ No

(2) If you did not raise this issue in your direct appeal, explain why:

N/A

(d) **Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

☐ Yes ☐ No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition:

Name and location of the court where the motion or petition was filed:

N/A

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

N/A

(3) Did you receive a hearing on your motion or petition? ☐ Yes ☐ No

(4) Did you appeal from the denial of your motion or petition? ☐ Yes ☐ No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal? ☐ Yes ☐ No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed:

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

N/A

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

N/A

(e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Two :

N/A

GROUND THREE:

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

N/A

(b) If you did not exhaust your state remedies on Ground Three, explain why:

N/A

(c) **Direct Appeal of Ground Three:**

(1) If you appealed from the judgment of conviction, did you raise this issue? ☐ Yes ☐ No

(2) If you did not raise this issue in your direct appeal, explain why:

N/A

(d) **Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

☐ Yes ☐ No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition:

Name and location of the court where the motion or petition was filed:

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

N/A

(3) Did you receive a hearing on your motion or petition? ☐ Yes ☐ No

(4) Did you appeal from the denial of your motion or petition? ☐ Yes ☐ No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal? ☐ Yes ☐ No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed:

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

N/A

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

N/A

(e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Three:

GROUND FOUR: N/A

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

N/A

(b) If you did not exhaust your state remedies on Ground Four, explain why:

N/A

(c) **Direct Appeal of Ground Four:**

(1) If you appealed from the judgment of conviction, did you raise this issue? ☐ Yes ☐ No

(2) If you did not raise this issue in your direct appeal, explain why:

N/A

(d) **Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

☐ Yes ☐ No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition:

Name and location of the court where the motion or petition was filed:

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

N/A

(3) Did you receive a hearing on your motion or petition? ☐ Yes ☐ No

(4) Did you appeal from the denial of your motion or petition? ☐ Yes ☐ No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal? ☐ Yes ☐ No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed:

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

N/A

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

N/A

(e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Four:

N/A

13. Please answer these additional questions about the petition you are filing:

(a) Have all grounds for relief that you have raised in this petition been presented to the highest state court having jurisdiction? ☑ Yes ☐ No

If your answer is "No," state which grounds have not been so presented and give your reason(s) for not presenting them:

(b) Is there any ground in this petition that has not been presented in some state or federal court? If so, which ground or grounds have not been presented, and state your reasons for not presenting them:

BECAUSE the PROSECUTORIAL MISCONDUCT VIOLATION F.R.C.P.(3.220) CLAIM WAS PRESENTED IN MY ORIGINAL WRIT of PROHIBITION, SEE APPENDIX/AFFIDAVIT/EXHIBIT

14. Have you previously filed any type of petition, application, or motion in a federal court regarding the conviction that you challenge in this petition? ☐ Yes ☑ No

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, the issues raised, the date of the court's decision, and the result for each petition, application, or motion filed. Attach a copy of any court opinion or order, if available.

N/A

15. Do you have any petition or appeal now pending (filed and not decided yet) in any court, either state or federal, for the judgment you are challenging? ☐ Yes ☐ No

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, and the issues raised.

N/A

16. Give the name and address, if you know, of each attorney who represented you in the following stages of the judgment you are challenging:

(a) At preliminary hearing: PRO.SE

(b) At arraignment and plea: PRO, SE

(c) At trial: PRO, SE

(d) At sentencing: PRO, SE

(e) On appeal: PRO, SE

(f) In any post-conviction proceeding: PRO, SE

(g) On appeal from any ruling against you in a post-conviction proceeding: PRO, SE

17. Do you have any future sentence to serve after you complete the sentence for the judgment that you are challenging? ☐ Yes ☒ No

(a) If so, give name and location of court that imposed the other sentence you will serve in the future:

(b) Give the date the other sentence was imposed: N/A

(c) Give the length of the other sentence:

(d) Have you filed, or do you plan to file, any petition that challenges the judgment or sentence to be served in the future? ☐ Yes ☐ No

18. TIMELINESS OF PETITION: If your judgment of conviction became final over one year ago, you must explain why the one-year statute of limitations as contained in 28 U.S.C. § 2244(d) does not bar your petition.*

N/A

* The Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA") as contained in 28 U.S.C. § 2244(d) provides in part that:

(1) A one-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of -

(A) the date on which the judgment became final by the conclusion of direct review or the expiration of the time for seeking such review;

(B) the date on which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, if the applicant was prevented from filing by such state action;

(C) the date on which the constitutional right asserted was initially recognized by the Supreme Court, if the right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or

(D) the date on which the factual predicate of the claim or claims presented could have been discovered through the exercise of due diligence.

(2) The time during which a properly filed application for State post-conviction or other collateral review with respect to the pertinent judgment or claim is pending shall not be counted toward any period of limitation under this subsection.

Therefore, petitioner asks that the Court grant the following relief: The Petitioner Respectfully PRAY that this Honorable court grant this Petition and order the Petitioner to be discharged or any other relief to which petitioner may be entitled. Pursuant to F.R.Crim.P. 3.191(A)(B)

Pro, se
Signature of Attorney (if any)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct and that this Petition for Writ of Habeas Corpus was placed in the prison mailing system on _____ (month, date, year).

Executed (signed) on _____ (date).

Victor Wilson, V-82
Signature of Petitioner

If the person signing is not petitioner, state relationship to petitioner and explain why petitioner is not signing this petition.

Appendix (B)

MEMORANDUM OF LAW

APPendix (B)

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

VICTOR WILSON,
Petitioner,

v.

MARK INCH,
Respondent.

Case No.: [redacted]
Case No.: [redacted]
L.T. Case No.: [redacted]

PETITION FOR ISSUANCE OF WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. §2254 ALLEGING A FUNDAMENTAL MISCARRIAGE OF JUSTICE

The Petitioner, **VICTOR WILSON**, *pro se*, pursuant to 28 U.S.C. §2254, respectfully moves this Honorable Court for the issuance of its Writ of Habeas Corpus. In grounds of support, Petitioner would allege and show a fundamental miscarriage of justice, as follows:

PETITION
FACTS UPON WHICH PETITIONER RELIES

The Petitioner was arrested on December 16, 2012. The information was filed on January 9, 2013. On January 17, 2014, Petitioner filed Notice of Expiration of Speedy Trial, and at which time the Court denied Petitioner on the grounds, that speedy trial time had not expired. On February 7, 2014, the Petitioner filed a Motion to Invoke Notice of Expiration of Speedy Trial (formally

known as a Motion for Discharge) and the Court denied the Motion on erroneous grounds: On February 27, 2014, the Petitioner filed a Motion to Demand for Speedy Trial, because really Petitioner's expiration of Speedy Trial expired on February 6, 2014 and a hearing was then held on March 19, 2014. The Court granted the Motion to Demand but Petitioner never received his constitutional right to a public and speedy trial. See: All Appendix/Exhibits

Petitioner is an indigent defendant who is being unlawfully detained. When congress codified new rules governing this previously judicially managed area of law, it did so without losing sight of the fact that a Writ of Habeas Corpus plays a vital role in protecting constitutional rights: Under Florida laws there now exist an emergency so that it is necessary for this Court to adopt the Rule providing the procedure through which the right to a speedy trial is guaranteed.

ARGUMENT

Fla. Statute ch. 918.01(2) is a legislative determination of the maximum delay in the trial which may be imposed upon one charged with a criminal offense where such delay is brought about without any fault or affirmative action on the part of the accused and is not permitted to occur over his protest: Petitioner contends that a person accused of a crime is constitutionally guaranteed a speedy trial, under Section 11 of the Declaration of Rights, Florida Constitution, F.S.A. Sixth and Fourteenth Amendments, U.S.C.A. Petitioner further contends that this

constitutional guarantee has been given legislative definition and clarification through the enactment of chapter 918.01 (2) F.S.A. which states clearly that relief provided the accused is to be granted by affirmative action of the court rather than by automatic operation of law, the Petitioner remains a criminal convicted, accused, and restricted and faced with the oppressive burden having being denied his right to a speedy trial 3.191 without any realistic relief see: STATE, EX REL CURLEY V. MCGEACHY, 1942, 149, Fla. 633, 6 So.2d 823; according to the law F.S.A. 918.01 (2) which has a distinct purpose of providing the Petitioner, after he had been arrested and accused, with affirmative relief of discharge where the State does not follow up the accusation with a trial: the State cannot arrest an accused in haste and then prosecute case at its leisure. An individual cannot be placed in the demoralizing position of being an untried accused for an interminable period of time. The trial court's refusal to discharge the Petitioner by denial of his speedy trial 3.191(A) (B) Motions which has placed the Petitioner in a legal limbo and made the duration of his accused state controlled solely by the whim and caprice of the State, County prosecutors; F.S.A. 918.01 confer jurisdiction upon a trial judge through the exercise of her or his general jurisdiction to validly act prior to filing of an information so as to protect the right of an accused to a speedy trial: 3.191(a) because a speedy trial is a legal and truly constitutional right which is under the provisions of a long-standing statute of this state designed to insure the

performance of that duty. See Barker v. Wingo, 407 U.S. 514, 92 S.Ct. 218. See also Florida Supreme Court Case # Wincor v. Turner, 215 So.2d 3; Oct. 30, 1968 Fla. Furthermore, when it comes to the matter of safe guarding the Constitutional Rights of a individual the Court look to the substance, rather than the technical forms of procedure taken to invoke the protection of the law, under Florida law of due process: The factual issues presented by Petitioner Victor Wilson was found to be true allegations with respect to trial court's refusal to furnish Petitioner's right to a Speedy Trial 3.191(A) (B).

Under Florida Statute 918.01 and 918.02 there now exists and emergency so that it is necessary for this court to adopt a rule providing the procedure through which the right to Speedy Trial is guaranteed, the Court shall, by rule provide procedures through which the right to Speedy Trial is guaranteed by subsection (1) and by section (16) Article (1) of the State Constitution which shall be realized: thus according to the rules and law, in order for a court to issue a Writ of Habeas Corpus, a petitioner must show that there is a clear legal right to the performance of a clear legal duty by a public Officer, and that there are no other legal remedies available to him or her. But if the Court finds the allegations "factually" insufficient, it will deny the petition. However, if the petition is facially sufficient, the Court must issue and alternative writ, an order directed to the Respondent to either perform their legal duty or to show cause why the requested relief should not

be granted. Then it is up to the Respondent to admit or deny the factual allegation upon which relief is based and to present any and all affirmative defenses if any they have, all facts alleged which generally incorporates by reference the original petition; the original petition. Wherein, it is arrived at as the result of the performance of a specific duty arising from legislatively designated facts absent any authorization of discretion.

Petitioner repeatedly requested trial court to do so. Thus, trial proceedings should not be validated if State fails to initiate steps necessary to insure affording all requirements of due process, including right to a Speedy Trial, 3.191 (A)(B) of course, the requirement that the deprivation of the necessary incidents be attributable to the State action which springs from the required presence of the State to activate the equal protection and due process clause of the 14th Amendment to the Federal Constitution, it is clearly argued that this type of default should be attributed to the State in testing the application of the 14th Amendment; in most instances in ascertaining whether there exists a failure or deprivation attributable to State actions is shown when a responsible official in the State's system of justice fails to take proper steps to affording a individual his or her constitutional right to a Speedy and Public Trial. 3.191(A) (B) certainly, it was not the intention of the legislature to grant a legal right and then to afford no method of obtaining that legal right.

Petitioner's legally sufficient motion was filed and in existence and very much active since November 25, 2013-2019 all by Petitioner in good faith. Furthermore, Petitioner represented himself during the Mocked Kangaroo court trial on totally different issues; because Petitioner's two main issues/expiration of his speedy trial 3.191 (A) (B) and motion to demand speedy trial 3.191 (A) (B) was violated before the actual trial.

STANDARD OF REVIEW

KLOPFER V. NORTH CAROLINA, 386 U.S. 213, 87 S.Ct. 988 (1967)

GROUND ONE

THE TRIAL COURT ERRED BY DENYING PETITIONER'S CONSTITUTIONAL RIGHTS TO A SPEEDY TRIAL CONTRARY TO CLEARLY ESTABLISHED U.S. SUPREME COURT PRECEDENTS.

The issue was a constitutional violation all over the pre-trial proceedings and, had Petitioner been granted an evidentiary hearing on the issue, it would have been in Petitioner's favor and the trial judge knew this. The Judge left her position as being "neutral" and showed "bias" The U.S. Supreme Court has very clearly stated doctrine to the effect that in prosecutions of crime, the defendant may be permitted to show affirmatively at the trial facts in pais which will demonstrate that the government is estopped to have, or has lost its rights to have the benefit of a conviction in the particular case before the court on account of the failure of its own officers to observe the spirit and intent of its statues relating to how

prosecutions shall be begun and supported. See Sorrells v. United States, 53 S.Ct. 210, 77 L.Ed. 413 (1932) as this Court has said: should be liberally construed in favor of protecting the rights of defendants designed to be protected by such statutes; one of the important rights so designed to be protected is the constitutional rights to a speedy trial while witnesses are still at hand for purposes of defense, and while there still exists means to rebut the states evidence of apparent guilt; the true rule to accomplish what is a constitutional required procedure, is to permit the defendant on trial to show by way of an affirmative defense that the particular prosecution has not been timely brought, and therefore is barred from prosecution this procedure would permit prosecution the benefit of showing some good reason why it failed to have process issued with reasonable promptness to insure a speedy trial. (3.191) (a) even if exceptional circumstance as defined by the Rule were shown, however, extension might not be justified. The delay in this proceeding and the numerous continuances were not the fault of Petitioner: it has been held that where exceptional circumstances were not the fault of Petitioner it has been held that where exceptional circumstances or complexities involved in the preparation of a case for trial were occasioned by delay on the State, they will not be deemed to justify a delay of the trial and extension of the Rule, period. Dickey v. Florida, 398 U.S. 30, 54; 90 S.Ct. 1564, 1577 (1970), because all extensions for exceptional circumstances must be by order of the court, Florida Rules of Criminal

Procedure, Rule 3.191(d) (2) and will not be automatic or presumed from the circumstances; the Court held that with a question that goes to the very nature and purpose of the speedy trial rule and to the basic principles of advocacy in an adversary system of criminal justice. Petitioner has a constitutional right to be brought to trial within a reasonable time - it is the States responsibility to bring those arrested to trial within the times provided in the speedy trial rule. U.S.C.A. Const. Amend (6) West's Fla. Stat. Ann., RCRP. Rule 3.191 A.

GROUND (2)

As a matter of law denial was not only improper, but a violation of a clearly established procedural Rule. That makes denial of a plain procedural error, and a violation of Petitioner's due process: this was a clear constitutional violation on the face of the record that has not been refuted: The trial judge refused to resolve facts in dispute, furthermore, according to the ruling in Keeney v. Tamayo-Reyes 504 U.S. 1, 11, 12, 112 S.Ct. 1715 (1992), the Court must resolve any factual dispute and, in most cases, resolution requires an evidentiary hearing. The holding of a hearing is mandatory if just one (1) of the situations can be proven; in Petitioner's case, at least three (3) situations can be proven to apply:

1. The merits of the factual dispute was not resolved.
2. No record attachments to refute claim and
3. No case citations to support its argument making denial of procedural error and a clear due process violation.

Petitioner's due process rights have repeatedly been run over by the trial court, Petitioner has been taken advantage of simply for being a pro se litigant - Petitioner's allegations together with undisputed facts warrant mandatory relief. See: All Appendix/ Exhibits

When a petition for Writ of Habeas Corpus alleging that the Petitioner is entitled to immediate release sets out plausible reason and a specific factual basis in some detail, the custodian should be required to respond to the petition: "the very nature of the Writ demands that it be administered with the initiatives and flexibility essential to insure that miscarriages of justice within it reach are surfaced and corrected. Because if it appears to a court of competent "jurisdiction" that a man is being illegally restrained of his liberty it is the responsibility of the court to brush aside formal technicalities and issue such appropriated order as will do justice: "As a general rule a writ of Habeas Corpus proceeding_is an independent action, legal and civil in nature designed to secure prompt determination as to the legality of restraint in some form." The object of the Writ of Habeas Corpus is not to determine whether a person has committed a crime, or the justice or injustice but to determine whether he is illegally imprisoned - or - restrained of his liberty. In order to state a "prima facie" case for Writ of Habeas Corpus, the complaint must alleged:

1. That the Petitioner is currently detained in custody;

2. And show by exhibits/appendix/affidavit or evidence probable cause to believe that he or she is detained without lawful authority.

3. To show a "prima facie" entitlement to writ of Habeas Corpus the Petitioner must show that he is unlawfully deprived of his liberty and is illegally detained against his will:

The last factor to be considered is the issue of prejudice flowing from the delay; this factor must be considered with an eye to the interest, which the right to a speedy trial is designed to preserve: the Supreme Court has isolated three such interests;

1. Prevention of oppressive pretrial incarceration;

2. Avoidance of undue worry and anxiety by the accused; and

3. Limitation of the possibility that the defense will be impaired by the passage of time:

The last consideration is necessarily the most serious "because the inability of a defendant adequately to prepare his case skews the fairness of the entire system." See Graham v. United States, 128 F.3d 372 (1997) Fed. App. In that particular case almost 8 years passed between the indictment and trial, similarly in Petitioner's Victor Wilson, case the delay was so extraordinary that it cannot be seriously contended that it was not presumptively prejudicial: because 3 years

between Wilson's arrest and trial was enough to satisfy the initial burden: thus the prosecutor and the court/judge had an affirmative constitutional obligation to try Petitioner in a timely manner and thus, the burden is on the prosecution to explain the cause of the pre-trial delay. See: Redd v. Bowders, 809 F.2d 1266, 6th Cir. 1987). Furthermore, the trial court had every opportunity to present "evidence and law," but, consistently failed to do so. The United States Constitution provides:

> "In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial . . ."

This guarantee is applicable to the States, virtue of the Due Process of Law clause of the Fourteenth Amendment. See Klopfer v. State of North Carolina, 386 U.S. 213, 87 S.Ct. 988, 18 L.Ed.2d 1 (1967). Indisputably, the right to a speedy trial is one of the most sacred and important rights guaranteed by the United States Constitutions. It is common knowledge that this said right has been flagrantly ignored by the Courts in this country, and strict rules like Rule 3.191, represent the enlightened effort of the many courts to implement the constitutionally guaranteed right to a speedy trial. Wherein, the Petitioner demanded speedy trial, thus motion for discharge had been denied although speedy trial time limits had passed made a "PRIMA FACIE CASE." the Petitioner had been continuously available, even after the depositions, the state, at no time, objected to the filing of the Demand or moved to strike such demand, or requested an exceptional extension of the sixty

(60) day speedy trial period triggered by the demand upon showing of exceptional circumstances. The case instead laid dormant for over "six (6) months" during which the Petitioner was not brought to trial, although he was continuously available during that time, he was entitled to discharge, after expiration of the sixty (60) day period. See Landry v. State, 666 So.2d 121 (Fla. 1995).

Petitioner is filing his petition in good faith; the issuance of this petition is to show this Honorable Court bona-fide proof that Petitioner filed his original "Writ of Prohibition" in the 4th Judicial Circuit Duval County Fla. During his pre-trial proceedings back in 2013/2014 as a pro-se litigate: attacking the validity of his speedy trial right's Rule 3.191(a) that was extremely violated and ignored by the trial judge, Petitioner actually on the face of the record demanded a speedy trial which the state prosecutor granted but Petitioner never received his speedy trial. Under the speedy trial rule, the Defendant upon being arrested has no obligation under the rule to further assert his right to be brought to trial unless he first waives his right. Graham v. U.S., 128 F.3d 372 (1997) correctly points out that it is the state's responsibility to bring those arrested to trial within time provided in the speedy trial rule 3.191(a) as you will see in the original petition; Writ of Prohibition, See All Exhibits. There was also, a major discovery violation under Rule 3.220: Petitioner has been diligently attacking these very same valuable claims since 2013/2019. Thus, the trial court was extremely biased against the

Defendant, which deprived the Defendant of his constitutional rights of the United States of America, under the 5th and 14th Amendments. (Which was clearly a miscarriage of justice).

Furthermore, the trial judge, the Respondent had broken the Canon Code of judicial Code of Conduct, that governs judges.

WEST'S FLORIDA STATUTES ANNOTATED CODE OF JUDICIAL CONDUCT

Canon 1: The judge DID NOT uphold the integrity and independence of the judiciary.

Canon 2: The judge DID NOT avoid impropriety and the appearance of impropriety in all of the judge's activities.

Canon 3: The judge DID NOT perform the duties of judicial office impartially and diligently.

Canon 4: The judge is encouraged to engage in activities to improve the law, the legal system, and the administration of justice, which she DID NOT honor.

Petitioner has attached all appendixes showing the record of his attempts to achieve mandatory relief that is warranted: Petitioner is showing this court the severe violations and gross negligence, which cannot be repaired by any sanction short of dismissal.

The Judicial power of the State is vested in the courts. Section 1, Art. 5, Const. Fla. But the authority to make laws is in the legislature of the State, Section 1, Art. 3, Const. Fla. and, while the Supreme Court has power to make rules of practice which shall have the force of law, it cannot make rules

inconsistent with law. Section 2955, rev. gen. Stat. It is true that every court has inherent power to do all things that are reasonably necessary for the administration of justice within the scope of its jurisdiction, yet nevertheless, courts are subject to valid, existing laws, and it is generally held that the practice and procedure by which courts shall exercise their jurisdiction, subject to controlling constitutional provisions.

Procedural law is some time referred to as 'adjective law' or 'law of remedy' or 'remedial law' and has been described as the legal machinery by which substantive law is made effective. Substantive law has been defined as that part of the law which creates, defines, and regulates rights, or that part of the law which courts are established to administer. See 52A C.J.S., Law, page 741; 20 Am.Jur.2d., Courts.

The California Court in Estate of Gogabashvele, 195 Cal. APD. 2d 503, 16 Dal. Rptr. 77 (1961) said:

> 'As used in jurisprudence, the term 'right' connotes the capacity of asserting a legally enforceable claim. Legal rights are those existing for their own sake and constituting the normal legal order of society, i.e., the right of life, liberty, property and reputation. Remedial rights arise for the purpose of protecting or enforcing substantive rights.'

As related to criminal law and procedure, substantive law is that which declares what acts are crimes and prescribes the punishment therefore, while

procedural law is that which provides or regulates the steps by which one who violates a criminal statute is punished. See State v. Augustine, 197 Kan. 207, 416 P. 2d 281 (1966).

CONCLUSION

The trial court has made errors in the ruling and handling of this case, it is obvious that the trial court has committed a violation of Appellant's constitutional right to a Speedy Trial (3.191) and F.S.A. (918.01(2): Appellant shows that he has a legal right to the performance of a clear administration duty and the failure to do so undermines the public confidence to all of the courts; "are" system of the administration of justice suffers when any accused is treated unfairly.

NATURE OF RELIEF SOUGHT

The Petitioner is respectfully praying that this Honorable Court grant this Writ of Habeas Corpus pursuant to Fla. R. Crim. P. (3.191) to: dismissing vacating judgment and conviction and order Petitioner be discharged from his present restrained liberty issuing the proper rulings to ensure that the rules of law is held to standard in the above styled cause.

OATH

I hereby certify that a copy of the foregoing has been furnished to the proper authorities. I declare, under penalty of perjury, that the following is true/correct. This motion is in compliance with 28. U.S.C. 1746 and Federal Rule 2254.

Victor Wilson, DC # J00910

CERTIFICATE OF SERVICE

I HEREBY CERTIFY under penalty of perjury that the said Appendix is true and correct and has been furnished by Prison Official for mailing to the following location via mail to:

UNITED STATES DISTRICT
Middle District of Florida
300 N. Hogan St., Suite 9-150
Jacksonville, FL 32202

RICKY DIXON
501 S. Calhoun St.
Tallahassee, FL 32399

on this _____ day of _____, 2022.

Victor Wilson, DC # J00910
Tomoka Correctional Institution
3950 Tiger Bay Road
Daytona Beach, Fla. 32124

Appendix (B)

PROVIDED TO TOMOKA CORRECTIONAL INSTITUTION ON 3/29/22 FOR MAILING BY [illegible]

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
Jacksonville Division

VICTOR WILSON,
Petitioner,

v.

STATE OF FLORIDA,
Respondent.
_____/

Fed. Case No. 3:20-cv-00169-BJD-PdB
Fed. Case No. 3:09-MC-38-J-MCR
First DCA Case No. 1D17-4513
L.T. Case No. 16-2012-012271

MOTION TO HEAR AND RULE

COMES NOW, Petitioner Victor Wilson, *pro se*, respectfully prays that his Honorable Court grant this Motion to Rule pursuant to Fla. R. Jud. Administration Federal Rule U.S.C. 2254, Code of Judicial Conduct to perform the ministerial duty of ruling on the pending pleading now before this Honorable Court. In support, Petitioner would show the following: under Federal Rule Criminal Procedure 48(b).

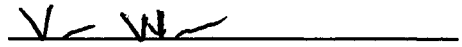
STANDARD OF REVIEW
(*Barker v. Wingo*, 407 U.S. 514, 530, 92 S. Ct. 2182; 33 L. Ed. 2D 101 (1972))

On November 6, 2020, Petitioner filed a Motion to Reply to the State's erroneous Response pursuant to Federal Rule 28 U.S.C. 2254 and Fed Rule 56 which governs sworn Appendix/Affidavits/Exhibits in this Court. To date, the Court has failed to rule upon this pleading within a reasonable amount of time. Petitioner has a clearly established right to have this Court rule upon the pleadings withing a reasonable time: thus, the pleadings at issue have been pending before the Court for 17 months this is not a futile act:Petitioner claims are meritorious and in good faith. (See Exhibit A)

RELIEF SOUGHT

The Petitioner respectfully prays that his Honorable Court grant this Motion and to perform the judicial/ministerial duty of ruling upon the aforesaid pleadings and to cease and desist all actions against Petitioner releasing Petitioner immediately issuing the proper ruling to ensure the rules of law are held to standard in the above styled cause under Federal Rule 28 U.S.C. 2254.

Respectfully submitted,



Victor Wilson, DC # J00910

OATH

I hereby certify that a copy of the foregoing has been furnished to the proper authorities. I declare, under penalty of perjury, that the following is true/correct. This motion is in compliance with 28. U.S.C. 1746 and Federal Rule 2254.

V. W.
Victor Wilson, DC # J00910

CERTIFICATE OF SERVICE

I HEREBY CERTIFY under penalty of perjury that the said Appendix is true and correct and has been furnished by Prison Official for mailing to the following location via mail to:

UNITED STATES DISTRICT
Middle District of Florida
300 N. Hogan St., Suite 9-150
Jacksonville, FL 32202

on this 29 day of March, 2022.

V. W.
Victor Wilson, DC # J00910
Tomoka Correctional Institution
3950 Tiger Bay Road
Daytona Beach, Fla. 32124

Appendix (B)

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

VICTOR K. WILSON,

Petitioner,

v. Case No. 3:20-cv-169-BJD-PDB

SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, et al.,

Respondents.

ORDER

Petitioner's Motion to Hear and Rule (Doc. 11) is **GRANTED to the extent** that the Court will render a decision in his case as its calendar permits. The Court carries a heavy caseload and due to limited resources, the Court cannot act as quickly as parties may wish. There are numerous habeas corpus cases on the Court's docket that were filed prior to Petitioner's case. In fairness to each Petitioner and Respondent, the Court must carefully consider the claims raised in each case. Petitioner is assured that the Court will act as its calendar permits.

DONE AND ORDERED at Jacksonville, Florida, this 20th day of April, 2022.

Brian J. Davis

BRIAN J. DAVIS
United States District Judge

Appendix (B)

caw 4/19
c:
Victor K. Wilson, #J00910
Counsel of Record

Appendix (B)

MIME-Version:1.0
From:cmecf_flmd_notification@flmd.uscourts.gov
To:cmecf_flmd_notices@localhost.localdomain
Bcc:
--Case Participants:
--Non Case Participants:
--No Notice Sent:

Message-Id:<22093320@flmd.uscourts.gov>
Subject:Activity in Case 3:20-cv-00169-BJD-PDB Wilson v. Secretary, Florida Department of Corrections et al (Duval County) Order dismissing case
Content-Type: text/plain
This is an automatic e-mail message generated by the CM/ECF system.
Please DO NOT RESPOND to this e-mail because the mail box is unattended.
NOTE TO PUBLIC ACCESS USERS Judicial Conference of the United States policy permits attorneys of record and parties in a case (including pro se litigants) to receive one free electronic copy of all documents filed electronically, if receipt is required by law or directed by the filer. PACER access fees apply to all other users. To avoid later charges, download a copy of each document during this first viewing. However, if the referenced document is a transcript, the free copy and 30 page limit do not apply.

U.S. District Court
Middle District of Florida

Notice of Electronic Filing
The following transaction was entered on 5/31/2022 6:32 PM EDT and filed on 5/31/2022

Case Name: Wilson v. Secretary, Florida Department of Corrections et al (Duval County)

Case Number: 3:20-cv-00169-BJD-PDB
https://ecf.flmd.uscourts.gov/cgi-bin/DktRpt.pl?374664

Filer:

Document Number: 13

Copy the URL address from the line below into the location bar of your Web browser to view the document:
https://ecf.flmd.uscourts.gov/doc1/047124389225?caseid=374664&de_seq_num=54&magic_num=MAGIC

Docket Text:
ORDER DENYING [1] Petition for Writ of Habeas Corpus. This case is DISMISSED WITH PREJUDICE and the Clerk shall enter judgment accordingly. if Petitioner appeals the denial of his Petition, the Court denies a certificate of appealability. Signed by Judge Brian J. Davis on 5/27/2022. (AMP)

3:20-cv-00169-BJD-PDB Notice has been electronically mailed to:
Michael Brent McDermott michael.mcdermott@myfloridalegal.com,
David.Nipper@myfloridalegal.com,
crimapptlh@myfloridalegal.com

3:20-cv-00169-BJD-PDB Notice has been delivered by other means to:
Victor K. Wilson
J00910
Tomoka Correctional Institution

Appendix (E)

3950 Tiger Bay Rd
Daytona Beach, FL 32124

The following document(s) are associated with this transaction:
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Original filename: n/a
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Appendix (B)

The following document(s) are associated with this transaction:
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Appendix (B)

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

VICTOR K. WILSON,

Petitioner,

vs. Case No. 3:20-cv-169-BJD-PDB

SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, et al.,

Respondents.

ORDER

I. STATUS

Petitioner Victor K. Wilson is proceeding pro se on a Petition Under 28 U.S.C. § 2254 for Writ of Habeas Corpus by a Person in State Custody (Petition) (Doc. 1) and is challenging a state court (Duval County) conviction for second degree murder, possession of a firearm by a convicted felon, and aggravated assault. He raises one claim: "trial court committed fundamental error by denying Petitioner's constitutional right to a speedy trial."[1] Petition at 5. Respondents filed a Motion to Dismiss Petition for Writ of Habeas

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1 In his Memorandum of Law attached to the Petition, Petitioner breaks his claim into two parts: (1) a speedy trial claim, and (2) a claim of a deprivation of due process due to delay in the trial. Petition at 22-29. As such, the Court will liberally construe the pro se Petition as raising a speedy trial and related due process claim in his sole ground for relief.

Corpus (Response) (Doc. 6) and an Appendix (Doc. 6).[2] Petitioner filed a Motion to Reply to the State's Response (Reply) (Doc. 6). See Order (Doc. 5).

The Court concludes no evidentiary proceedings are required in this Court. The pertinent facts are fully developed in the record, or the record otherwise precludes habeas relief; therefore, the Court can adequately assess the claims without any further factual development. Turner v. Crosby, 339 F.3d 1247, 1275 (11th Cir. 2003), cert. denied, 541 U.S. 1034 (2004).

II. HABEAS REVIEW

Federal courts are authorized to grant habeas relief to a state prisoner "only on the ground that he is in custody in violation of the Constitution or laws or treaties of the United States." Lee v. GDCP Warden, 987 F.3d 1007, 1017 (11th Cir.) (quoting 28 U.S.C. § 2254), cert. denied, 142 S. Ct. 599 (2021). For issues previously decided by a state court on the merits, this Court must review the underlying state-court decision under the Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA). In doing so, a federal district court must employ a very deferential framework. Sealey v. Warden, Ga.

[2] The Court hereinafter refers to the exhibits contained in the Appendix (Doc. 6) as "Ex." Where provided, the page numbers referenced in this opinion are the Bates stamp numbers. Otherwise, the page number on the particular document will be referenced. The Court references the docket and page numbers assigned by the electronic filing system for the Petition, Response, and Reply.

Diagnostic Prison, 954 F.3d 1338, 1354 (11th Cir. 2020) (citation omitted) (acknowledging the deferential framework of AEDPA for evaluating issues previously decided in state court), cert. denied, 141 S. Ct. 2469 (2021); Shoop v. Hill, 139 S. Ct. 504, 506 (2019) (per curiam) (recognizing AEDPA imposes "important limitations on the power of federal courts to overturn the judgments of state courts in criminal cases").

Thus, "[u]nder AEDPA, a court cannot grant relief unless the state court's decision on the merits was 'contrary to, or involved an unreasonable application of,' Supreme Court precedent, or 'was based on an unreasonable determination of the facts in light of the evidence presented in the State court proceeding.'" McKiver v. Sec'y, Fla. Dep't of Corr., 991 F.3d 1357, 1364 (11th Cir.) (citing 28 U.S.C. § 2254(d)(1)-(2)), cert. denied, 142 S. Ct. 441 (2021). The Eleventh Circuit instructs:

> A state court's decision is "contrary to" clearly established federal law if the state court either reaches a conclusion opposite to the Supreme Court of the United States on a question of law or reaches a different outcome than the Supreme Court in a case with "materially indistinguishable facts." Williams v. Taylor, 529 U.S. 362, 412-13, 120 S. Ct. 1495, 146 L.Ed.2d 389 (2000). "Under the 'unreasonable application' clause, a federal habeas court may grant the writ if the state court identifies the correct governing legal principle" from Supreme Court precedents "but unreasonably applies that principle to

> the facts of the prisoner's case." Id. at 413, 120 S. Ct. 1495.

Lee, 987 F.3d at 1017-18. Therefore, habeas relief is limited to those occasions where the state court's determinations are unreasonable, that is, if no fairminded jurist could agree with them. McKiver, 991 F.3d at 1364.

This high hurdle is not easily surmounted. If the state court applied clearly established federal law to reasonably determined facts when determining a claim on its merits, "a federal habeas court may not disturb the state court's decision unless its error lies 'beyond any possibility for fairminded disagreement.'" Shinn v. Kayer, 141 S. Ct. 517, 520 (2020) (per curiam) (quoting Harrington v. Richter, 562 U.S. 86, 103 (2011)). Also, a state court's finding of fact, whether a state trial court or appellate court, is entitled to a presumption of correctness under 28 U.S.C. § 2254(e)(1). "The state court's factual determinations are presumed correct, absent clear and convincing evidence to the contrary." Sealey, 954 F.3d at 1354 (quoting 28 U.S.C. § 2254(e)(1)). See Hayes v. Sec'y, Fla. Dep't of Corr., 10 F.4th 1203, 1220 (11th Cir. 2021) (Newsome, Circuit Judge, concurring) (recognizing the universal requirement, applicable to all federal habeas proceedings of state prisoners, set forth in 28 U.S.C. § 2254(e)(1)).

Finally, where there has been one reasoned state court judgment rejecting a federal claim followed by an unexplained order upholding that judgment, federal habeas courts employ a "look through" presumption: "the federal court should 'look through' the unexplained decision to the last related state-court decision that does provide a relevant rationale. It should then presume that the unexplained decision adopted the same reasoning." Wilson v. Sellers, 138 S. Ct. 1188, 1192 (2018) (Wilson).

III. EXHAUSTION AND PROCEDURAL DEFAULT

The doctrine of procedural default requires the following:

> Federal habeas courts reviewing the constitutionality of a state prisoner's conviction and sentence are guided by rules designed to ensure that state court judgments are accorded the finality and respect necessary to preserve the integrity of legal proceedings within our system of federalism. These rules include the doctrine of procedural default, under which a federal court will not review the merits of claims, including constitutional claims, that a state court declined to hear because the prisoner failed to abide by a state procedural rule. See, e.g., Coleman,[3] supra, at 747-748, 111 S. Ct. 2546; Sykes,[4] supra, at 84-85, 97 S. Ct. 2497. A state court's invocation of a procedural rule to deny a prisoner's claims precludes federal review of the claims if, among other requisites, the state procedural rule is a nonfederal ground adequate to support the judgment and the rule is firmly established and consistently followed. See, e.g.,

3 Coleman v. Thompson, 501 U.S. 722 (1991).

4 Wainwright v. Sykes, 433 U.S. 72 (1977).

> Walker v. Martin, 562 U.S. ----, ----, 131 S. Ct. 1120, 1127-1128, 179 L.Ed.2d 62 (2011); Beard v. Kindler, 558 U.S.----, ----, 130 S. Ct. 612, 617-618, 175 L.Ed.2d 417 (2009). The doctrine barring procedurally defaulted claims from being heard is not without exceptions. A prisoner may obtain federal review of a defaulted claim by showing cause for the default and prejudice from a violation of federal law. See Coleman, 501 U.S., at 750, 111 S. Ct. 2546.

Martinez v. Ryan, 566 U.S. 1, 9-10 (2012).

A petition for writ of habeas corpus should not be entertained unless the petitioner has first exhausted state court remedies. Castille v. Peoples, 489 U.S. 346, 349 (1989); Rose v. Lundy, 455 U.S. 509 (1982). A procedural default arises "when 'the petitioner fails to raise the [federal] claim in state court and it is clear from state law that any future attempts at exhaustion would be futile.'" Owen v. Sec'y, Dep't of Corr., 568 F.3d 894, 908 n.9 (11th Cir. 2009) (quoting Zeigler v. Crosby, 345 F.3d 1300, 1304 (11th Cir. 2003)), cert. denied, 558 U.S. 1151 (2010).

There are, however, allowable exceptions to the procedural default doctrine. "To overcome procedural default, the prisoner must demonstrate 'cause' to excuse the procedural defect and 'actual prejudice' if the federal court were to decline to hear his claim." Shinn Martinez Ramirez; Shinn v. Jones, No. 20-1009, 2022 WL 1611786, at *3 (U.S. May 23, 2022) (citing Coleman, 501 U.S. at 750). To demonstrate cause, a petitioner must show some objective

factor external to the defense impeded his effort to properly raise the claim in state court. Wright v. Hopper, 169 F.3d 695, 703 (11th Cir.), cert. denied, 528 U.S. 934 (1999). If cause is established, a petitioner must demonstrate prejudice. To demonstrate prejudice, a petitioner must show "there is at least a reasonable probability that the result of the proceeding would have been different had the constitutional violation not occurred." Owen, 568 F.3d at 908.

Alternatively, a petitioner may obtain review of a procedurally barred claim if he satisfies the actual innocence "gateway" established in Schlup v. Delo, 513 U.S. 298 (1995). The gateway exception is meant to prevent a constitutional error at trial from causing a miscarriage of justice and conviction of the actually innocent. Kuenzel v. Comm'r, Ala. Dep't of Corr., 690 F.3d 1311, 1314 (11th Cir. 2012) (per curiam) (quoting Schlup, 513 U.S. at 324), cert. denied, 569 U.S. 1004 (2013).

Respondents contend Petitioner has procedurally defaulted his claims (speedy trial and related due process claim). Response at 5-9. Upon review of the record, the Court is convinced that is the case. Petitioner failed to raise these claims on direct appeal. Ex. B11; Ex. B12; Ex. B13; B14; Ex. B15.

Petitioner did raise comparable claims in a Writ of Habeas Corpus to Compel Discharging Petitioner Dismissing, Vacating, Judgment/Conviction

(claiming the trial court erred in denying Defendant's request for a speedy trial, and the trial court's denial of speedy trial violated Defendant's due process rights). Ex. K1 (Case No. SC17-308); Ex. C1. The Florida Supreme Court transferred the petition to the circuit court for consideration as a Rule 3.850 motion. Ex. K2. The circuit court summarily rejected the petition/motion finding the claims procedurally barred. Ex. K4. See Baker v. State, 878 So. 2d 1236, 1243-44 (Fla. 2004) (per curiam) (holding a rule 3.850 motion cannot be used to review ordinary trial errors reviewable by means of direct appeal, and cannot be used to provide a second appeal or to provide an alternative to direct appeal). The First District Court of Appeal (1st DCA) affirmed per curiam. Ex. C9. The mandate issued December 27, 2019. Ex. C12. On January 28, 2020, the Florida Supreme Court dismissed a petition for writ of certiorari. Ex. E1; Ex. E2.

Respondents contend the claims are procedurally barred as the state court declined to consider the claims based on an independent and adequate state procedural ground. Response at 6. When the circuit court found the claims procedurally barred, it was an independent and adequate state procedural ground, and the bar has not been overcome.

Addressing the independent and adequate state ground doctrine, the United States Supreme Court explained:

It is well established that federal courts will not review questions of federal law presented in a habeas petition when the state court's decision rests upon a state-law ground that "is independent of the federal question and adequate to support the judgment." Coleman v. Thompson, 501 U.S. 722, 729, 111 S. Ct. 2546, 115 L.Ed.2d 640 (1991); Lee v. Kemna, 534 U.S. 362, 375, 122 S. Ct. 877, 151 L.Ed.2d 820 (2002). In the context of federal habeas proceedings, the independent and adequate state ground doctrine is designed to "ensur[e] that the States' interest in correcting their own mistakes is respected in all federal habeas cases." Coleman, 501 U.S., at 732, 111 S. Ct. 2546. When a petitioner fails to properly raise his federal claims in state court, he deprives the State of "an opportunity to address those claims in the first instance" and frustrates the State's ability to honor his constitutional rights. Id., at 732, 748, 111 S. Ct. 2546. Therefore, consistent with the longstanding requirement that habeas petitioners must exhaust available state remedies before seeking relief in federal court, we have held that when a petitioner fails to raise his federal claims in compliance with relevant state procedural rules, the state court's refusal to adjudicate the claim ordinarily qualifies as an independent and adequate state ground for denying federal review. See id., at 731, 111 S. Ct. 2546.

That does not mean, however, that federal habeas review is barred every time a state court invokes a procedural rule to limit its review of a state prisoner's claims. We have recognized that "'[t]he adequacy of state procedural bars to the assertion of federal questions' ... is not within the State's prerogative finally to decide; rather, adequacy 'is itself a federal question.'" Lee, 534 U.S., at 375, 122 S. Ct. 877 (quoting Douglas v. Alabama, 380 U.S. 415, 422, 85 S. Ct. 1074, 13 L.Ed.2d 934 (1965)); see also Coleman, 501 U.S., at 736, 111 S. Ct. 2546 ("[F]ederal

> habeas courts must ascertain for themselves if the petitioner is in custody pursuant to a state court judgment that rests on independent and adequate state grounds").

Cone v. Bell, 556 U.S. 449, 465–66 (2009).

As noted in the Response at 7, the Eleventh Circuit guides the Court in undertaking the review of the federal question. See Ward v. Hall, 592 F.3d 1144, 1156 (11th Cir.) (relying on Judd v. Haley, 250 F.3d 1308, 1313 (11th Cir. 2001)), cert. denied, 562 U.S. 1082 (2010). In Judd, 250 F.3d at 1313, the Eleventh Circuit reiterated the established three-part test to determine when a state court's procedural ruling constitutes an independent and adequate state rule for the purposes of the procedural default doctrine:

> In Card v. Dugger, 911 F.2d 1494 (11th Cir. 1990), we established a three-part test to enable us to determine when a state court's procedural ruling constitutes an independent and adequate state rule of decision. First, the last state court rendering a judgment in the case must clearly and expressly state that it is relying on state procedural rules to resolve the federal claim without reaching the merits of that claim. See id. at 1516. Secondly, the state court's decision must rest solidly on state law grounds, and may not be "intertwined with an interpretation of federal law." Id. Finally, the state procedural rule must be adequate; i.e., it must not be applied in an arbitrary or unprecedented fashion. The state court's procedural rule cannot be "manifestly unfair" in its treatment of the petitioner's federal constitutional

> claim to be considered adequate for the purposes of the procedural default doctrine. Id. at 1517.

Apparently, Petitioner does not contest that the state court relied upon an independent state ground. See Reply. Moreover, he does not assert that the state's procedural rule was not firmly established and regularly followed by Florida courts. Id. Instead, he contends his claim for relief is subject to *de novo review* at any time by a federal district court. Reply at 12.

Upon review, the state court did not address the merits of Petitioner's claims. The court clearly and expressly stated it was relying on a state procedural rule to resolve the matter. In addition, the ruling was not intertwined with an interpretation of federal law. Finally, the procedural rule upon which the court relied is firmly established and regularly followed and not applied in an arbitrary or unprecedented fashion. See Response at 7. Indeed, Florida law provides such claims can and must be raised on direct appeal. Teffeteller v. Dugger, 734 So. 2d 1009, 1016 (Fla. 1999) (per curiam) (the claims are procedurally barred because such claims can and must be raised on direct appeal); Johnson v. State, 985 So. 2d 1215 (Fla. 1st DCA 2008) (per curiam) (finding issues are not cognizable in a collateral postconviction motion); Heilmann v. State, 832 So. 2d 834, 835 (Fla. 5th DCA 2002) (per

curiam) (issues could have been raised on direct appeal; therefore, they cannot be raised in a habeas corpus petition).

Here, the state court relied on an independent and adequate state procedural ground that was not arbitrary, unprecedented, or manifestly unfair. The finding is independent of the federal questions. It is also an adequate state ground for purposes of the procedural default doctrine. Furthermore, the state procedural rule is regularly followed, as it is consistently applied and enforced.

Thus, ground one (concerning speedy trial and the related due process claim) could or should have been raised on direct appeal. "[A] state prisoner seeking federal habeas corpus relief, who fails to raise his federal constitution claim in state court, or who attempts to raise it in a manner not permitted by state procedural rules is barred from pursuing the same claim in federal court absent a showing of cause for and actual prejudice from the default." Alderman v. Zant, 22 F.3d 1541, 1549 (11th Cir.) (citations omitted), cert. denied, 513 U.S. 1061 (1994). Any further attempts to seek relief in the state courts on these issues will be unavailing. As such, Petitioner has procedurally defaulted ground one (speedy trial and related due process claim).

As Petitioner is procedurally barred from raising ground one (speedy trial and related due process claim), he must demonstrate cause and prejudice.

Upon review, this Court concludes he has failed to show cause and prejudice. He has also failed to show that failure to address ground one (speedy trial and related due process claim) on the merits would result in a fundamental miscarriage of justice. This Court finds this is not an extraordinary case as Petitioner has not made a showing of actual innocence rather than mere legal innocence.

The Court finds ground one (speedy trial and related due process claim) is procedurally defaulted and the fundamental miscarriage of justice exception is inapplicable. As such, Petitioner is barred from pursuing ground one (speedy trial and related due process claim).

Accordingly, it is now

ORDERED AND ADJUDGED:

1. The Petition for Writ of Habeas Corpus (Doc. 1) is **DENIED.**

2. This action is **DISMISSED WITH PREJUDICE.**

3. The **Clerk** shall enter judgment accordingly and close this case.

4. If Petitioner appeals the denial of his Petition (Doc. 1), **the Court denies a certificate of appealability.**[5] Because this Court has determined

[5] This Court should issue a certificate of appealability only if a petitioner makes "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). To make this substantial showing, Petitioner "must demonstrate that reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong," Tennard v. Dretke, 542 U.S. 274, 282 (2004) (quoting Slack v. McDaniel, 529 U.S. 473, 484 (2000)), or

that a certificate of appealability is not warranted, the Clerk shall terminate from the pending motions report any motion to proceed on appeal as a pauper that may be filed in this case. Such termination shall serve as a denial of the motion.

DONE AND ORDERED at Jacksonville, Florida, this 27th day of May, 2022.

UNITED STATES DISTRICT JUDGE

sa 5/24
c:
Victor K. Wilson
Counsel of Record

* that "the issues presented were 'adequate to deserve encouragement to proceed further.'" Miller-El v. Cockrell, 537 U.S. 322, 335-36 (2003) (quoting Barefoot v. Estelle, 463 U.S. 880, 893 n.4 (1983)). Upon due consideration, this Court will deny a certificate of appealability.

Appendix (B)

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

VICTOR K. WILSON,

Petitioner,

v. Case No. 3:20-cv-169-BJD-PDB

SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS and STATE OF FLORIDA,

Respondents.

JUDGMENT IN A CIVIL CASE

Decision by Court. This action came before the Court and a decision has been rendered.

IT IS ORDERED AND ADJUDGED

That pursuant to the Court's Order entered on May 31, 2022, the Petition for Writ of Habeas Corpus (Doc. 1) is **DENIED**, and this case is **DISMISSED WITH PREJUDICE.**

Date: June 1, 2022

ELIZABETH M. WARREN,
CLERK

s/JCR Deputy Clerk

Copy to:

Counsel of Record
Unrepresented Parties

Appendix (B)

MIME-Version:1.0
From:cmecf_flmd_notification@flmd.uscourts.gov
To:cmecf_flmd_notices@localhost.localdomain
Bcc:
--Case Participants:
--Non Case Participants:
--No Notice Sent:

Message-Id:<22095880@flmd.uscourts.gov>
Subject:Activity in Case 3:20-cv-00169-BJD-PDB Wilson v. Secretary, Florida Department of Corrections et al (Duval County) Judgment
Content-Type: text/plain
This is an automatic e-mail message generated by the CM/ECF system.
Please DO NOT RESPOND to this e-mail because the mail box is unattended.
NOTE TO PUBLIC ACCESS USERS Judicial Conference of the United States policy permits attorneys of record and parties in a case (including pro se litigants) to receive one free electronic copy of all documents filed electronically, if receipt is required by law or directed by the filer. PACER access fees apply to all other users. To avoid later charges, download a copy of each document during this first viewing. However, if the referenced document is a transcript, the free copy and 30 page limit do not apply.

U.S. District Court
Middle District of Florida

Notice of Electronic Filing
The following transaction was entered on 6/1/2022 2:16 PM EDT and filed on 6/1/2022

Case Name: Wilson v. Secretary, Florida Department of Corrections et al (Duval County)

Case Number: 3:20-cv-00169-BJD-PDB
https://ecf.flmd.uscourts.gov/cgi-bin/DktRpt.pl?374664

Filer:

Document Number: 14

Copy the URL address from the line below into the location bar of your Web browser to view the document:
https://ecf.flmd.uscourts.gov/doc1/047124392065?caseid=374664&de_seq_num=56&magic_num=MAGIC

Docket Text:
JUDGMENT entered the Petition for Writ of Habeas Corpus (Doc. 1) is DENIED, and this case is DISMISSED WITH PREJUDICE. Signed by Deputy Clerk on 06/01/2022. (JDR)

3:20-cv-00169-BJD-PDB Notice has been electronically mailed to:
Michael Brent McDermott michael.mcdermott@myfloridalegal.com,
David.Nipper@myfloridalegal.com,
crimapptlh@myfloridalegal.com

3:20-cv-00169-BJD-PDB Notice has been delivered by other means to:
Victor K. Wilson
J00910
Tomoka Correctional Institution
3950 Tiger Bay Rd
Daytona Beach, FL 32124

Appendix (C)

UNITED STATES
ELEVENTH CIRCUIT COURT OF APPEAL

VICTOR WILSON,
Petitioner,

v.

STATE OF FLORIDA,
Respondents.
_____/

Fed. No.: 3:20-cv-00169-
Fed. No.: 3:09-MC-38-J-MCR
1st DCA No.: 1D17-4513
L.T. No.: 16-2012-012271

PETITION FOR CERTIFICATE OF APPEALABILITY

The Petitioner, Victor Wilson, pro se, prays that this Honorable Court, pursuant to 28 U.S.C. (2253) through Rule 22-1, to issue a Certificate of Appealability authorizing the appeal of denial of Petitioner's habeas corpus 28 U.S.C. 2254 proceedings. The Petitioner has made a substantial showing of the denial of his constitutional right before the District Court and will show all supporting Appendices, Affidavits, and Exhibits. In conducting this Appeal/Review, this Court, by Rule, must consider the petition and all numerous attachments, and to give Petitioner a fair opportunity to show cause why this case should not be dismissed.

STATEMENT OF THE CASE AND FACTS

The Petitioner was arrested on December 16, 2012. The information was filed on January 9, 2013. On January 17, 2014, the Petitioner filed a pro se Notice of Expiration of Speedy Trial and the Trial Court denied Petitioner on the grounds

that the speedy trial time had not expired. On February 7, 2014, the Petitioner filed a Motion to invoke his Notice of Expiration of Speedy Trial (formally known as a Motion to Discharge) and the trial court denied the motion on erroneous grounds. On February 27, 2014, the Petitioner filed a motion to Demand for Speedy Trial, and the hearing was held on March 19, 2014, in which the State and Trial Court granted the demand but Petitioner never received his Constitutional Right to a public and speedy trial. See: All Appendices, Affidavits, and Exhibits.

PETITIONER TO SHOW CAUSE AND PREJUDICE

The State and the Trial Court defaulted from the very beginning when they denied Petitioner his Constitutional Right to a public and speedy trial under the 5th, 6th, and 14th Amendments to the Federal and State due process clauses. Over the next several years, Petitioner continued to file various pro se Motions in the Circuit Court, the First District Court of Appeals, and the Florida Supreme Court, which misconstrued most of Petitioner's filings as requests for postconviction relief under Fla. R. Crim. P. 3.850. The thing is the Petitioner explained all this to the Court, that his argument is not a 3.850, it was a 3.191-Speedy Trial Violation and that a 3.850 does not apply to him under the would of, should of, or could of filed on direct appeal rule, because the pre-trial claim was still pending in the Appeals court during Petitioner's original pre-trial proceedings where the Trial Court blocked

Petitioner's ability to comply with the procedural rule. The Petitioner presented evidence that the errors during pre-trial worked to his actual and substantial advantage because the errors infected his entire pre-trial with error of constitutional dimensions. See *Murry v. Carrier*, 477 U.S. 478, 488, 106 S. Ct. 2639, 91 L. Ed. 2d 397 (1986) the fundamental miscarriage of justice exception requires a showing that "A constitutional violation has resulted in the conviction of one who is actually innocent." *Dretke v. Haley*, 541 U.S. 386, 393, 124 S. Ct. 1847, 158 L. ed. 2d 659 (2004) the issuance of this petition is to show this Honorable Court bona-fide proof that Petitioner is actually innocent, the thing is the trial court impeded on the Petitioner by hindering and ignoring his claim, which blocked him from direct appeal because the speedy trial issue was never ruled on or exhausted at the pre-trial court level and was still pending litigation during trial, which prejudiced Petitioner and deprived Petitioner the opportunity to present a legal defense on direct appeal. This was a violation of Petitioner's 6th Amendment, which is a constitutional right to be heard in a court of law and a violation of the 14th amendment to due process. Furthermore, Petitioner represented himself during the entire trial on totally different issues that should have exonerated Petitioner on direct appeal period. Under mistaken identity-actual innocence, this issue/claim is still preserved for appellate de novo review. The Petitioner's collateral attack on his

speedy trial claims, which appear on the face of the record are meritorious and filed in good faith.

Petitioner prays that this Honorable Court reach the merits of these claims. The Court must consider whether review is precluded by non-exhaustion or procedural default. A federal court is allowed under 28. U.S.C. 2254(b)(1)(A) to grant a State prisoner's habeas petition only when the Petitioner has exhausted all available State Remedies. This means that a Petitioner must present a federal claim that is factual and show legal substance to the State court in a manner that puts them on notice that a Federal claim is being asserted. Furthermore, a State prisoner's federal habeas petition may be granted "only on the ground that he is in custody in violation of the Federal Constitution or Laws or Treaties of the United States," 28 U.S.C. § 2254 (A) especially the United States Supreme Court precedents under the speedy trial violations act. (3.191)

STANDARD OF REVIEW

Barker v. Wingo, 407 U.S. 514, 530, 92 S. Ct. 2182, 33 L. Ed. 2d 101 (1972) It is the State district court's decision, not its reasoning that must be "contrary to clearly established supreme court precedent." Entitling a Petitioner to relief only when the Petitioner shows that the Supreme Court precedent requires an outcome contrary to that reached by the State Court which may infect a speedy trial (3.191)

with unfairness as to make the resulting conviction a denial of due process. Due process is violated when the misconduct constitutes a failure to observe that fundamental fairness essential to the very concept of justice. It is impossible for a defendant or petitioner to assert a claim on direct appeal that was never exhausted or ruled on because the pre-trial speedy trial violations were being appealed and were pending in a superior court. On the ignorance and severe negligence of the lower inferior court, the record would show that the Petitioner informed the First District Court that he actually filed several "pro se pre-trial/speedy trial" motions attacking the validity of his constitutional claims around or about 3 years before the actual trial which was preserved under a question of law subject to de-novo review. The "speedy trial" right asserted is a constitutional right that is recognized by the Supreme Court of the United States.

Furthermore, this reckless indifference to human life is sufficient to satisfy the 8th Amendment under the cruel and unusual punishment code because clearly, from the face of the record, the District Court did not decide whether the State claims resulted in a decision that was contrary to or involved an unreasonable application of clearly established federal law, as determined by the Supreme Court of the Untied States 28 U.S.C. § 2254 (d)(1). Thus, the State and District Court's decisions failed the unreasonable application prong where the court identified the

correct governing rule but unreasonably applied the rule to the Supreme Court cases. See *Klopfer v. North Carolina*, 386 U.S. 213, 18 l. Ed. 2d 1, 87 S. Ct. 988 (1967); *Dickey v. Florida*, 396 U.S. 9816, 24 l. Ed. 2d 68, 90 S. ct. 109 (1969); and *Barker v. Wingo*, 407 U.S. 514, 530, 92 S. Ct. 2182, 33 L. Ed. 2d 101 (1972), a State court's adjudication is "contrary to Supreme Court precedent when the results from the application of a rule that contradicts the governing law set forth by the Supreme Court or is inconsistent with a Supreme Court decision in a case involving materially indistinguishable facts."

Furthermore, according to *Keeney v. Tamayo-Reyes*, 504 U.S. 1, 11, 12, 112 S. Ct. 1715 (1992), the Supreme Court held that the court must resolve any factual dispute and in most cases resolution requires an evidentiary hearing; the holding of hearing is mandatory if just one (1) of the situations can be proven. In petitioner's case at least three (3) situations can be proved to apply: 1) the merits of the factual dispute was not resolved; 2) No record attachment to refute any of Petitioner's claims; and 3) No case citations to refute Petitioner's claim; making denial of procedural error and a clear 14th Amendment due process violation. Thus, the Petitioner's allegations contain sufficient factual basis that warrants relief or an evidentiary hearing. The Petitioner avers that this error was harmful because an error of this type is subject to harmful error analysis in any collateral proceeding.

The standard for harmfulness is whether the error had substantial and injurious effect. The Supreme Court has held that when a habeas corpus court "is in grave doubt as to the harmlessness of an error," habeas relief must be granted. *Oneal v. McAninch*, 513 U.S. 432, 437, 130 L. Ed. 2d 947, 115 s. ct. 992 (1995) and *California v. Roy*, 519 U.S. 2, 5, 136 L. Ed. 2d 266, 117 S. Ct. 337 (1996)

Petitioner has established cause and prejudice because, at the pre-trial proceedings, Petitioner filed these legally sufficient motions. As a result, the trial court lacked jurisdiction to conduct a trial wherein the trial court procedurally defaulted from the very beginning. Thus, Petitioner filed a proper writ of prohibition soon after the trial court denied expiration of speedy trial and speedy trial demand. The writ of prohibition was a legal process by which a superior court prevents an inferior court from usurping or exercising a jurisdiction in which it has not been vested by law. It is an extraordinary writ because it only issues when the party seeking it is without any other adequate means of redress for the wrong about to be inflicted by the act of the inferior tribunal. This is a prerogative writ used with great caution where ordinary remedies provided by law are not applicable or adequate.

The Petitioner showed a "prima facie" case as being illegally detained, and actual innocence. Moreover, Petitioner is demonstrating a fact that there was "for

sure" a reasonable probability that the results would have been different had the constitutional violation not occurred. Petitioner has raised the need for mandatory relief based on the pre-trial record on appeal. Petitioner is asking and praying that this Honorable Court would rule on the merits of this case because Petitioner has clearly demonstrated that any jurist would find the district court's assessment of this constitutional claim debatable and wrong. 28 U.S.C § 2253(c)(2), which can be observed pursuant to federal rule (56), which governs sworn appendices, affidavits, and exhibits.

Furthermore, these claims have been in litigation for years and the Petitioner will show this Honorable Court step by step every legal motion and petition during the pre-trial proceedings that were legally filed in the lower court and the district court of appeals, and the Florida Supreme Court. However, this court must be advised that when the Florida Supreme Court sent this case back to the trial court for relief, the Florida Supreme Court misconstrued the filing as a collateral attack (3.850); wherein Petitioner's claim is actually under a pre-trial (3.191) speedy trial violation collateral attack under de novo review.

The Petitioner is sending all pre-trial records on appeal, including the original direct appeal from the pre-trial speedy trial violation that occurred about 3 years before trial and was pending and was well preserved for appellate de novo

review. This is the Petitioner's original direct appeal from the speedy trial record on appeal. See Appendices, Affidavits, and Exhibits.

CONCLUSION

The trial court has made errors in the ruling and handling of this case, it is obvious that the trial court has committed a violation of Petitioner's constitutional right to the 6th and 14th Amendment of the Untied States of America. Petitioner has shown that he has a legal right to the performance of a clear administrative duty and the failure to do so undermines the public confidence to all of the courts. Our system of administration of justice suffers when any accused is treated UNFAIRLY.

NATURE OF RELIEF SOUGHT

The Petitioner respectfully prays that this Honorable Court grant his motion for Certificate of Appealability issuing the proper ruling to ensure that the rules of law are held to standard in the above-styled cause, under Fed. Rule 28 U.S.C. (2253) and Fed. R. (56) or any other relief to which Petitioner may be entitled.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Petition for Certificate of Appealability has been furnished to:

UNITED STATES
ELEVENTH CIRCUIT COURT OF APPEALS
56 Forsyth St. NE
Atlanta, GA 30303

ATTORNEY GENERAL'S OFFICE
PL-01, the Capitol
Tallahassee, FL 32399-1050

UNITED STATES DISTRICT - MIDDLE DISTRICT OF FLORIDA
300 N. Hogan St., Suite 9-150
Jacksonville, FL 32202

on this 15 day of March, 2022.

CERTIFICATE OF OATH

I HEREBY CERTIFY that copy of the foregoing has been furnished to the proper authorities; I declare under penalty of perjury that the foregoing is true/correct; and this oath is in compliance with 28 U.S.C.A. 1746 and Fed. Rule 56.

Respectfully submitted,

Victor Wilson, DC # J00910
Tomoka Correctional Institution
3950 Tiger Bay Road
Daytona Beach, Fla. 32124

Appendix (C)

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 22-12141-A

VICTOR WILSON,

Petitioner-Appellant,

versus

SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, et al.,

Respondent-Appellee.

Appeal from the United States District Court
for the Middle District of Florida

ORDER:

Victor Wilson's motion for a certificate appealability is DENIED and his motion to proceed on appeal *in forma pauperis* is DENIED AS MOOT.

/s/ Robert J. Luck
UNITED STATES CIRCUIT JUDGE

Appendix(d)

PROVIDED TO TOMOKA CORRECTIONAL INSTITUTION ON 11/7/23 FOR MAILING BY

UNITED STATES
ELEVENTH CIRCUIT COURT OF APPEAL

VICTOR WILSON,
Petitioner,

v.

STATE OF FLORIDA,
Respondents.
_____/

11th Cir. No.: 22-12141
Fed. No.: 3:20-cv-00169
1st DCA No.: 1D17-4513
L.T. No.: 16-2012-012271

MOTION FOR RECONSIDERATION

This case, which involves great public importance for invoking jurisdiction under the 6th and 14th amendments. The Petitioner, Victor Wilson, pro se, prays that this Honorable Court, pursuant to 28 U.S.C. (2253) through Rule 22-1, authorizing the appeal of denial of Petitioner's habeas corpus 28 U.S.C. 2254 proceedings. The Petitioner has made a substantial showing of the denial of his constitutional right before the District Court and will show all supporting Appendices, Affidavits, and Exhibits. In conducting this Appeal/Review, this Court, by Rule, must consider the petition and all numerous attachments, and to give Petitioner a fair opportunity to show cause why this case should not be dismissed.

STATEMENT OF THE CASE AND FACTS

The Petitioner was arrested on December 16, 2012. The information was filed on January 9, 2013. On January 17, 2014, the Petitioner filed a pro se Notice of Expiration of Speedy Trial and the Trial Court denied Petitioner on the grounds

that the speedy trial time had not expired. On February 7, 2014, the Petitioner filed a Motion to invoke his Notice of Expiration of Speedy Trial (formally known as a Motion to Discharge) and the trial court denied the motion on erroneous grounds. On February 27, 2014, the Petitioner filed a motion to Demand for Speedy Trial, and the hearing was held on March 19, 2014, in which the State and Trial Court granted the demand but Petitioner never received his Constitutional Right to a public and speedy trial. See: All Appendices, Affidavits, and Exhibits.

PETITIONER TO SHOW CAUSE AND PREJUDICE

The State and the Trial Court defaulted from the very beginning when they denied Petitioner his Constitutional Right to a public and speedy trial under the 5th, 6th, and 14th Amendments to the Federal and State due process clauses. Over the next several years, Petitioner continued to file various pro se Motions in the Circuit Court, the First District Court of Appeals, and the Florida Supreme Court, which misconstrued most of Petitioner's filings as requests for postconviction relief under Fla. R. Crim. P. 3.850. The thing is the Petitioner explained all this to the Court, that his argument is not a 3.850, but a 3.191-Speedy Trial Violation and that a 3.850 does not apply to him under the would of, should of, or could of filed on direct appeal rule, because the pre-trial claim was still pending in the Appeals court during Petitioner's original pre-trial proceedings where the Trial Court blocked

Petitioner's ability to comply with the procedural rule. The Petitioner presented evidence that the errors during pre-trial worked to his actual and substantial advantage because the errors infected his entire pre-trial with error of constitutional dimensions. See *Murry v. Carrier*, 477 U.S. 478, 488, 106 S. Ct. 2639, 91 L. Ed. 2d 397 (1986) the fundamental miscarriage of justice exception requires a showing that "A constitutional violation has resulted in the conviction of one who is actually innocent." *Dretke v. Haley*, 541 U.S. 386, 393, 124 S. Ct. 1847, 158 L. ed. 2d 659 (2004) the issuance of this petition is to show this Honorable Court bona-fide proof that Petitioner is actually innocent, the thing is the trial court impeded on the Petitioner by hindering and ignoring his claim, which blocked him from direct appeal because the speedy trial issue was never ruled on or exhausted at the pre-trial court level and was still pending litigation during trial, which prejudiced Petitioner and deprived Petitioner the opportunity to present a legal defense on direct appeal. This was a violation of Petitioner's 6th Amendment, which is a constitutional right to be heard in a court of law and a violation of the 14th amendment to due process. Furthermore, Petitioner represented himself during the entire trial on totally different issues that should have exonerated Petitioner on direct appeal period. Under mistaken identity-actual innocence, this issue/claim is still preserved for appellate de novo review. The Petitioner's collateral attack on his

speedy trial claims, which appear on the face of the record are meritorious and filed in good faith.

Petitioner prays that this Honorable Court reach the merits of these claims. The Court must consider whether review is precluded by non-exhaustion or procedural default. A federal court is allowed under 28. U.S.C. 2254(b)(1)(A) to grant a State prisoner's habeas petition only when the Petitioner has exhausted all available State Remedies. This means that a Petitioner must present a federal claim that is factual and show legal substance to the State court in a manner that puts them on notice that a Federal claim is being asserted. Furthermore, a State prisoner's federal habeas petition may be granted "only on the ground that he is in custody in violation of the Federal Constitution or Laws or Treaties of the United States," 28 U.S.C. § 2254 (A) especially the United States Supreme Court precedents under the speedy trial violations act. (3.191)

STANDARD OF REVIEW

Barker v. Wingo, 407 U.S. 514, 530, 92 S. Ct. 2182, 33 L. Ed. 2d 101 (1972) It is the State district court's decision, not its reasoning that must be "contrary to clearly established supreme court precedent." Entitling a Petitioner to relief only when the Petitioner shows that the Supreme Court precedent requires an outcome contrary to that reached by the State Court which may infect a speedy trial (3.191)

with unfairness as to make the resulting conviction a denial of due process. Due process is violated when the misconduct constitutes a failure to observe that fundamental fairness essential to the very concept of justice. It is impossible for a defendant or petitioner to assert a claim on direct appeal that was never exhausted or ruled on. Because the pre-trial speedy trial violations were being appealed and were pending in a superior court. On the ignorance and severe negligence of the lower inferior court, the record would show that the Petitioner informed the First District Court that he actually filed several "pro se pre-trial/speedy trial" motions attacking the validity of his constitutional claims around or about 3 years before the actual trial which was preserved under a question of law subject to de-novo review. The "speedy trial" right asserted is a constitutional right that is recognized by the Supreme Court of the United States.

Furthermore, this reckless indifference to human life is sufficient to satisfy the 8th Amendment under the cruel and unusual punishment code because clearly, from the face of the record, the District Court did not decide whether the State claims resulted in a decision that was contrary to or involved an unreasonable application of clearly established federal law, as determined by the Supreme Court of the Untied States 28 U.S.C. § 2254 (d)(1). Thus, the State and District Court's decisions failed the unreasonable application prong where the court identified the

correct governing rule but unreasonably applied the rule to the Supreme Court cases. See *Klopfer v. North Carolina*, 386 U.S. 213, 18 l. Ed. 2d 1, 87 S. Ct. 988 (1967); *Dickey v. Florida*, 396 U.S. 9816, 24 l. Ed. 2d 68, 90 S. ct. 109 (1969); and *Barker v. Wingo*, 407 U.S. 514, 530, 92 S. Ct. 2182, 33 L. Ed. 2d 101 (1972), a State court's adjudication is "contrary to Supreme Court precedent when the results from the application of a rule that contradicts the governing law set forth by the Supreme Court or is inconsistent with a Supreme Court decision in a case involving materially indistinguishable facts."

Furthermore, according to *Keeney v. Tamayo-Reyes*, 504 U.S. 1, 11, 12, 112 S. Ct. 1715 (1992), the Supreme Court held that the court must resolve any factual dispute and in most cases resolution requires an evidentiary hearing; the holding of hearing is mandatory if just one (1) of the situations can be proven. In petitioner's case at least three (3) situations can be proved to apply: 1) the merits of the factual dispute was not resolved; 2) No record attachment to refute any of Petitioner's claims; and 3) No case citations to refute Petitioner's claim; making denial of procedural error and a clear 14th Amendment due process violation. Thus, the Petitioner's allegations contain sufficient factual basis that warrants relief or an evidentiary hearing. The Petitioner avers that this error was harmful because an error of this type is subject to harmful error analysis in any collateral proceeding.

The standard for harmfulness is whether the error had substantial and injurious effect. The Supreme Court has held that when a habeas corpus court "is in grave doubt as to the harmlessness of an error," habeas relief must be granted. *Oneal v. McAninch*, 513 U.S. 432, 437, 130 L. Ed. 2d 947, 115 s. ct. 992 (1995) and *California v. Roy*, 519 U.S. 2, 5, 136 L. Ed. 2d 266, 117 S. Ct. 337 (1996)

Petitioner has established cause and prejudice because, at the pre-trial proceedings, Petitioner filed these legally sufficient motions. As a result, the trial court lacked jurisdiction to conduct a trial wherein the trial court procedurally defaulted from the very beginning. Thus, Petitioner filed a proper writ of prohibition soon after the trial court denied expiration of speedy trial and speedy trial demand. The writ of prohibition was a legal process by which a superior court prevents an inferior court from usurping or exercising a jurisdiction in which it has not been vested by law. It is an extraordinary writ because it only issues when the party seeking it is without any other adequate means of redress for the wrong about to be inflicted by the act of the inferior tribunal. This is a prerogative writ used with great caution where ordinary remedies provided by law are not applicable or adequate.

The Petitioner showed a "prima facie" case as being illegally detained, and actual innocence. Moreover, Petitioner is demonstrating a fact that there was "for

sure" a reasonable probability that the results would have been different had the constitutional violation not occurred. Petitioner has raised the need for mandatory relief based on the pre-trial record on appeal. Petitioner is asking and praying that this Honorable Court would rule on the merits of this case or issue a "Certificate of Appealability" because Petitioner has clearly demonstrated that any jurist would find the district court's assessment of this constitutional claim debatable and wrong. 28 U.S.C § 2253(c)(2), which can be observed pursuant to federal rule (56), which governs sworn appendices, affidavits, and exhibits.

Furthermore, these claims have been in litigation for years and the Petitioner will show this Honorable Court step by step every legal motion and petition during the pre-trial proceedings that were legally filed in the lower court and the district court of appeals, and the Florida Supreme Court. However, this court must be advised that when the Florida Supreme Court sent this case back to the trial court for relief, the Florida Supreme Court misconstrued the filing as a collateral attack (3.850); wherein Petitioner's claim is actually under a pre-trial (3.191) speedy trial violation collateral attack under de novo review.

The Petitioner is sending all pre-trial records on appeal, including the original direct appeal from the pre-trial speedy trial violation that occurred about 3 years before trial and was pending and was well preserved for appellate de novo

review. This is the Petitioner's original direct appeal from the speedy trial record on appeal. See Appendices, Affidavits, and Exhibits.

CONCLUSION

The trial court has made errors in the ruling and handling of this case, it is obvious that the trial court has committed a violation of Petitioner's constitutional right to the 6th and 14th Amendment of the Untied States of America. Petitioner has shown that he has a legal right to the performance of a clear administrative duty and the failure to do so undermines the public confidence to all of the courts. Our system of administration of justice suffers when any accused is treated unfairly.

NATURE OF RELIEF SOUGHT

The Petitioner respectfully prays that this Honorable Court grant his motion for Reconsideration issuing the proper ruling to ensure that the rules of law are held to standard in the above-styled cause, under Fed. Rule 28 U.S.C. (2253) and Fed. R. (56) or any other relief to which Petitioner may be entitled.

SUPPLEMENTAL CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Motion for consideration [redacted]

has been furnished to:

UNITED STATES
ELEVENTH CIRCUIT COURT OF APPEALS
56 Forsyth St. NE
Atlanta, GA 30303

ATTORNEY GENERAL'S OFFICE
Criminal Appeals Division
444 Seabreeze Blvd., 5th Floor
Daytona Beach, FL 32118

UNITED STATES DISTRICT - MIDDLE DISTRICT OF FLORIDA
300 N. Hogan St., Suite 9-150
Jacksonville, FL 32202

on this 17 day of JAN, 2023.

CERTIFICATE OF OATH

I HEREBY CERTIFY that copy of the foregoing has been furnished to the proper authorities; I declare under penalty of perjury that the foregoing is true/correct; and this oath is in compliance with 28 U.S.C.A. 1746 and Fed. Rule 56.

Respectfully submitted,

V. W.

Victor Wilson, DC # J00910
Tomoka Correctional Institution
3950 Tiger Bay Road
Daytona Beach, Fla. 32124

Appendix (d)

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 22-12141-A

VICTOR WILSON,

Petitioner-Appellant,

versus

SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, et al.

Respondent-Appellee.

Appeal from the United States District Court
for the Middle District of Florida

Before: BRANCH and LUCK, Circuit Judges.

BY THE COURT:

Victor Wilson filed a motion for reconsideration, pursuant to 11th Cir. R. 22-1(c) and 27-2, of our January 5, 2023 order denying his motion for a certificate of appealability to challenge the denial of his 28 U.S.C. § 2254 petition. Upon review, Wilson's motion for reconsideration is DENIED because he has not alleged any points of law or fact that this Court overlooked or misapprehended in denying his motion.

Appendix (E)

UNITED STATES
ELEVENTH CIRCUIT COURT OF APPEAL

VICTOR WILSON,
Petitioner,

11th Cir. No.: 22-12141
L.T. No.: 16-2012-012271

v.

STATE OF FLORIDA,
Respondent.
_____/

PETITION FOR EN BANC CONSIDERATION AND REHEARING EN BANC

Petitioner's Petition for En Banc Consideration and Rehearing En Banc to the Court's Response and order of denial. This case, which involves great public importance: pursuant to 11th Cir. R. 35(3)(5) Authorizing Rehearing and En Banc Consideration and Appeals to the court's denials and Fed. Rule (56). COMES NOW, the Petitioner, Victor Wilson, pro se, respectfully prays that this Honorable Court grant this motion and give Petitioner a fair opportunity to show cause why this prima-facie case should not be denied: in support the Petitioner would alleged and show a fundamental miscarriage of justice under the 6th, 8th, and 14th amendments under the United States Constitution of America. **This Court has overlooked and misapprehended the essential requirements of the law and facts:** the petition is before the court for absolute screening pursuant to Federal Rule (4) governing section 2254 cases which requires this Court to examine the

petition under the points and facts of law with supporting Appendices, Affidavits, Exhibits, and relevant court records. Furthermore: the right asserted is a constitutional right that is recognized by the Supreme Court of the United States of America under the State and Federal Rule of Criminal Procedure Speedy Trial Act 3.191 (n)(P)(3) and the exercise of any other policy tends to discredit the judiciary which is a violation of Petitioner's 8th amendment right prohibiting cruel and unusual punishment. The Petitioner avers that this error was harmful because an error of this type is subject to harmful error analysis in any collateral proceeding the standard for harmlessness is whether the error had substantial and injurious effect. The United States Supreme Court has held that when a habeas corpus court "is in grave doubt as to the harmlessness of all error," habeas relief must be granted. See: ***Oneal v. McAninch***, 513 US 432, 437, 130 L. Ed. 2d 847, 115 S. Ct. 992 (1995) Also: ***California v. Roy***, 519 US 2, 5, 236 L. Ed. 2d 266, 117 S. Ct. 337 (1996).

STATEMENT OF THE CASE AND FACTS

The Petitioner was arrested on December 16, 2012 on January 17, 2014, the Petitioner filed a motion for Expiration of Speedy Trial and the lower circuit court denied the motion on the grounds that the speedy trial time had not expired; on February 7, 2014, the Petitioner invoked his Notice of Expiration of Speedy Trial 3.191 (A)(B) and the Circuit Court denied the motion on erroneous grounds. On February 27, 2014, Petitioner filed a motion to Demand for Speedy Trial 3.191 (A) (B), and the hearing was held on March 19, 2014, in which the lower circuit court granted the speedy trial demand, and the trial court had two (2) options under the rule, one (1) strike the demand as invalid or two (2) order Petitioner be brought to trial within ten (10) days under Fla. R. Crim. p. 3.191 "175 days speedy trial default period," but the trial court did neither, therefore Petitioner was entitled to relief. According to ***Landry v. State***, 666 So.2d 121 (Fla. 1995).

Petitioner's legally sufficient motion was filed and in existence and very much active since November 25, 2013-2019 all by Petitioner in good faith. Furthermore, Petitioner represented himself during the Mocked Kangaroo court trial on totally different issues; because Petitioner's main issues/expiration of his speedy trial 3.191 (A) (B) and motion to demand speedy trial 3.191 (A) (B) was violated before the actual trial.

STANDARD OF REVIEW

***Klopfer v. North Carolina*, 386 U.S. 213, 87 S. Ct. 988 (1967)**

GROUND ONE

THE TRIAL COURT ERRED BY DENYING PETITIONER'S CONSTITUTIONAL RIGHTS TO A SPEEDY TRIAL CONTRARY TO CLEARLY ESTABLISHED U.S. SUPREME COURT PRECEDENTS

The issue was a constitutional violation all over the pre-trial proceedings and, had Petitioner been granted an evidentiary hearing on the issue, it would have been in Petitioner's favor and the trial judge knew this. The Judge left her position as being "neutral" and showed "bias" The U.S. Supreme Court has very clearly stated doctrine to the effect that in prosecutions of crime, the defendant may be permitted to show affirmatively at the trial facts in pais which will demonstrate that the government is estopped to have, or has lost its right to have the benefit of a conviction in the particular case before the court on account of the failure of its own officers to observe the spirit and intent of its statutes relating to how prosecutions shall be begun and supported. See Sorrells v. United States, 53 S. Ct. 210, 77 L. Ed. 413 (1932) as this Court has said: should be liberally construed in favor of protecting the rights of defendants designed to be protected by such statutes; one of the important rights so designed to be protected is the constitutional rights to a speedy trial while witnesses are still at hand for purposes of defense, and

while there still exists means to rebut the State's evidence of apparent guilt; the true rule to accomplish what is a constitutionally required procedure, is to permit the defendant on trial to show by way of an affirmative defense that the particular prosecution has not been timely brought, and therefore is barred from prosecution: this procedure would permit prosecution the benefit of showing some good reason why it failed to have process issued with reasonable promptness to insure a speedy trial. (3.191) (a) even if exceptional circumstance as defined by the Rule were shown, however, extension might not be justified. The delay in this proceeding and the numerous continuances were not the fault of petitioner: it has been held that where exceptional circumstances were not the fault of petitioner it has been held that where exceptional circumstances of complexities involved in the preparation of a case for trial were occasioned by delay on the State, they will not be deemed to justify a delay of the trial and extension of the Rule, period. Dickey v. Florida, 398 U.S. 30, 54; 90 S. Ct. 1564, 1577 (1970), because all extensions for exceptional circumstances must be by order of the court, Florida Rules of Criminal Procedure 3.191(d) (2) and will not be automatic or presumed from the circumstances; the Court held that with a question that goes to the very nature and purpose of the speedy trial rule and to the basic principles of advocacy in an adversary system of criminal justice. Petitioner has a constitutional right to be

brought to trial within a reasonable time – it is the State's responsibility to bring those arrested to trial within the times provided in the speedy trial rule. U.S.C.A. (6) West's Law Fla. Stat. Ann., Fla. R. Crim. P. 3.191 (A).

GROUND (2)

As a matter of law denial was not only improper, but a violation of a clearly established procedural rule. That makes denial of a plain procedural error, and a violation of Petitioner's due process: this was a clear constitutional violation on the face of the record that has not been refuted: The trial judge refused to resolve facts in dispute, furthermore, according to the ruling in Keeney v. Tamayo-Reyes, 504 U.S. 1, 11, 12, 112 S. Ct. 1715 (1992), the court must resolve any factual dispute and, in most cases, resolution requires an evidentiary hearing. The holding of a hearing is mandatory if just one (1) of the situations can be proven; in Petitioner's case, at least three (3) situations can be proved to apply:

1. The merits of the factual dispute were not resolved;
2. No record attachments to refute claim; and
3. No citations to support its argument making denial of procedural error and a clear due process violation.

Petitioner's due process rights have repeatedly been run over by the trial court, Petitioner has been taken advantage of simply for being a pro se litigant – Petitioner's allegations, together with undisputed facts, warrant mandatory relief.

See: All Appendix/Exhibits.

When a petition for Writ of Habeas Corpus alleging that the Petitioner is entitled to immediate release sets out plausible reason and a specific factual basis in some detail, the custodian should be required to respond to the petition: "the very nature of the Writ demands that it be administered with the initiatives and flexibility essential to insure that miscarriages of justice within its reach are surfaced and corrected. Because if it appears to a court of competent "jurisdiction" that a man is being illegally restrained of his liberty it is the responsibility of the court to brush aside formal technicalities and issue such appropriated order as will do justice": "As a general rule a writ of habeas Corpus proceeding is an independent action, legal and civil in nature designed to secure prompt determination as to the legality of restraint in some form." The object of the Writ of Habeas Corpus is not to determine whether a person has committed a crime, or the justice or injustice but to determine whether he is illegally imprisoned – or – restrained of his liberty. In order to state a "prima facie" case for writ of habeas corpus, the complaint must allege:

1. That Petitioner is currently detained in custody;
2. And show by exhibits/appendix/affidavit or evidence probable cause to believe that he or she is detained without lawful authority; and

3. To show a "prima facie" entitlement to writ of Habeas Corpus the petitioner must show that he is unlawfully deprived of his liberty and is illegally detained against his will.

The last factor to be considered is the issue of prejudice flowing from the delay; this factor must be considered with an eye to the interest, which the right to a speedy trial is designed to preserve; the Supreme Court has isolated three such interests:

1. Prevention of oppressive pretrial incarceration;
2. Avoidance of undue worry and anxiety by the accused; and
3. Limitation of the possibility that the defense will be impaired by the passage of time.

The last consideration is necessarily the most serious "because the inability of a defendant adequately to prepare his case skews the fairness of the entire system." See Graham v. United States, 128 F.3d 372 (1997) Fed. App. In that particular case almost 8 years passed between the indictment an trial, similarly in Petitioner Victor Wilson's case the delay was so extraordinary that it cannot be seriously contended that it was not presumptively prejudicial: because 3 years between Wilson's arrest and trial was enough to satisfy the initial burden: thus the prosecutor and the court/judge had an affirmative constitutional obligation to try

Petitioner in a timely manner and thus, the burden is on the prosecution to explain the cause of the pre-trial delay. See Redd v. Sowders, 809 F.2d 1266, 6th Cir. 1987). Furthermore, the trial court had every opportunity to present "evidence and law," but consistently failed to do so. The United States Constitution provides:

> "In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial..."

This guarantee is applicable to the State's by virtue of the Due Process of law clause of the Fourteenth Amendment. See Klopfer v. State of North Carolina, 386 U.S. 213, 87 S.Ct. 988, 18 L. Ed. 2d 1 (1967). Indisputable, the right to a speedy trial is one of the most sacred and important rights guaranteed by the United States Constitutions. It is common knowledge that this said right has been flagrantly ignored by the courts in this country, and strict rules like Rule 3.191, represent the enlightened effort of the many courts to implement the constitutionally guaranteed right to a speedy trial. Wherein, the Petitioner demanded speedy trial, thus motion for discharge had been denied although speedy trial time limits had passed made a "PRIMA FACIE CASE" the Petitioner had been continuously available, even after the deposition, the State, at no time, objected to the filing of the Demand or moved to strike such demand, or requested an exceptional extension of the sixty (60) day speedy trial period triggered by the demand upon showing of exceptional circumstances. The case instead lay dormant

for over "six (6) months" during which the Petitioner was not brought to trial, although he was continuously available during that time, he was entitled to discharge, after expiration of the sixty (60) day period. See Landry v. State, 666 So.2d 121 (Fla. 1995).

Petitioner is filing his petition in good faith; the issuance of this petition is to show this Honorable Court bona-fide proof that Petitioner filed his original "Writ of Prohibition" in the 4th Judicial Circuit Duval County Fla. during his pre-trial proceedings back in 2013/2014 as a pro-se litigant: attacking the validity of his speedy trial rights Rule 3.191 (a) that was extremely violated and ignored by the trial judge, Petitioner actually on the face of the record demanded a speedy trial which the State prosecutor granted but Petitioner never received his speedy trial. Under the speedy trial rule, the defendant upon being arrested has no obligation under the rule to further assert his right to be brought to trial unless he first waives his right. Graham v. U.S., 128 F.3d 372 (1997) correctly points out that it is the State's responsibility to bring those arrested to trial within time provided in the speedy trial rule 3.191(a) as you will see in the original petition; Writ of Prohibition, See All Exhibits. There was also a major discovery violation under Rule 3.220: Petitioner has been diligently attacking these very same valuable claims since 2013/2019. Thus the trial court was extremely biased against the

Defendant, which deprived the Defendant of his constitutional rights of the United States of America, under the 5th and 14th Amendments. (Which was clearly a miscarriage of justice).

Furthermore, the trial judge, the Respondent had broken the Canon Code of Judicial Code of Conduct, that governs judges.

WEST'S FLORIDA STATUTES ANNOTATED CODE OF JUDICIAL CONDUCT

Canon 1: The judge DID NOT uphold the integrity and independence of the judiciary.

Canon 2: The judge DID NOT avoid impropriety and the appearance of impropriety in all of the judge's activities

Canon 3: The judge DID NOT perform the duties of judicial office impartially and diligently.

Canon 4: The judge is encouraged to engage in activities to improve the law, the legal system, and the administration of justice, which she DID NOT honor.

Petitioner has attached all appendices showing the record of these attempts to achieve mandatory relief that is warranted: Petitioner has shown this court the severe violations and gross negligence, which cannot be repaired by ANY sanction short of dismissal.

The judicial power of the State is vested in the courts. Section 1, Art. 5, Fla. Const. But the authority to make laws is in the legislature of the State, Section 1,

Art. 3, Fla. Const. and, while the Supreme Court has power to make rules of practice which shall have the force of law, it cannot make rules inconsistent with law. Section 2955, rev. gen. Stat. It is true that every court has inherent power to do all things that are reasonable necessary for the administration of justice within the scope of its jurisdiction, yet nevertheless, courts are subject to valid, existing laws, and it is generally held that the practice and procedure by which courts shall exercise their jurisdiction, subject to controlling constitutional provisions.

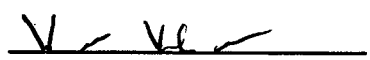
Procedural law is some times referred to as 'adjective law' or 'law of remedy' or 'remedial law' and has been described as the legal machinery by which substantive law is made effective. Substantive law has been defined as that part of the law which creates, defines, and regulates rights, or that part of the law which courts are established to administer. See 52S C.J.S., Law, page 741; 20 Am. Jur. 2d., Courts.

The California Court in Estate of Gogabashvele, 195 Cal. APD 2d 503, 16 Dal. Rptr. 77 (1961) said:

> 'As used in jurisprudence, the term 'right' connotes the capacity of asserting a legally enforceable claim. Legal rights are those existing for their own sake and constituting the normal legal order of society, i.e., the right of life, liberty, property and reputation. Remedial rights arise for the purpose of protecting or enforcing substantive rights.'

As related to criminal law and procedure, substantive law is that which declares what acts are crimes and prescribes the punishment therefore, while under the 6th and 14th Amendments: the Petitioner was maliciously taken advantage of for simply being a pro se litigant.

Respectfully Submitted,



Victor Wilson DC# J00910

RELIEF SOUGHT

The Petitioner respectfully prays that this Honorable Court grant his Petition for En Banc Consideration to the courts response, and to cease and desist all actions against petitioner releasing the petitioner immediately issuing the proper ruling to insure the rules of law is held to standard in the above styled cause.

CONCLUSION

The trial court has made errors in the ruling and handling of this case, it is obvious that the trial court has committed a violation of Petitioner's state and federal constitutional right to a speedy trial 3.191(A)(B) and F.S.A.918.07 (2)

SUPPLEMENTAL CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Petition for En Banc Consideration and Rehearing En Banc has been furnished to:

UNITED STATES
ELEVENTH CIRCUIT COURT OF APPEALS
56 Forsyth St. NE
Atlanta, GA 30303

ATTORNEY GENERAL'S OFFICE
Criminal Appeals Division
444 Seabreeze Blvd., 5th Floor
Daytona Beach, FL 32118

UNITED STATES DISTRICT - MIDDLE DISTRICT OF FLORIDA
300 N. Hogan St., Suite 9-150
Jacksonville, FL 32202

on this 18 day of APRIL, 2023.

CERTIFICATE OF OATH

I HEREBY CERTIFY that copy of the foregoing has been furnished to the proper authorities; I declare under penalty of perjury that the foregoing is true/correct; and this oath is in compliance with 28 U.S.C.A. 1746 and Fed. Rule 56.

Respectfully submitted,

Victor Wilson, DC # J00910
Tomoka Correctional Institution
3950 Tiger Bay Road
Daytona Beach, Fla. 32124

APPENDIX (E)

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

Victor Wilson,
Petitioner/Appellant,
Vs.
Secretary FLA. Dept. of Corrections et,
Respondent/Appellee. /

CASE NO.: 22-12141

CERTIFICATE OF INTERESTED PERSONS
AND CORPORATE DISCLOSURE STATEMENT

Petitioner/Appellant Victor Wilson, files this Certificate of Interested Persons and corporate Disclosure Statement, listing in alphabetical order the parties and entities interested in this petition/appeal, as required by the Eleventh circuit Rule 26.1.

Hon: Ricky Dixon-secretary, florida Dept of corrections
Bazalh, fred-stand by counsel
Jordan, Bryan-senior Asst Att.general State of florida
McDermott Michael-senior Asst. Att. State of florida
Hon: Moody Ashley-Att.general State of florida
Hon: Wilson Melissa-State Att florida 4th Judicial circuit
Hon: Salvador Tatiana circuit court Judge, 4th Judicial circuit of florida
Hon: Steven B. Whittington, circuit court Judge 4th Judicial circuit of florida
Wilson, Victor Appellant-pro se

APPENDIX(E)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of this document has been furnished by U. S. Mail to:

the united states 11th circuit court of appeal & Attorney general office

ON, this 18 day of APRIL 2023.

Victor Wilson

V — W — DC# J00910

Tomoka Correctional Institution
3950 Tiger Bay Road
Daytona Beach, FL 32124-1098

Appendix ( )
(E)

UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

ELBERT PARR TUTTLE COURT OF APPEALS BUILDING
56 Forsyth Street, N.W.
Atlanta, Georgia 30303

David J. Smith
Clerk of Court

For rules and forms visit
www.ca11.uscourts.gov

April 26, 2023

Victor K. Wilson
Tomoka CI - Inmate Legal Mail
3950 TIGER BAY RD
DAYTONA BEACH, FL 32124-1098

Appeal Number: 22-12141-A
Case Style: Victor K. Wilson v. Secretary, Florida Department of Corrections, et al
District Court Docket No: 3:20-cv-00169-BJD-PDB

NO ACTION / DEFICIENCY NOTICE

No action will be taken on filing submitted by Appellant Victor K. Wilson. Motion en banc rehrg [9922853-2]. **Reconsideration of an order disposing of a motion for reconsideration previously filed is not permitted**

No deadlines will be extended as a result of your deficient filing.

Motions for Reconsideration and Petitions for Rehearing Not Permitted
Consistent with 28 U.S.C. § 2244(b)(3)(E), the grant or denial of an authorization by a court of appeals to file a second or successive habeas corpus petition or a motion pursuant to 28 U.S.C. § 2255 shall not be the subject of a motion for reconsideration, a petition for panel rehearing, or a petition for rehearing en banc. See 11th Cir. R. 22-3(b)

ACTION REQUIRED

For motions for reconsideration or petitions for rehearing that are not permitted, no action is required or permitted. Your filing will not be considered.

For mistaken filings, to have your document considered, **you must file the document in the correct court.**

For all other deficiencies, to have your document considered, you **must refile the entire document** after all the deficiencies identified above have been corrected and you **must include**

APPENDIX F

ORIGINAL DIRECT APPEAL FROM the PRE-TRIAL SPEEDY TRIAL 3.191(A)(B)(P)(3)) PROCEEDINGS

Appendix (F)

Appendix/Affidavit/Exhibits
Original Direct Appeal
From the Pre-Trial Proceedings

IN THE
1st District Court of Appeal
TALLAHASSEE, FLORIDA

CASE NO. 16-2012-CF-012271-AXXX-MA
DIVISION CR-E

APPEAL NO. 1D17-4513

VICTOR KEITH WILSON, Appellant,
VS
STATE OF FLORIDA, Appellee,

RONNIE FUSSELL,
CLERK
OF THE CIRCUIT AND
COUNTY COURTS

RECORD ON APPEAL

VOLUME 1

Appeal from the Circuit Court

Duval County, Florida

BEFORE THE HONORABLE JUDGE STEVEN WHITTINGTON

PRO-SE
FOR APPELLANT

ATTORNEY GENERAL
FOR APPELLEE

Appendix/Affidavit/Exhibits
Original Direct Appeal
From the Pre-Trial Proceedings

IN THE CIRCUIT COURT OF THE FOURTH JUDICIAL CIRCUIT, IN AND FOR DUVAL COUNTY, FLORIDA

VICTOR KEITH WILSON
APPELLANT

CASE NO: 16-2012-CF-012271-AXXX-MA
DIVISION CR-E

STATE OF FLORIDA
APPELLEE

APPEAL NO: 1D17-4513

VOLUME 1

INSTRUMENT	DATE FILED	PAGE
MOTION ORDER TO SHOW CAUSE/MANDAMUS, WITH APPENDIX	08/30/17	1-69
COURT ORDER DENYING DEFENDANTS PETITION FOR WRIT OF HABEAS CORPUS	09/26/17	70-88
NOTICE OF APPEAL	10/25/17	89-139
DCA ACKNOWLEDGMENT RECEIPT 1D17-4513	10/27/17	140
CERTIFICATE OF CLERK		

*** END ***

Appendix/Affidavit/Exhibits

CERTIFICATE OF CLERK

STATE OF Florida,
COUNTY OF DUVAL

16-2012-CF-012271-AXXX-MA
1D17-4513

I, RONNIE FUSSELL, Clerk of the Circuit and County Courts for the County of Duval, State of Florida, do hereby certify that the foregoing pages 01 to 140 inclusive contain a correct transcript of the record of the judgment in the case of STATE OF FLORIDA vs. VICTOR KEITH WILSON and a true and correct recital and copy of all such papers and proceedings in said cause as appears from records and files of my office and that have been directed to be included in said record by the directions furnished to me.

VOLUME 1 PGS 1 - 140

In Witness Whereof, I have set my hand and affixed the Seal of said Court this 2nd day of November, A.D. 2017.

RONNIE FUSSELL,
CLERK OF THE CIRCUIT AND
COUNTY COURTS OF DUVAL
COUNTY

/s/ Ashley Samford
BY ASHLEY SAMFORD
Deputy Clerk

501 West Adams St. Room 1262
Jacksonville, FL 32202
(904) 255-2208
Email: Ashley.Samford@duvalclerk.com

CLERK OF THE CIRCUIT COURT
SUUM CUIQUE
DUVAL COUNTY, FLORIDA

Appendix/Affidavit/Exhibit

DISTRICT COURT OF APPEAL
FIRST DISTRICT
STATE OF FLORIDA
TALLAHASSEE, FLORIDA 32399-0950
(850) 488-6151

JON S. WHEELER
CLERK OF THE COURT

KAREN ROBERTS
CHIEF DEPUTY CLERK

October 27, 2017

Hon. Ronnie Fussell, Clerk
Clerk of Court
501 West Adams Street
Room 1262
Jacksonville, FL 32202

RE: Victor Wilson v. State of Florida

CASE NUMBER: 1D17-4513
Lower Case Number: 2012-012271
Should be case no.: 16-2012-CF-012271-AXXX

CR-E

Dear Hon. Ronnie Fussell, Clerk

As Clerk of the Court, I acknowledge receipt of the Notice of Appeal in this Circuit Court action, filed in this court on October 25, 2017, and in the lower tribunal on N/A.Receipt number N/A for the filing fee attached.

In the future, all pleadings and correspondence filed in this cause must contain this Court's case number.

Before this case can be assigned to a panel of judges for consideration, **the Docketing Statement must be completed and filed with this court by the appellant.** Appellee/Amicus needs to review the information on the appellant's Docketing Statement and file a Docketing Statement, if required, as explained in the attached Docketing Statement or Notice. If the court determines that this case requires expedited emergency consideration, the case may be reviewed before receipt of the Docketing Statement.

Sincerely,
Jon S. Wheeler

Jon S. Wheeler

Clerk of the Court

Copies: Hon. Pamela Jo Bondi, AG; Victor Keith Wilson

FILED: 10/27/2017 09:17 FUSSELL

Appendix Affidavit, EXHIBIT

(1)

Officer's Name & I.D. Numb #5191 1-14-14

Certified for the purpose of notarizing or attesting to official documents, pursuant to Florida Statute #943.10 Section 117.10

IN The Circuit Court
Fourth Judicial Circuit
IN And For Duval County, Florida.

FILED
JAN 17 2014
CLERK CIRCUIT COURT

To: The Honorable Judge Salvador
From: Victor Wilson # 2013016297
Pro, SE Case # 16-2012-CF-012271
Motion For Notice of Expiration
of Time for Speedy Trial.

FILED
IN COMPUTER
E.O

Comes Now, Victor Wilson, Pro-se
Pursuant to FL. R. Crim P. 3.191 (h) (P) (2) (P) (3)
Moves this Honorable Court To Grant this
motion in a timely manner. The Defendant was
Arrested December 16 2012, For (2nd Homicide), And
The Defendant (victor wilson) May at any time
after the Expiration of the prescribed time period,
File a Notice of Expiration of Speedy Trial time.
The Defendant has been incarcerated For (13) months and Counting.
Remedy for Failure to try Defendant within
the Specified Time, Florida Rule of Criminal
Procedure 3.191, Commonly referred to as the
Speedy Trial Rule, requires the State to bring
the defendant to trial within a time Certain
From the date the defendant is taken into
Custody; if the Charge is a Misdemeanor,
within 90 Days; and if the Charge is a
Felony, within 175 days. The Defendant has
the right to demand a speedy trial, which

will substantially shorten the time periods, especially if the Charge is a Felony. The Speedy Trial rule is not self-executing; rather, the accused must take affirmative action in order to avail himself or herself of the remedies available under the rule for the state's Failure to Comply with the requisite time limitations. See State v. Gibson, 783 So.2d 1155, 1158 (Fla. 5th DCA 2001). ("The provisions of rule 3.191 make it evident that the rule is not self executing; it requires the Defendant to take certain steps to trigger application of rule 3.191(p)(3) which will either ensure a speedy Trial or a discharge From the alleged Crime.") (Citations omitted.) Hence, once the applicable time period has expired, the accused must file a Notice of expiration Pursuant to rule 3.191(h). Gibson. A hearing must be held within five days, and unless one of the exceptions Contained in the rule applies, the trial Court Shall order that the Defendant be brought to trial within ten days or be forever discharged From the Crime. Fla. R. Crim. P. 3.191(p). The Combined fifteen-day period is Commonly referred to as the "window of recapture," and its intent is to give the State a final opportunity to bring the Defendant to trial within fifteen days of the filing of the notice of expiration. Agee, 622 So. 2d at 474. Failure to Comply with the recapture

provisions of the rule should prompt the accused to file a motion for discharge with the trial court. See Fla. R. Crim. P. 3.191 (p) (3). Rule 3.191 (o) Prohibits the State From Circumventing the remedial provisions of the speedy trial rule by entering a nolle prosequi and later refiling charges after speedy trial period has expired; I, Victor Wilson, did not give the court permission to waive my rights, nor did I Sign a Consent Form, or give my attorney permission to waive my right to a speedy trial. The court record will Show this, look at the court record From December 11th, 2012 until now, January 2014

Relief Sought

Therefore Defendant (victor wilson), Request This Honorable court Pursuant to Fla. R. Crim. P. 3.191 (h) (p) (2) (p) (3) to grant this Motion For notice of expiration of Time For Speedy Trial.

Certificate of oath

I the Defendant (victor wilson) In This case, Swear under penalty of Perjury, That I have Read This Motion, And That the Statements made in it are True and Correct.

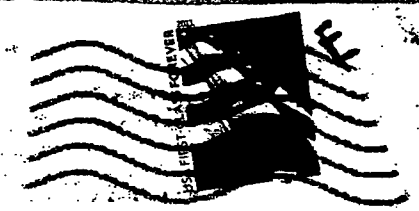
Certificate of service

I hereby Certify That A True and correct copy of the Foregoing has Been Mailed to the State Attorneys office 220 East Bay Street, Jacksonville FL, 32202 (Jan 14, 2014) Respectfully Submitted

V—— IN—— Pro, SE

Victor Wilson
Docket# 201316297
5 E. Adam's St.
Jacksonville FL, 32202

JACKSONVILLE FL 322
15 JAN 2014 PM 5 L



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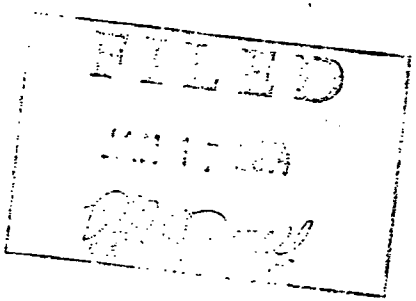
Department of Corrections
Jacksonville, FL



Ronnie Fussell
Clerk of Circuit Court
501 W. Adam's St
Jacksonville FL, 32202

3220284503

(1) Appendix/Attachment/Exhibit

IN THE CIRCUIT COURT

FILED

FEB 07 2014

JOHN W. POWELL
CLERK CIRCUIT COURT

FOURTH JUDICIAL CIRCUIT

IN AND FOR DUVAL COUNTY, FL

TO: THE HONORABLE JUDGE SALVADOR

FROM: VICTOR WILSON #2013016297

FILED
W COMPUTER
E.O

PRO, SE CASE #: 16-2012-CF-012271

CR-K

MOTION TO INVOKE NOTICE FOR EXPIRATION OF SPEEDY TRIAL

COMES NOW, VICTOR WILSON PRO-SE, PURSUANT TO FL. R. CRIM. P. 3.191 (h)(P)(2)(P)(3) MOVES THIS HONORABLE COURT TO GRANT THIS MOTION IN A TIMELY MANNER. THE DEFENDANT WAS ARRESTED DECEMBER 16, 2012, FOR ( ), AND THE DEFENDANT (VICTOR WILSON) MAY AT ANY TIME AFTER THE EXPIRATION OF THE PRESCRIBED TIME PERIOD, FILE A NOTICE OF EXPIRATION OF SPEEDY TRIAL TIME. IN THE EVENT IT APPEARS THAT THE DISCOVERY IS NOT OBTAINED EVEN AFTER THE ISSUANCE OF THE SUBPOENA FOR THE RELUCTANT WITNESS, THEN THE DEFENDANT MAY NOT BE REQUIRED TO GO TO TRIAL WITHOUT THE DISCOVERY AND THE SPEEDY TRIAL RULE MAY ULTIMATELY RESULT IN THE DISCHARGE OF THE DEFENDANT. THE DEFENDANT HAS BEEN INCARCERATED FOR (14) MONTHS AND COUNTING. REMEDY FOR FAILURE TO TRY DEFENDANT

WITHIN THE SPECIFIED TIME, FLORIDA RULE OF CRIMINAL PROCEDURE 3.191, COMMONLY REFERRED TO AS THE SPEEDY TRIAL RULE, REQUIRES THE STATE TO BRING THE DEFENDANT TO TRIAL WITHIN A TIME CERTAIN FROM THE DATE THE DEFENDANT IS TAKEN INTO CUSTODY: IF THE CHARGE IS A MISDEMEANOR, WITHIN 90 DAYS; AND IF THE CHARGE IS A FELONY, WITHIN 175 DAYS. THE DEFENDANT HAS THE RIGHT TO DEMAND A SPEEDY TRIAL, WHICH WILL SUBSTANTIALLY SHORTEN THE TIME PERIODS, ESPECIALLY IF THE CHARGE IS A FELONY. THE SPEEDY TRIAL RULE IS NOT SELF-EXECUTING; RATHER, THE ACCUSED MUST TAKE AFFIRMATIVE ACTION IN ORDER TO AVAIL HIMSELF OR HERSELF OF THE REMEDIES AVAILABLE UNDER THE RULE FOR THE STATE'S FAILURE TO COMPLY WITH THE REQUISITE TIME LIMITATIONS. SEE STATE V. GIBSON, 783 So.2d 1155, 1158 (FLA. 5TH DCA 2001). ("THE PROVISIONS OF RULE 3.191 MAKE IT EVIDENT THAT THE RULE IS NOT SELF EXECUTING: IT REQUIRES THE DEFENDANT TO TAKE CERTAIN STEPS TO TRIGGER APPLICATION OF RULE 3.191(P)(3) WHICH WILL EITHER ENSURE A SPEEDY TRIAL OR A DISCHARGE FROM THE ALLEGED CRIME.") (CITATIONS OMITTED.) HENCE, ONCE THE APPLICABLE TIME PERIOD HAS EXPIRED, THE ACUSED MUST FILE A NOTICE OF EXPIRATION PURSUANT TO RULE 3.191(h) GIBSON. A HEARING MUST BE HELD WITHIN FIVE DAYS, AND UNLESS ONE OF THE EXCEPTIONS CONTAINED

IN THE RULE APPLIES, THE TRIAL COURT SHALL ORDER THAT THE DEFENDANT BE BROUGHT TO TRIAL WITHIN TEN DAYS OR BE FOREVER DISCHARGED FROM THE CRIME. FLA. R. CRIM. P. 3.191(P). THE COMBINED FIFTEEN DAY PERIOD IS COMMONLY REFERRED TO AS THE "WINDOW OF RECAPTURE", AND ITS INTENT IS TO GIVE THE STATE A FINAL OPPORTUNITY TO BRING THE DEFENDANT TO TRIAL WITHIN FIFTEEN DAYS OF THE FILING OF THE NOTICE OF EXPIRATION. AGEE. 622 SO. 2d AT 474. FAILURE TO COMPLY WITH THE RECAPTURE PROVISIONS OF THE RULE SHOULD PROMPT THE ACCUSED TO FILE A MOTION FOR DISCHARGE WITH THE TRIAL COURT. SEE FLA. R. CRIM. P. 3.191(P)(3). RULE 3.191(O) PROHIBITS THE STATE FROM CIRCUMVENTING THE REMEDIAL PROVISIONS OF THE SPEEDY TRIAL RULE BY ENTERING A NOLLE PROSEQUI AND LATER REFILING CHARGES AFTER SPEEDY TRIAL PERIOD HAS EXPIRED:

I VICTOR WILSON, DID NOT GIVE THE COURT PERMISSION TO WAIVE MY RIGHTS, NOR DID I SIGN A CONSENT FORM OR GIVE MY ATTORNEY PERMISSION TO WAIVE MY RIGHT TO A SPEEDY TRIAL. THE COURT RECORD WILL SHOW THIS, LOOK AT THE COURT RECORD FROM DECEMBER 16, 2012 UNTIL NOW, FEBUARY 20TH.

RELIEF SOUGHT

THEREFORE DEFENDANT (VICTOR WILSON), REQUEST THIS HONORABLE COURT PURSUANT TO FLA. R. CRIM. P. 3.191(h)(p)(2)(3) TO GRANT THIS MOTION FOR NOTICE OF EXPIRATION OF TIME FOR SPEEDY TRIAL.

Certificate of OATH

I THE DEFENDANT (VICTOR WILSON) IN THIS CASE, SWEAR UNDER PENALTY OF PERJURY, THAT I HAVE READ THIS MOTION, AND THAT STATEMENTS MADE IN IT ARE TRUE AND CORRECT

Certificate of SERVICE

I HEREBY CERTIFY THAT A TRUE AND CORRECT COPY OF THE FOREGOING HAS BEEN MAILED TO THE STATE ATTORNEY'S OFFICE: 220 EAST BAY STREET, JACKSONVILLE, FL 32202 (FEBUARY, 2014)

RESPECTFULLY SUBMITTED

V____ W____ PRO, SE

J. Williams #5191 2-7-14
Officer's Name & I.D. Number

Certified for the purpose of notarizing or attesting to official documents, pursuant to Florida Statute #943.10 Section 117.10

[redacted] Wilson
Docket # 2013016297
500 East Adams St.
Jacksonville FL, 32202

JACKSONVILLE FL 320
07 FEB 2014 PM 2 L

LEGAL MAIL
PRO SE

Ronnie Fussell
Clerk of Courts
Sol. West Adams St.
Jacksonville FL, 32202

3220245030

FILED
FEB 10 2014
Ronnie W. Fussell
CLERK CIRCUIT COURT

Appendix/EXHIBIT AFFIDAVIT

IN THE CIRCUIT COURT,
FOURTH JUDICIAL CIRCUIT, IN
AND FOR DUVAL COUNTY, FLORIDA

CASE NO.: 16-2012-CF-012271-AXXX-MA

DIVISION: CR-E

STATE OF FLORIDA

-VS-

VICTOR KEITH WILSON,

Defendant.

PROCEEDINGS taken on **Friday, February 14, 2014,** before **The Honorable Tatiana Salvadore**, Judge of the Circuit Court, Division CR-E, in the Duval County Courthouse, Jacksonville, Florida, and as reported by Jayne Foreman, FPR, Court Reporter and Notary Public in and for the State of Florida at Large.

- - -

APPEARANCES:

ALAN MIZRAHI, Esquire,

Standing in for Jessica Klingensmith on behalf of the State.

VICTOR KEITH WILSON,

Appearing Pro Se.

PROCEEDINGS

February 14, 2014 10:36 a.m.

(Mr. Wilson is present.)

THE COURT: This is the case of the State of Florida versus Victor Wilson, 2012-CF-12271.

Mr. Wilson, your case was added on today, as I received from you a dated February -- let's see here. Well, it was filed February 10, 2014, a motion to invoke notice for expiration of speedy trial. I know that you have filed previous ones as such that I already ruled on, but this is the last one that you have filed; is that correct?

MR. WILSON: Yes, ma'am.

THE COURT: Okay. And so, all right, so what are you asking us to do, just set this matter for trial?

MR. WILSON: Yes, ma'am, as soon as possible.

THE COURT: All right. Now, you recall, Mr. Wilson, that, of course, part of your speedy trial time was tolled because you were sent to Florida State Hospital, having been found incompetent to proceed back on February 14th, actually, a year ago today, February 14th, 2013, and you were at Florida State Hospital and did not return until August 12th, 2013. Do you understand

that?

MR. WILSON: Yes, ma'am.

THE COURT: All right, state, and I know that Mr. Mizrahi is not the attorney of record, Ms. Klingensmith is, and she is out of the office today.

MR. MIZRAHI: Your Honor, I don't know -- even with the tolling of when speedy would -- I don't know if it's ever been waived.

THE COURT: That is what I'm looking at. Madam Clerk, can you tell me if speedy has ever been waived in this case, if there has been any motions to continue or anything of that nature, because it was previously set for trial on April 28th.

MR. MIZRAHI: That is the note that Ms. Klingensmith sent me is the case was previously set in April.

THE COURT: It was, and then I believe it was continued because the defendant requested the ability to represent himself, at which time I held the Nelson hearing and the Faretta inquiry and whatnot and allowed you to do so, and I just wanted to be certain from the clerk as to who moved for a continuance of the prior trial.

MR. WILSON: There wasn't nothing I have waived or nothing like that or nothing. It was -- the only thing was it was delayed when I was at the hospital. That is the only thing. And we discussed that beforehand, I invoked it, and they brought me right back, 175 day period.

THE COURT: I understand, but when I previously set it for trial, I want to know who moved to continue that trial because if you did, that would waive your right to a speedy trial.

MR. WILSON: I didn't waive no right. I didn't waive.

THE COURT: The clerk would be able to inform me best of that. Or is that it's currently set?

THE CLERK: It is currently set for April.

MR. MIZRAHI: And I just got a note from Ms. Klingensmith that he did not move for continuance. He was at the state hospital and came back. Ms. Billard requested a day beyond the speedy trial, so...

THE COURT: All right. Well, your matter is currently set for trial April 28th.

MR. WILSON: Yes, I know they had that, they had to set if for trial and everything, you know what I'm saying, but 175 days is up, and I'm just --

you know, I'm invoking my expiration of speedy trial rights today, you know. I don't know -- why do I have to wait until April? My 175 days is up.

THE COURT: Well, you have to wait until April because at the time when you were represented by an attorney, your attorney asked for that specific date, which was beyond speedy trial, so it's been set. That waives your right to a speedy trial, in addition to the fact that your speedy trial rights were tolled when you went to the hospital.

MR. WILSON: It was only tolled like, Your Honor -- I've got Aggie (phonetic) vs. State right here stating that it goes on. It still -- that don't stop nothing. There wasn't nothing waived.

THE COURT: What doesn't stop, going to the hospital?

MR. WILSON: Yes. That's the only thing. That was the only delay. Then after that, just the six months has been passed. There ain't nothing been waived or nothing, nothing.

THE COURT: I understand you haven't signed a waiver of speedy trial, but when your attorney and when you were represented at the time, I understand subsequent to that you chose to represent yourself, but when you sat here in court and your attorney

requested a trial date that was outside of the speedy trial date, the Court went ahead and set it outside of the speedy trial date, and that was done with her and you here standing present.

So it is set for April 28th. We're going to leave it on for April 28th.

MR. WILSON: Your Honor...

THE COURT: Yes, sir.

MR. WILSON: Your Honor, she did not set -- she -- that date was not set -- they didn't even do depositions or nothing for nobody. That date was just a date to coming from the pretrial, the last pretrial. That is all that was. It wasn't --

THE COURT: I have notes that depositions were taken or scheduled for October 2nd of 2013, for December 12th of 2013 and so...

MR. WILSON: Your Honor, in the discovery, there is no discovery, no category A witnesses. They were just police officers.

THE COURT: So where are you? Are you completed -- have you completed your discovery, you have nothing left to do?

MR. WILSON: On my discovery?

THE COURT: Yes.

MR. WILSON: Yes, I mean...

THE COURT: You're done taking every deposition you want to take and gotten every report you want to have, you're ready for trial, you have nothing else to do for discovery purposes?

MR. WILSON: No.

THE COURT: You're done?

MR. WILSON: I'm done. The only thing I need is my witnesses on that stand. That is it.

THE COURT: All right, sir. We're going to leave your trial as set for April 28th jury selection and April 23rd final pretrial, and we'll leave it on for the next pretrial, which is the 25th.

MR. WILSON: Wait. I need -- I need some (inaudible) from the First District Court of Appeal. I need the copies where I can give to the state. I need front and back. I need two, three copies of that.

THE COURT: This was the Aggie (phonetic) case?

MR. WILSON: No. I got the Aggie case right here. No. This is for the indigent, the status that I'm indigent. Nobody never -- nobody signed off on it.

THE COURT: Why do you need that right now for

the First District Court of Appeal?

MR. WILSON: Because I appealed the motion that was denied in your court, and I sent it to the First District Court of Appeal.

THE COURT: What motion was that?

MR. WILSON: The motion to dismiss.

THE COURT: All right.

MR. WILSON: And I never got the indigent status. They need yo --

THE COURT: They need me finding that you're indigent?

MR. WILSON: Yes, ma'am.

THE COURT: I'll do that. Is this what this is? No. This is a docketing statement. I don't need this.

MR. WILSON: This is the indigent form right here.

THE COURT: This is yours. You have to file that with the First District Court of Appeal.

MR. WILSON: I need copies for that because I need that to give to the state. The state --

THE COURT: No, you don't need to give -- the docketing statement?

MR. WILSON: Yes, the state got to get one. They said the state get one and I get one.

THE COURT: Well, we don't have a copy machine in here to make copies for you. That is something you're going to have to do on your own.

So this is the application for criminal indigent status?

MR. WILSON: Yes.

THE COURT: So you have two identical ones, is that what this is?

MR. WILSON: Yes. I wanted to give one to the state, you know, whatever.

THE COURT: This has to be signed by the clerk of court, not by me.

MR. WILSON: Yes.

THE COURT: If you'll hand that to Madam Clerk.

MR. WILSON: I don't know if that had all of the discovery because I have -- there is no category A witnesses, all like police officers and emergency people and stuff like that that's on the deposition and it was waived.

THE COURT: What now, you're talking about what?

MR. WILSON: Discovery.

THE COURT: People listed on discovery?

MR. WILSON: Yes, the discovery. There is no

-- there is no -- there is no witness, there is no witness at all, and I have been here 14 months to sit here, and I mean she's saying all this pretrial as far as pretrial as far as April and stuff like that. That wasn't anything. That wasn't no waiver. That wasn't a waiver, Your Honor. That was just something that was going through the court as far as pretrial and this and that and this and that. But setting something for trial, it wasn't even -- there wasn't -- there's nothing to -- they're saying they're ready. I mean I'm ready to go to trial. I mean this don't make no sense because there wasn't no waiver, Your Honor. There wasn't no waiver at all. It was just a pretrial situation that was going on and they said, well, this set for pretrial and then April is this, there is no trial. It was just all pretrial.

THE COURT: Mr. Wilson, I have already ruled on that. So, sir, I will see you back here on the 25th of February for pretrial, sir.

MR. WILSON: February who?

THE COURT: February 25th is your next pretrial.

MR. WILSON: (Inaudible) nothing.

THE COURT: All right.

Appendix/Affidavit/EXHIBIT

IN The Circuit Court
Fourth Judicial Circuit
IN And For Duval County, Florida

FILED
FEB 27 2014
RONNIE W. FOWELL
CLERK CIRCUIT COURT

To: The Honorable Judge Salvador
From: Victor Wilson # 2013016297
PRO, SE Case # 16-2012-CF-012271
CR-E

Motion to Demand FILED
For Speedy Trial E.O

Comes now, Victor Wilson PRO, SE, Pursuant to FL. R. Crim. P. 3.191 Moves this Honorable Court to Grant this Motion in a Timely Manner. The defendant was arrested December 16, 2012 For (Homicide).

1. The State Attorneys Assertion to an Alleged Eyewitness Implicating Wilson Involvement may have been Sufficent Probable Cause for A first Appearance Court to Hold Defendant then, However It has now been (14) months and the State attorney failed to produce this alleged Eyewitness or any other evidence Implicating Defendants Involvement in or Knowledge of any Such Crime: No Physical evidence Linked Wilson to the Crime, and he made no Statements of Guilt.

2. It should be observed that the Court Proceeding under the Florida Rules of Criminal Procedure, may Continue a Case where discovery is not Completed through, no fault of the defendant; See > State ex rel Gerstein V. The Hon. N. Joseph Durrant, Jr. 348 So.2d 405 (Fla. 3d DCA 1977). In the event it appears that the discovery is not obtained even after the issuance of the Subpeona for the reluctant witness then the defendant may not be required to go to trial without the discovery; the defendant has the right to Demand for a Speedy Trial, which will Substantially Shorten the time period especially if the Charge is a Felony: The accused must take affirmative action in order to avail himself or herself of the remedies available under the rule for the State's failure to Comply with the requisite time limitations: The defendant shall have the right to the appropriate remedy for failure to try defendant within the specified time: Every Person Charged with a Crime by indictment or information Shall have the right to demand a Trial within (60) days, by filing with the Court having Jurisdiction and Serving upon the State attorney a Demand For Speedy Trial:

FL. R. Crim. P. 3.191, The purpose of the rule is to promote the efficient operation of the Court System, and to act as a stimulus to prosecutors to bring defendants to trial as soon as practicable, thus minimizing the hardships placed upon accused persons awaiting trial. See Lewis .V. State, 357 So.2d 725, 727 (Fla. 1978). The defendant may, at any time after the expiration of the prescribed time period, file a motion for discharge. FL. R. Crim. P. 3.191 (p)(3) Rule 3.191 (a), Prohibits the State From Circumventing the remedial provisions of the Speedy trial Rule by entering a Nolle Prosequi, and later refiling Charges after Speedy trial period has expired.

Relief Sought

Therefore Defendant (victor wilson) Request this honorable Court pursuant To Fla. R. Crim. P. 3.191 to grant this Motion to Demand Speedy trial.

Certificate of Oath

I the Defendant (victor wilson) in this case, Swear under Penalty of Perjury, that I have read this motion, and that the Statements made in it are True and correct.

Certificate of Service

I hereby Certify that a true and correct copy of the foregoing has been mailed to The State Attorney's Office (220 East Bay St. Jacksonville Florida, 32202), February 2014

Respectfully Submitted

V W PRO, SE

Victor Wilson

Det. O'Neal 5873

Officer's Name & I.D. Number

Certified for the purpose of notarizing or attesting to official documents, pursuant to Florida Statute #943.10 Section 117.10

Victor Wilson
201301629?
[illegible] East Adams St
[illegible] 32202

JACKSONVILLE FL 330
26 FEB 2014 PM 2
NOT CENSORED
Department of Corrections
Jacksonville, FL

Legal Mail
Prose

Ronnie Fussell
The Clerk of Courts
501 west Adams St.
Jacksonville [illegible]

APPendix/Affidavit/EXHIBITS

V. VICTOR WILSON

LT. 2012-[redacted]

STATE OF FLORIDA
RESPONDENT

WRIT OF Prohibition

The Petitioner named above, VICTOR WILSON, pro se, applies pursuant to rule 9.120 Fla. R. App.P., and moves this Honorable Court to issue a writ of Prohibition directed to the Respondent, the STATE OF FLORIDA(herein the "STATE" or Respondent) and the Honorable TATIANA SALVADOR, CIRCUIT COURT JUDGE, to cease and desist all actions against the Petitioner. In support of this petition, Petitioner avers as follows:

I. BASIS FOR JURISDICTION

Petitioner invokes the jurisdiction of the court to issue a writ of Prohibition pursuant to Article V. section 3(b)(3) of the Florida Constitution and rule 9.030(b)(3), Fla R.App.P.. Petitioner is an indigent defendant who is currently being prosecuted in Duval County, Florida.

The Supreme Court has original jurisdiction to issue writs of [redacted] to Lower Tribunals in causes within the jurisdiction of the Supreme Court to review, Fla. Const. Art V, 3(b)(3). In addition the Florida Supreme Court may also be sought to review decisions of district courts of appeals that expressly construe a provision of State and Federal Constitutions. Also in direct conflict with a decision of another district court of appeal, or the Florida Supreme Court on the same question of law.

II. FACTS UPON WHICH PETITIONER RELIES

ON 01/17/2014 Petitioner filed a motion for expiration of time for speedy trial, and the court denied the motion on ground that speedy trial time has not expired.

On 2/07/2014, Petitioner filed a motion to invoke Notice for Expiration of Speedy Trial, and the court denied motion on erroneous grounds.

On 2/27/2014, the Petitioner then filed a motion to Demand for Speedy Trial(because Petitioner expiration of speedy trial time expired on 2/16/2014).

A hearing was then held on 3/19/2014, in which the Court granted said motion.

In January 2014, the Petitioner orally pronounced in open court, inquiring about the discovery material, then the Assistant State Attorney Jessica Lynn Klingensmith provided the Petitioner with bits and pieces of the discovery, which deprived the Petitioner of his due process rights under the United States Constitution.

III. NATURE OF RELIEF SOUGHT

The Petitioner, respectfully request from this Honorable Court to grant this writ of [redacted] with an order directed to the FOURTH JUDICIAL CIRCUIT, IN DUVAL COUNTY FLORIDA, to cease and desist all actions against the Petitioner, releasing the Petitioner from custody immediately, issuing the proper rulings to ensure that the rules of law is held to standard in the above styled cause.

IV. REASONS WHY THE WRIT SHOULD ISSUE

The reasons why the writ or alternative writ sought in this petition should issue is as follows:

The state provided the Petitioner with a fictitious address for the category (A) state eye witness: see exhibit(a). Under the Florida Statutes of Law (817. 155), the Statutes states explicitly that a person may not in any matter within the jurisdiction of the department of state knowingly and willfully falsify or conceal a

material fact, make any false, fictitious, or fraudulent statement or representation, or make or use any false document knowing the same to contain any false, fictitious or fraudulent statement or entry. A person who violates this section is guilty of a felony of the third degree. Also under the principles of *Mooney v. Holohan, 55 S. Ct. 340, 294 U.S. 103, 98 A.L.R. 406, 79 L.Ed. 791 (1935),* " a prosecution that withholds evidence helps shape a trial that bears heavily on the defendant that cast the prosecutor in the role of an architect of a proceeding that does not comport with standards of Justice. These allegations sufficiently charge a deprivation of rights guaranteed by the Federal Constitution, and if proven would entitle Petitioner to release from his present custody. Also see *Pyle V. State of Kansas, 316 U.S. 654 62 S.Ct. 1045, 86 L.Ed. 1734(1942)*

At this present time and at this current moment the Petitioner has a private investigator, to which the Petitioner handed the Private Investigator J.W. Thomas former J.S.O. Police Officer the document that the State prosecutor provided the Petitioner. The Petitioner asked the private investigator to go to this so called address so that he could do depositions and a thorough investigation on the pending case. Mr. Thomas went to this so called address and the witness did not live at this address Mr. Thomas went to. After finding out that the STATE'S witness did not live at the address provided to the Petitioner, Mr. Thomas returned back and advised the Petitioner that the occupants of the address provided, did not know the person that you are looking for, and that they have been living at this address for two(2) years. The prosecution knowingly used a fraudulent and a fictitious document which was a violation of the Petitioner's Constitutional Rights. Mr. Thomas the private investigator is a witness to these "allegations."(J.W. Thomas Private Inestigator Agency, 8081-5 Normandy Blvd. Jacksonville Florida. 32221. E- mail: Jtprivateinvest: @aol.com; office number# 904-463-5987; cell# 904-535-4091; fax# 904-374-2174). This was clearly a deliberate deprivation of the Petitioner's due process rights under the United States Constitution. *Thomas v. dye, 221 F.2d 763.* which states the correct constitutional rule.

Moreover, the Petitioner then filed a " Motion of Notice of Discovery" in full; asking the Honorable Judge Salvador to grant his motion in a timely manner, which shall be bind both the prosecution and

defendant to all discovery procedures contained in these rules. Participation by the defendant in the discovery process, including the taking of any deposition under chapter 119, Florida Statutes. Pursuant to Fla, R. Crim. P. 3.220, which is under the prosecutor's discovery obligation: The STATE did not disclose to the defendant and permit the defendant to inspect, copy, test, or photograph the following information and material within the state's possession or control; a list of the names and addresses of all persons known to the prosecutor to have information that may be relevant to any offense charged or any defense thereto, or to any similar fact evidence to be presented at trial: under section 90.404(2), Florida Statutes. The state failed to provide the defendant the category (A) State's eye witness address in a timely manner; under the due process clause of the Fourteenth Amendment: see; *Almeida v. Baldi, 195 F. 2d 815, 33 A.L.R. 2d 1407;* and *Mooney v. Holohan, supra,* where the Court ruled on what non-discloser by a prosecutor violates due process.

The petitioner addressed the Honorable Court several times, about there unwillingness to turn over the real discovery evidence, the Honorable Court addressed the STATE and asked the STATE " DO YOU HAVE THIS EVIDENCE THAT THE DEFENDANT IS INQUIRING ABOUT," after the court asked this question to the STATE the STATE then started fumbling with the paper work and finally emerged with the real discovery evidence, which is the key factor in the defendant's case. The Petitioner finally got to inspect the material document, but to the petitioner's surprise the STATE was withholding this evidence before and after he became a pro se litigant. The document was dated October 29, 2013, but the Petitioner became pro se on November 25, 2013, but the Petitioner received this evidence and valuable document on April 3, 2014 six(6) months after the STATE received this evidence, which was in there possession and control for six(6) whole months; See exhibit (B) the STATE'S third amended discovery ; under *Brady v. Maryland, 83 S. Ct. 1194, 373 U.S. 83, 226 Md. 422, 174A 2d 167,* that's when a prosecutor withholds evidence upon request violates due process where evidence is material either to guilt or to punishment irrespective of good faith or bad faith of prosecution U.S.C.A. Const. Amend. 14. The STATE violated the Petitioner's speedy trial rights because they forced a continuance for not disclosing the material discovery evidence the Petitioner

Needed to prepare his defense which deprived him of his constitutional due process rights; the petitioner was clearly prejudiced in the preparation of his defense. See state v weinfurt 409 so 2d 1187 (fla app, 4 dist. 1982) Wherein dismissal of charges and discharge of defendant is an appropriate sanction for willfull refusal by the state to comply with an order compelling disclosure; under Fla. R. Crim. P. 3.220. also; the state created such a delay in the petitoner's readiness for trial as to infringe upon his separate but related right to a speedy trial, where material discovery was not furnished at a time which did not enable the defendant to make use of it in the preparation of his defense before the expiration of the speedy trial time limits. The courts properly continued the case to a date beyond those limits but did not charge the state for the continuance based on the speedy trial rule violation. As stated in the leading case of state v. del gaudio,445 so. 2d 605 (Fla. 3d dca) rev. denied 453 so 2d 45(Fla. 1984) the other exception to this [redacted] rule arises where the defendant is not ready for trial and consequently request a continuance because the state has impeded the preparation of the defense by inexcusable delays in providing discovery material to the defendant in a timely manner. Which is the case now before this court on writ of [redacted] Therefore a defendant will not be forced to choose between his right to have discovery in an adequate time to utilize it in preparing for trial and his right to a speedy trial. Thus, it is clear that the harm to the petitioner from the discovery violation is such that it cannot be repaired by any sanction short of dismissal. Also see state v. burris 424 so. 2d [redacted] 1st dca 1982) a continuance not qualifying as being caused by exceptional circumstances and not caused by defendant is charged to the state and does not toll or extent the speedy trial time; if the courts trial docket could not accommodate the required continuance, at worst the prosecution would be terminated by expiration of the time allowed for speedy trial.

Rules 4-1.1 of professional conduct requires competence and knowledge of the law by state attorney's. state attorney's who lack in understanding or knowledge of the rules of procedure, or who ignore rules or decisions of the court cause this type of severe failure in the judicial system. It is self evident that this type of serious failure underminds the public's confidence to all of our courts; this is a gross failure of the judicial system when our circuit court ignored a rule of criminal procedure; this responsibility for this failure must be borne by the trial court and counsel who represented the state, they are

charged with the duty to know and apply the rules. The administration of justice is dependant upon the trial court and counsel for the state competently and faithfully fulfilling this duty; the state attorney has committed a violation of the rule of professional conduct that raises a substantial question as to the lawyer's honesty, trustworthiness or fitness as a lawyer: in other respects this state attorney has violated the rules of professional conduct; which she has neglected and violated the defendants due process right to proceed in a timely manner. The state attorney had no right to abuse the dignity of the defendant of his rights. The state attorney had no right to avoid compliance with " relevant rules of procedural and substantive law." The state attorney had no right to "engage in serious and obstructionist misconduct." The state attorney's conduct was so neglectful, that this type of injustice was prejudicial and biased against the defendant, which deprived the defendant of his constitutional rights of the united states of America, under the fifth and fourteenth amendments. (which was clearly a miscarriage of justice).

Conclusion

In the instant case it is extremely apparent that the trial and counsel who represented the state had made errors in the ruling and handling of this case. It is obvious that the state has committed a violation of the defendant's constitutional rights under the due process clause; a prosecution that withholds evidence on demand of an accused which if made available would deny petitioner due process of law. Our system of the administration of justice suffers when any accused is treated unfairly, see Mooney supra.

Certificate of service

I the defendant in this case swear under penalty of perjury that I have read this motion and the statements in it ar true and correct. I hereby that a true and correct copy of the foregoing writ of Petition has been mailed to the first district court of appeals, 2000 Drayton Ave., Tallahassee, Florida 32399; Pamela Jo Bondi A.G., Capitol building PL-01, Tallahassee, Florida 32399-1050; Clerk of the circuit court, 501 w. Adams Street, Jacksonville , Florida 32202, on this 15th day of September 2014.

Respectfully Submitted

By: V W

Victor Wilson# 2013016297

500 East Adams St.

Jacksonville, Florida 32202

Clothing/Description: TAN SHIRT AND BL[illegible] JEAN SHORTS

Appendix

Nickname(s):
Aliases:
Charges:
#1 [redacted] - UNDETERMINED
Jail Booking # N/A OBTS No. Juvenile: No Miranda Warnings Given: No Suspect Confessed?
Ecd Usage: NOT APPLICABLE
RTR written related to this incident? NO RTR Incident Yr: RTR Incident #:

Offense #1

Statute No: 999 Degree: NA UCR Code: 999D Attempt Code: Commit
[redacted] - UNDETERMINED

Witness/Complainant Information: #1 Type: WITNESS

Name: SMITH QUINTINA MONIQUE
Address: 5738 POITIER DR Apt./Lot #:
City: JACKSONVILLE State: FLORIDA Zip: 32209 Sub-Sector: N1
Tax: 218 Crossstreet:
Home Phone # Bus. Phone # Ext.
Cell Phone # (904)-485-0508 Cell Phone Provider T-MOBILE E-mail
Is Vagrant? NO
Place of Employ /School: NONE
Race: BLACK Ethnicity: NOT OF HISPANIC ORIGIN Sex: Female DOB: 10/12/1980
Age: 32
Relationship To Victim:
BOY/ GIRL FRIEND (Not Domestic. Viol) #1 UK, UK UK

Detective Called To the Scene:
Reporting Officers: H.G.TAYLOR ID# #67516
ID# #0 12/17/2012 23:04

EXHIBIT
(A)

false, fictitious,
"fraudulent Document"
The state provided
The Defendant

WHICH SENT DEFENDANT ON WILD GOOSE CHASE
BUT HAD THE REAL DISCOVERY EVIDENCE ALL THE TIME
WHICH CLEARLY IS A VIOLATION OF THE DEFENDANT'S DUE PROCESS/CONSTITUTIONAL RIGHTS

Appendix

S.A. CASE NO.: 12CF082190AD

FILED 10/29/13 AM 11:59 R FUSSELL

IN THE CIRCUIT COURT OF THE FOURTH JUDICIAL CIRCUIT, IN AND FOR DUVAL COUNTY, FLORIDA

CLERK NO.: 162012CF012271AXXXMA

DIVISION: CRE

STATE OF FLORIDA

vs.

VICTOR KEITH WILSON

FILED W COMPUTER E: O

STATE'S THIRD AMENDED DISCOVERY EXHIBIT

A. CATEGORY A:

Quintina Monique Smith, 800 Broward Road, Apt. #G203, Jacksonville, Florida 32209

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been furnished by mail to Debra Billard, Office Of The Public Defender, 407 North Laura Street, Jacksonville, Florida 32202, this 28th day of October, 2013.

Furnished: October 28, 2013

Filed: October 29, 2013

ANGELA B. COREY
STATE ATTORNEY

By: _____
Jessica Lynn Klingensmith
Assistant State Attorney
Bar Number 21795

Exhibit (B)

The state Attorney's Knowingly & Willingly concealed this material evidence; clearly a violation

Defendant never received this Discovery Evidence until April 3, 2014

Officer's Name & I.D. Number #5191 6-3-14

Certified for the purpose of notarizing or attesting to official documents pursuant to Florida Statute section 117.10 V-W 6-3-14

face of the Record
Exhibit's

Supreme Court of Florida

Office of the Clerk
500 South Duval Street
Tallahassee, Florida 32399-1927

JOHN A. TOMASINO
CLERK
MARK CLAYTON
CHIEF DEPUTY CLERK
KRISTINA SAMUELS
STAFF ATTORNEY

PHONE NUMBER: (850) 488-0125
www.floridasupremecourt.org

ACKNOWLEDGMENT OF NEW CASE

November 17, 2014

RE: [redacted] vs. STATE OF FLORIDA

CASE NUMBER: SC14-2235
Lower Tribunal Case Number(s): 1D14-4289; 162012CF012271AXXXMA

The Florida Supreme Court has received the following documents reflecting a filing date of 11/12/2014.

Petition for Writ of Prohibition

The Florida Supreme Court's case number must be utilized on all pleadings and correspondence filed in this cause. Moreover, ALL PLEADINGS SIGNED BY AN ATTORNEY MUST INCLUDE THE ATTORNEY'S FLORIDA BAR NUMBER.

mh
cc:
HON. PAMELA JO BONDI
VICTOR KEITH WILSON
HON. RONNIE FUSSELL, CLERK

Appendix/Affidavit/Exhibit

IN THE CIRCUIT COURT OF THE FOURTH JUDICIAL CIRCUIT, IN AND FOR DUVAL COUNTY, FLORIDA

VICTOR WILSON

V.

CASE NO: 162012CF012271AXXXMA

CRE

STATE OF FLORIDA /

MOTION TO DISCHARGE

Comes now the Defendant, Victor Wilson, pro se, pursuant to Fla.R.Crim.P. 3.191 and hereby moves this Honorable Court to grant this motion in a timely manner. The Defendant was arrested December 16, 2012, on January 17, 2014, the defendant filed a Motion for Expiration of Speedy Trial, and the Court denied the Motion on the grounds that speedy time has not expired. On February 7, 2014, the defendant filed a Motion to Invoke notice of expiration of speedy trial, the court denied the Motion on erroneous grounds. On February 27, 2014, the defendant filed a Motion to demand for speedy trial because defendant's expiration of speedy trial expired on February 06, 2014, a hearing was then held on March 19, 2014, in which the Court granted the said Motion.

The Defendant shall have the right to appropriate remedy for failure to bring the defendant to trial within the specified time. Every person charged with a crime by Charging Information, or Indictment shall have the right to demand a trial within sixty (60) days, by filing with the Court, having jurisdiction and serving upon the State Attorney a Demand for Speedy Trial.

The Defendant has continuosly been available for trial on this cause, under the Fla.R.Crim.P. 3.191, the purpose of the rule is to promote the efficient operation of the Court system, and to act as a stimulus to prosecutors to bring defendant's to trial as soon

as practicable, thus minimizing the hardships placed upon accused persons awaiting trial. See, Lewis v. State, 357 So.2d 725, 727 (Fla.1978), the defendant may, at any time after the expiration of the prescribed time period, file a Motion for Discharge. See, Fla.R.Crim.P. 3.191. No later than five (5) days from the date of the filing of a Motion to Discharge, the Court shall hold a hearing on the motion, and unless the court finds that one of the set forth in section (d)(3) exists, shall order that the defendant be brought to trial within 10 days. If the defendant is not brought to trial within the 10 day period through no fault of the defendant, the defendant shall be forever discharged from the crime.

Moreover, the defendant filed on Feb 19, 2014, the demand for speedy trial that triggered the speedy trial period, the defendant had not been brought to trial within the forty-five (45) day period of the demand, and he was entitled to relief, when the motion was considered the trial court had two options, one (1) to strike the demand as invalid, or two (2) order the defendant brought to trial within ten (10) days under Fla.R.Crim.P., the trial court did neither, therefore, because the trial court did not strike the demand as invalid in accordance with subdivision (j)(4), Defendant was entitled to be brought to trial within ten days of the March 19, 2014 hearing. When he was not, he was entitled to discharge under subdivision (p)(3). See, Landry v. State, 666 So.2d 121 (Fla.1995). The State did not file a Motion to strike the demand nor did they object to the demand at the hearing, which would guarantee the defendant his Constitutional Right to a speedy trial.

NATURE OF THE RELIEF SOUGHT

Therefore Defendant requests this Honorable Court to grant this Motion pursuant to Fla.R.Crim.P. 3.191, and order the Defendant be discharged from his present restrained liberty.

CONCLUSION

In the instant case, it is extremely apparent that the trial court has made errors in the ruling and handling of this case. It is obvious that the Trial Court has committed a violation of the defendant's Constitutional Right's under the Due Process Clause.

Respectfully
Submitted,

V. W.

Victor Wilson
Jail#2013016297
500 East Adams Street
Jacksonville, Florida-32202

CERTIFICATE OF SERVICE

I hereby certify that I placed a true and correct copy of the foregoing document in the hands of Jacksonville Correctional Officer RILEY for mailing by U.S. Postal service to: Ronnie Fussell, Clerk, Duval County Courthouse, Clerk of the Circuit Court Office, 501 West Adams Street, Jacksonville, Florida-32202, and Office of The State Attorney, 220 East Bay Street, Jacksonville, Florida-32202, on this 11th day of September, 2014.

Respectfully
Submitted,

V. W.

Victor Wilson
Jail#2013016297
500 East Adams Street
Jacksonville, Florida-32202

IN THE CIRCUIT COURT, FOURTH JUDICIAL CIRCUIT, IN AND FOR DUVAL COUNTY, FLORIDA

CASE: 16-2012-CF-012271-AXXX-MA

DIVISION: CR-E (Circuit)

STATE OF FLORIDA

vs.

VICTOR KEITH WILSON, DEFENDANT

FILED
SEP 18 2014
CLERK CIRCUIT COURT

ORDER

THIS CAUSE COMING ON BEFORE THE COURT UPON THE ☒DEFENDANT'S ☐STATE'S MOTION TO DISCHARGE

FILED HEREIN ON THE 15 day of SEPTEMBER, 2014 AND THE COURT HAVING HEARD ARGUMENTS OF THE STATE'S ATTORNEY AND OF COUNSEL FOR DEFENSE, AND BEING FULLY ADVISED IN THE PREMESIS, IT IS THEREUPON

ORDERED AND ADJUDGED THAT THE AFORESAID MOTION SHALL BE AND THE SAME IS HEREBY: Denied for reasons stated on record

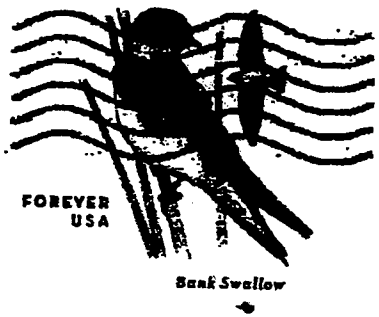
DONE AND ORDERED IN OPEN COURT AT JACKSONVILLE, DUVAL COUNTY, FLORIDA, THIS 18th day of Sept., 2014

T. Dalbeck

Circuit Judge

Victor Wilson #201-301-6297
500 E. ADAMS Street
Jacksonville Florida 32202

JACKSONVILLE FL 320
12 SEP 2014 PM 1 L



RONNIE FUSSELL
CLERK OF COURTS
501 W. ADAMS Street
Jacksonville Florida 32202

FILED
SEP 15 2014
RONNIE W. FUSSELL
CLERK CIRCUIT COURT

32202460301

"Legal Mail"

PAGE # 172

PAGE # 64

APPENDIX/AFFIDAVIT/EXHIBIT

Supreme Court of Florida

FRIDAY, JUNE 16, 2017

CASE NO.: SC17-1046
Lower Tribunal No(s).:
162012CF012271AXXXMA

VICTOR KEITH WILSON vs. STATE OF FLORIDA

Petitioner(s) Respondent(s)

Petitioner has submitted a "Motion Order to Show Cause," which this Court has treated as a petition for writ of mandamus. The petition for writ of mandamus is hereby transferred, pursuant to Harvard v. Singletary, 733 So.2d 1020 (Fla. 1999), to the First District Court of Appeal. The transfer of this case should not be construed as an adjudication or comment on the merits of the petition, nor as a determination that the transferee court has jurisdiction or that the petition has been properly denominated as a petition for writ of mandamus. The transferee court should not interpret the transfer of this case as an indication that it must or should reach the merits of the petition. The transferee court shall treat the petition as if it had been originally filed there on the date it was filed in this Court. Any determination concerning whether a filing fee shall be applicable to this case shall be made by the transferee court. Any and all pending motions in this case are hereby deferred to the transferee court.

Any future pleadings filed regarding this case should be filed in the above mentioned district court at 2000 Drayton Drive, Tallahassee, FL 32399-0950.

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING MOTION AND, IF FILED, DETERMINED.

A True Copy
Test:

John A. Tomasino
Clerk, Supreme Court

ca
Served:
TRISHA MEGGS PATE
HON. RONNIE FUSSELL, CLERK

VICTOR KEITH WILSON ✓
HON. JON S. WHEELER, CLERK

Appendix/Affidavit/Exhibit

Supreme Court of Florida

Office of the Clerk
500 South Duval Street
Tallahassee, Florida 32399-1927

JOHN A. TOMASINO
CLERK
MARK CLAYTON
CHIEF DEPUTY CLERK
KRISTINA SAMUELS
STAFF ATTORNEY

PHONE NUMBER: (850) 488-0125
www.floridasupremecourt.org

ACKNOWLEDGMENT OF NEW CASE

June 6, 2017

RE: VICTOR KEITH WILSON vs. STATE OF FLORIDA

CASE NUMBER: SC17-1046
Lower Tribunal Case Number(s): 162012CF01227JAXXXMA

The Florida Supreme Court has received the following documents reflecting a filing date of 6/1/2017.

Motion Order to Show Cause

The above listed motion has been treated as a Petition for Writ of Mandamus.

The Florida Supreme Court's case number must be utilized on all pleadings and correspondence filed in this cause.

tr

cc:
TRISHA MEGGS PATE
VICTOR KEITH WILSON
HON. RONNIE FUSSELL, CLERK

Appendix Affidavit/Exhibit V

DISTRICT COURT OF APPEAL
FIRST DISTRICT
STATE OF FLORIDA
TALLAHASSEE, FLORIDA 32399-0950
(850) 488-6151

JON S. WHEELER
CLERK OF THE COURT

KAREN ROBERTS
CHIEF DEPUTY CLERK

June 19, 2017

Victor Keith Wilson
#J00910
Columbia Corr Inst
253 S.E. Corrections Way
Lake City, FL 32025-2012

RE: Victor Wilson v. State of Florida

CASE NUMBER: 1D17-2465
Lower Case Number: 162012-012271

Dear Victor Keith Wilson

As Clerk of the Court, I acknowledge receipt of the Petition/Application for Writ of Petition Mandamus filed and docketed in this court on June 16, 2017. Receipt number N/A for the filing fee attached.

In the future, all pleadings and correspondence filed in this cause must contain this Court's case number.

Before this case can be assigned to a panel of judges for consideration, **the Docketing Statement must be completed and filed with this court** by the appellant. Appellee/Amicus needs to review the information on the appellant's Docketing Statement and file a Docketing Statement, if required, as explained in the attached Docketing Statement or Notice. If the court determines that this case requires expedited emergency consideration, the case may be reviewed before receipt of the Docketing Statement.

Sincerely,
Jon S. Wheeler

Jon S. Wheeler

Clerk of the Court

Copies: Hon. Pamela Jo Bondi, AG Hon. Ronnie Fussell, Clerk

Appendix/affidavit/EXHIBIT

DISTRICT COURT OF APPEAL, FIRST DISTRICT
2000 Drayton Drive
Tallahassee, Florida 32399-0950
Telephone No. (850)488-6151

June 20, 2017

CASE NO.: 1D17-2465
L.T. No.: 162012012271

Victor Wilson v. State of Florida

Appellant / Petitioner(s), Appellee / Respondent(s)

BY ORDER OF THE COURT:

Petitioner is directed to provide this Court with an appendix that contains a copy of the pleading which petitioner alleges has not been timely considered by the lower tribunal. The attachments to the pleading may be omitted from the appendix. The appendix shall reflect the case number assigned by the clerk of the lower tribunal unless petitioner alleges that no case number has yet been assigned. The appendix shall also contain copies of any orders which have been issued in the case by the lower tribunal to date. Petitioner shall certify that copies of the appendix have been properly served on the respondent, the lower tribunal and the Attorney General of Florida. See Florida Rule of Appellate Procedure 9.420(c); Kramp v. Fagan, 568 So.2d 479 (Fla. 1st DCA 1990). Failure to comply with this order within 20 days from the date of this order may result in the imposition of sanctions, including denial of relief, without further notice or opportunity to be heard. Florida Rule of Appellate Procedure 9.410.

I HEREBY CERTIFY that the foregoing is (a true copy of) the original court order.

Served:

Hon. Pamela Jo Bondi, AG Hon. Ronnie Fussell, Clerk Victor Keith Wilson

co

Jon S. Wheeler

JON S. WHEELER, CLERK

DISTRICT COURT OF APPEAL * FIRST DISTRICT * 301 SAN MARCO STREET * TALLAHASSEE, FL * STATE OF FLORIDA *

APPENDIX / AFFIDAVIT / EXHIBIT

DISTRICT COURT OF APPEAL, FIRST DISTRICT
2000 Drayton Drive
Tallahassee, Florida 32399-0950
Telephone No. (850)488-6151

July 11, 2017

CASE NO.: 1D17-2465
L.T. No.: 162012-012271

Victor Wilson v. State of Florida

Appellant / Petitioner(s), Appellee / Respondent(s)

BY ORDER OF THE COURT:

Petitioner is directed to serve a copy of the petition on the Attorney General and Clerk of Court for the Fourth Circuit/Duval County and to file a supplemental certificate of service within 10 days of this order that so demonstrates. A copy of Florida Rule of Appellate Procedure 9.420, which governs certificates of service, is attached to petitioner's copy of this order. Failure to comply with this order may result in dismissal of this petition without further opportunity to be heard. Florida Rule of Appellate Procedure 9.410.

I HEREBY CERTIFY that the foregoing is (a true copy of) the original court order.

Served

Hon. Pamela Jo Bondi, AG Hon. Ronnie Fussell, Clerk Victor Keith Wilson

co

JON S. WHEELER, CLERK

DISTRICT COURT OF APPEAL STATE OF FLORIDA FIRST DISTRICT

Appendix/ Affidavit/ EXHIBIT

DISTRICT COURT OF APPEAL, FIRST DISTRICT
2000 Drayton Drive
Tallahassee, Florida 32399-0950
Telephone No. (850)488-6151

August 14, 2017

CASE NO.: 1D17-2465
L.T. No.: 162012-012271

Victor Wilson v. State of Florida

Appellant / Petitioner(s), Appellee / Respondent(s)

BY ORDER OF THE COURT:

Petitioner's motion filed July 31, 2017, is treated as a motion for extension of time and is granted. Time for compliance with the Court's order of July 11, 2017, requiring service of the petition on the Attorney General and the Clerk of Court for the Fourth Circuit/Duval County is hereby extended through and including September 5, 2017. Failure to timely comply with the terms of this order may result in sanctions, including dismissal of this proceeding, without further opportunity to be heard. See Fla. R. App. P. 9.410.

I HEREBY CERTIFY that the foregoing is (a true copy of) the original court order.

Served:

Hon. Pamela Jo Bondi, AG Hon. Ronnie Fussell, Clerk Victor Keith Wilson

am

JON S. WHEELER, CLERK

Appendix/Affidavit/Exhibits

APPEAL
TO THE
4TH JUDICIAL CIRCUIT, DUVAL COUNTY

VICTOR WILSON,

v.

STATE OF FLORIDA
_____ /

SC# [redacted]
CASE# [redacted]
DC# [redacted] - AXXX

CR-E

MOTION
NOTICE OF APPEAL

Pursuant to Fla. R. Crim. P. (3.191); Fla. R. Crim.P. (3.220); Fla. R. of App. P. (9.020).

(GROUND 1)

Because trial court erred by denying Petitioner's Constitutional Right to a Speedy Trial (3.191A) and for prosecutorial misconduct discovery violations (3.220) Trial Court deprived Petitioner of his Constitutional Rights to Due Process of the 14th Amendment and limited his right to present a defense under the 6th Amendment.

COMES NOW, Petitioner to Show Cause why his Motion For Writ of Mandamus / Writ of Habeas Corpus, etea. etea. should not be dismissed. Petitioner has been a *pro se* litigant since November 25, (2013-2017). Petitioner filed all these legally sufficient Motions / expiration of Speedy Trial 3.191 (A) [redacted] which was on 1/17/2014. And the Court denied the Motion on the grounds that the (3.191) Speedy Trial has not expired: On 2/7/2014 the Petitioner filed a Motion to Invoke Notice of Expiration of Speedy Trial which the Trial Court denied the Motion on erroneous grounds.

On 2/27/2014, Petitioner filed a Motion to Demand for (3.191). Speedy Trial

because Petitioner's expiration of Speedy Trial actually expired on 2/6/2014. A hearing on the Motion to Demand was held on 3/19/2014, in which The Court granted the Motion to Demand, but Petitioner never received his Constitutional Right to a Speedy Trial, which is a violation of Petitioner's due-process rights under the 6th and 14th Amendments. ("which was clearly a Miscarriage of Justice."). Furthermore: Petitioner filed a "Writ of Prohibition" to prohibit Respondent, the Trial Judge, from "Jurisdiction" of these illegal prosecutions. Petitioner raised two claims which (1) deals with his Speedy Trial Rights (3.191 (A) and number (2) deals with (3.220) for "Prosecutorial Misconduct" for extreme discovery violations under Fla. Rule Crim. P. (3.220). Petitioner raised these legally sufficient claims soon as Petitioner discovered that his constitutional rights to due process of the 5th and 14th Amendments were being violated. Thus Petitioner filed these legally sufficient Motions himself "three (3) years" before the actual trial.

The thing is the Petitioner's direct appeal has nothing to do with Petitioner's legally sufficient *pro se* Motions that was filed and in existence and very active since November 25, 2013-2017, all by Petitioner in good faith.

Furthermore, "Petitioner represented himself during the "Mocked Kangaroo" Court trial on totally different issues because Petitioner's two main issues / "expiration of Speedy Trial" / "Motion to demand Speedy Trial," and for "prosecutorial misconduct violations" under (3.220) and, Fla. Rule Crim. P. (3.191) were all violated before the actual trial. Thus, Petitioner was forced into trial without exhausting his remedies in Superior Court: the entire trial was prejudicial and biased against Petitioner which was clearly a "Miscarriage of Justice." Petitioner shows herein that he has a "Boni-fide" legal right to the performance of a clear Judiciary duty where he has no other remedies available to him: Petitioner did everything he could legally do to stop Judge—Salvador from her malicious abuse of authority:

In the Instant Case it is extremely apparent that the Trial Court and State Attorney who represented the State had made errors in the ruling and handling of this case. It is obvious that Trial Court / State has committed a violation of the Petitioner's Constitutional Rights under the Due-Process Clause of the 5th, 6th, and 14th Amendments.

Furthermore: under Fla. R. App. P. (9.020)(3)(K) the trial order of denial was never signed. The appeal shall be held in abeyance until the filing of a signed written order disposing of the last motion: A signed document is one containing a signature as provided by Fla. R. of Judicial Administration (2.515)(c). See: EXH B-1(A) [redacted]. Also see case Tucker v. Harvey Ruvin 748 So. 2d. 376 (3rd DCA, year 2000).

Judge Salvador was very prejudicial and biased against the Petitioner which deprived the Petitioner of his right to present his claim and to be heard under the Court of Law, under the Due Process Clause of the Fifth and Fourteenth Amendments (which is clearly a Miscarriage of Justice).

In such cases the impartiality of the Trial Judge must be beyond question; in view of the gravity of the bias and prejudice; the Petitioner demonstrated an actual fear in his mind that he would not receive a Fair Trial; such fears are the essence of a Motion For Disqualification: See State *Ex Rel.* Aguiar v. Chappell, 344 So. 2d. 925 (Fla. App. District 1977).

The Writ of Prohibition is that process by which a Superior Court prevents an Inferior Court from usurping or exercising a jurisdiction with which it has not been vested by law. It is an extraordinary Writ, because it only issues when the party seeking it is without other adequate means of redress for the wrong about to be inflicted by the act of the Inferior Tribunal. It is a prerogative Writ used with great caution, where the ordinary remedies provided by law are not applicable or adequate.

This Court is committed to the Doctrine that every litigant is entitled to nothing less than the cold neutrality of an Impartial Judge. It is the duty of Courts to scrupulously guard this right and to refrain from attempting to exercise jurisdiction in any matter where her qualification to do so was seriously brought in question. The exercise of any other policy tends to discredit the Judiciary and shadow the Administration of Justice.

It is not enough for a Judge to assert that she is free from prejudice. Here mien and the reflex from her court room speaks louder than she can declaim on this point. If she fails through these avenues to reflect justice and square dealing, her usefulness is destroyed. The attitude of the Judge and the atmosphere of the Court room should indeed be such that no matter what charge is lodged against a litigant or what cause he is called on to litigate, he can approach the Bar with every assurance that he is in a Forum where the Judicial ermine is everything that it typifies, "Purity and Justice." The guaranty of a fair and impartial trial can mean nothing less than this.

The Administration of Justice is the most sacred rite known to the social order of a democracy. The duty of performing that rite is laid on the bench and Bar. No greater commission was every handed a profession but the same power that gave it can and will withdraw it if we prostitute it. We can save our commission for posterity by thinking in terms of Justice but we cannot save it by exalting the personal equation.

42 U.S.C. §1983 provides in pertinent part that:

> (E)very person who, under color of any statute ordinance regulation, custom or usage, of any State or Territory, or the District of Colombia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or

other proper proceeding for redress...

The Judicial power of the State is vested in the Courts. Section 1, Art. 5, Const. Fla. But the authority to make laws is in the Legislature of the State. Section 1, Art. 3, Const. Fla. and, while the Supreme Court has power to make rules of practice which shall have the force of law, it cannot make rules inconsistent with law. Section 2955, Rev. Gen. Stat. It is true that every Court has inherent power to do all things that are reasonably necessary for the Administration of Justice within the scope of it's jurisdiction, yet, nevertheless, courts, are subject to valid, existing laws, and it is generally held that the practice and procedure by which courts shall exercise their jurisdiction, subject to controlling constitutional provisions.

NATURE OF RELIEF SOUGHT

The Petitioner is respectfully praying that this Honorable Court to grant this Motion to Show Cause and Motion For Notice of Appeal, to dismissing / vacating Judgment and conviction and order Petitioner be discharged from his present restrained liberty issuing the proper rulings to ensure that the Rules of Law is held to standard in the above style cause, pursuant to Fla. R. Crim. P. (3.191)(A) and Fla. R. Crim. P. (3.220) pursuant to Fla. R. of App. P. (9.020)(i)(3)(K) provided by Fla. R. of Judicial Administration (2.515)(c).

CERTIFICATE OF OATH

I HEREBY CERTIFY, that a copy of the foregoing Motion To Show Cause / Notice of Appeal is being furnished to the proper authorities: I DECLARE under penalty of perjury that the foregoing Motion is true / correct. This Oath is in compliance with 28 U.S.C.A. 1746.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Motion For Notice of Appeal and Show Cause/ Mandamus has been mailed to the 4th Judicial Circuit Court, Duval County, Florida, 501 West Adams Street, 32202. And Office of the Attorney General, Pamela Jo Bondi, Capitol Building PL-01, Tallahassee, Florida 32399-1050 and the First District Court of Appeal, 2000 Drayton Drive, Tallahassee, Florida 32399-0950.

Respectfully submitted,

Victor Wilson, DC#
Union Correctional Institution
P.O. Box 1000
Raiford, Florida 32083

APPENDIX ATTACHMENT/EXHIBITS

INMATE '18/ A61D0110137144664
'18/

TO THE FLORIDA SUPREME COURT
FOR A WRIT OF MANDAMUS
DIRECTED TO THE 1ST DISTRICT COURT OF APPEAL

VICTOR WILSON,

CASE NO: SC: 17-308
CASE NO: SC: 17-1046
CASE NO: 1D17-4513
LOWER TRIBUNAL CASE NO: 162012CF-012271

v.

STATE OF FLORIDA,

/

emergency?

PETITION FOR WRIT OF MANDAMUS (OR SHOW CAUSE?)

Petitioner, Victor Wilson, *pro se*, applies pursuant to Article V of the Florida Constitution and Rule 9.030(b)(3), Fla. Rule App. P. (9.100 h) and Fla. R. Civil P. (1.630) and Fla. Stat. 915.01(2) and summary judgment / proceeding Rule Civil P. 56. Petitioner filed his Writ of Habeas Corpus to the Florida Supreme Court: on March 7, 2017. The Court hereby transferred Petitioner's legally sufficient case to the Circuit Court and District Court of Florida, Case Number 162012CF-012271 for consideration as a Motion for Post-conviction Relief, pursuant to Florida Rule of Criminal Procedure (3.191) Speedy Trial violation (Collateral Attack). Petitioner has not received notice or properly rendered order of final judgment regarding his claim at dispute; Petitioner is suffering substantial prejudice due to the delay of the court to rule on Petitioner's claims: and the applicability of the presumption may (FALTER) when any Court takes an unusually long time to hear a case: the failure of the Court to act on Petitioner's Writ of Habeas Corpus / collateral attack post-conviction relief under 3.191 is an inappropriate delay concerning his State and Federal Constitutional due process rights.

The judicial power of the State is vested in the courts. Section 1, Art. 5,

Const. Fla. But the authority to make laws is in the legislature of the State. Section 1, Art. 3, Const. Fla. And, while the Supreme Court has power to make rules of practice which shall have the force of law. It cannot make rules inconsistent with law. Section 2955, Rev. Gen. Stat. It is true that every court has inherent power to do all things that are reasonably necessary for the administration of justice within the scope of it's jurisdiction, yet nevertheless, courts are subject to valid, existing laws, and it is generally held that the practice and procedure by which courts shall exercise their jurisdiction , which are subject to controlling constitutional provisions.

This is a case which involves great public importance under Art. V Fla. Const. F.S.A.

The Florida Supreme Court will reserve its exercise of original writ jurisdiction for cases which require Supreme Court's specific or immediate attention: under Florida Supreme Court case Harvard v. Singletary, 733 So. 2d. 1020 (Fla. 1999) whereas Justice Wells J., concurred in result and voiced his opinion as follows: "Accordingly, we have determined that transfer to the proper Circuit Court / District Courts is the most appropriate disposition of this case. We emphasize that by transferring this case, we are not dismissing Petitioner's cause of action, or in any way defeating his ability to bring his claims before a court. We are simply transferring Petitioner's case to a more appropriate court, due to the nature of the issues presented.

"We also wish to emphasize that we are not transferring the instant petition because we deem Petitioner's claim to lack significance, we simply find that his claims are more appropriately dealt with in the Circuit Court / District Courts. In addition, as with every case we transfer, we have confidence that our Circuit and District Courts will endeavor to ensure that every litigant's case is carefully and promptly reviewed, and we believe that the transferee court will resolve this case

with as much care and diligence as due process dictates.

"Finally, we emphasize that this court has not curtailed its own writ jurisdiction by this decision. On the contrary, we will continue to be vigilant to ensure that no fundamental injustices occur. See: Supreme Court case, Daniel Wincor v. State, 215 So. 2d. 3) Year 1968 SEE APPENDIX AFFIDAVIT, EXHIBITS

RELIEF SOUGHT

WHEREFORE, in the interest of due process of law and expedient justice, Petitioner pray's that this Honorable Court send down an order of directive to the 1st District Court of Appeal, State of Florida for Writ of Mandamus/SHOW CAUSE,

Why Petitioner's Writ of Habeas Corpus and all ancillary motions prior to the filing of this motion should not be granted for relief or that this Honorable Court order the Petitioner be discharged from his present restrained liberty; issuing the proper rulings to insure that the rules of law is held to standard in the above styled cause, because our system of the administration of Justice Suffers when any accused is treated unfairly.

CERTIFICATE OF OATH

I HEREBY CERTIFY, that a copy of the foregoing Motion To Show Cause / Notice of Appeal is being furnished to the proper authorities: I DECLARE under penalty of perjury that the foregoing Motion is true / correct. This Oath is in compliance with 28 U.S.C.A. 1746.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Motion For Notice of Appeal and Show Cause/ Mandamus has been mailed to the 4th Judicial Circuit Court, Duval County, Florida, 501 West Adams Street, 32202. And Office of the Attorney General, Pamela Jo Bondi, Capitol Building PL-01, Tallahassee, Florida 32399-1050 and the First District Court of Appeal, 2000 Drayton Drive, Tallahassee, Florida 32399-0950.

Respectfully submitted,

Victor Wilson, DC#
Union Correctional Institution
P.O. Box 1000
Raiford, Florida 32083

Appendix, Affidavit EXHIBITS

DIRECTED TO THE 1ST DISTRICT COURT OF APPEAL
AND THE STATE ATTORNEY GENERAL

FILED
2019 APR 24 PM 12:21
KRISTINA SAMUELS
CLERK, DISTRICT COURT OF APPEAL
FIRST DISTRICT

Legal Mail Received
APR 18 2019
Dade C.I.

VICTOR WILSON,

v.

STATE OF FLORIDA,
_____/

CASE NO: 1D17-4513
L. T. CASE NO: 16-2012-CF-012271-AXXX-MA

INITIAL BRIEF
RECORD ON APPEAL
SUMMARY JUDGMENT PRIMA FACIE PROCEEDING
RULE CIV.P. 56
"PRELIMINARY STATEMENT"

Petitioner, Victor Wilson, *pro se*, applies pursuant to Article V of the Florida Constitution and Rule 9.030(b)(3), Fla. Rule App. P. (9.100(h) and Fla. R. Civil P. (1.630) and Fla. Stat. 918.01(2) and summary judgment/proceeding Rule Civil P. 56. Petitioner filed his Writ of Habeas Corpus to the Florida Supreme Court on March 7, 2017, the Court hereby transferred Petitioner's legally sufficient case to the Circuit Court and District Court of Florida, Case Number 162012CF-012271 for consideration as a Motion for Post-conviction Relief, pursuant to Florida Rule of Criminal Procedure (3.191) Speedy Trial violation (Collateral Attack). Petitioner has not received notice or properly rendered order of final judgment regarding his claim at dispute; Petitioner is suffering substantial prejudice due to

the delay of the Court to rule on Petitioner's claims: and the applicability of the presumption may (FALTER) when any Court takes an unusually long time to hear a case: the failure of the Court to act on Petitioner's Writ of Habeas Corpus/Speedy Trial collateral attack post-conviction relief under 3.191 is an inappropriate delay concerning his State and Federal Constitutional due process rights.

STANDARD OF REVIEW

KLOPFER V. NORTH CAROLINA, 386 U.S. 213, 87 S.CT. 988(1967)

GROUND ONE

THE TRIAL COURT ERRED BY DENYING PETITIONER'S CONSTITUTIONAL RIGHTS TO A SPEEDY TRIAL CONTRARY TO CLEARLY ESTABLISHED U.S. SUPREME COURT PRECEDENTS.

STATEMENT OF FACTS

The Petitioner was arrested December 16, 2012, on January 17, 2014, the Petitioner filed, a Motion for Expiration of Speedy Trial, and the Court denied the Motion on the grounds that speedy time has not expired. On February 7, 2014, the Petitioner filed a Motion to Invoke Notice of Expiration of Speedy Trial, the Court denied the Motion on erroneous grounds. On February 27, 2014, the Petitioner filed a Motion to Demand for Speedy Trial because Petitioner's expiration of speedy trial expired on February 06, 2014, a hearing was then held on March 19, 2014, in which the Court granted the said Motion.

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The Petitioner shall have the right to appropriate remedy for failure to bring the Petitioner to trial within the specific time. Every person charged with a crime by charging Information, or Indictment shall have the right to demand a trial within sixty (60) days, by filing with the Court, having jurisdiction and serving upon the state attorney a Demand for Speedy Trial.

The Petitioner had continuously been available for trial on this cause, under the Fla.R.Crim.P. 3.191, the purpose of the rule is to promote the efficient operation of the court system, and to act as a stimulus to prosecutors to bring defendants to trial as soon as practicable, thus minimizing the hardships placed upon accused persons awaiting trial. See, Lewis v. State, 357 So.2d 725, 727 (Fla. 1978), the defendant may, at any time after the expiration of the prescribed time period, file a motion to discharge. See Fla.R.Crim.P, 3.191. No later than five (5) days from the date of the filing of a Motion to Discharge, the court shall hold a hearing on the Motion, and unless the Court finds that one of the Rule's set forth in section (d)(3) exists, shall order that the defendant be brought to trial within 10 days. If the defendant is not brought to trial within the 10 day period through no fault of the defendant, the defendant shall be forever discharged from the crime.

Moreover, the Petitioner filed on February 27, 2014, the Demand for Speedy Trial that triggered the speedy trial period, the Petitioner had not been brought to trial within the forty-five (45) day period of the Demand, and he was entitled to

relief, when the Motion was considered the trial court had two options, one (1) to strike the Demand as invalid, or two (2) order the Petitioner be brought to trial within ten (10) days under Fla.R.Crim.P., 3.191 Speedy Trial Demand, the trial court did neither, therefore, because the trial court did not strike the Demand as invalid in accordance with subdivision (j)(4), Petitioner was entitled to be brought to trial within ten (10) days of the March 19, 2014 hearing. When he was not, he was entitled to discharge under subdivision (p)(3). See Landry v. State, 666 So.2d 121 (Fla. 1995). The State did not file a Motion to Strike the Demand nor did they object to the Demand at the hearing, which would guarantee the Petitioner his constitutional right to a speedy trial.

SUMMARY OF ARGUMENT

Petitioner's case is currently under de novo appellate review in the First District Court of Appeal, since October 23, 2017, See Exhibit: and it is unclear why Petitioner's appeal has not been addressed: Fla. statue ch. 918.01(2) is a legislative determination of the maximum delay in the trial which may be imposed upon one charged with a criminal offense where such delay is brought about without any fault or affirmative action on the part of the accused and is permitted to occur over his protest: Petitioner contends that a person accused of a crime is constitutionally guaranteed a speedy trial, under Section 11 of the Declaration of Rights, Florida Constitution, F.S.A. Sixth and Fourteenth Amendments, U.S.C.A. Petitioner further contends that this constitutional guarantee has been given legislative definition and clarification through the enactment of chapter 918.01(2) F.S.A. which states clearly that relief provided the accused is to be granted by affirmative action of the court rather than by automatic operation of law, the Petitioner remains a criminal convicted, accused, and restricted and faced with the oppressive burden having being denied his right to a speedy trial 3.191 without any realistic relief see: STATE, EX REL CURLEY V. MCGEACHY, 1942, 149, Fla. 633, 6 So.2d 823; according to the law F.S.A. 918.01(2) has a distinct purpose of providing the Petitioner, after he has been arrested and accused, with affirmative

relief of discharge where the Sate does not follow up the accusation with a trial: the State cannot arrest an accused in haste and then prosecute case at it's leisure. An individual cannot be placed in the demoralizing position of being an untried accused for an interminable period of time. The trial courts refusal to discharge the Petitioner by denial of his speedy trial 3.191(A)(B) Motions which has placed the Petitioner in a legal limbo and made the duration of his accused state controlled solely by the whim and caprice of the State, County prosecutors F.S.A. 918.01 confers jurisdiction upon a trial judge through the exercise of her or his general jurisdiction to validly act prior to filing of an information so as to protect the right of an accused to a speedy trial: 3.191(a) because a speedy trial is a legal and truly constitutional right which is under the provisions of a long-standing statute of this state designed to insure the performance of that duty: See Gossett v. Hanlon, 195 So.2d 865, Fla. App., see also Florida Supreme Court Case # Wincor v. Turner, 215 So.2d 3; Oct. 30, 1968 Fla. Furthermore, when it comes to the matter of safe guarding the constitutional rights of a individual the Court look to the substance, rather than the technical forms of procedure taken to invoke the protection of the law under Florida law of due process.

The Florida Supreme Court held that the factual issues presented by Petitioner Victor Wilson was found to be true allegations with respect to trial courts refusal to furnish Petitioner right to a Speedy Trial 3.191(A)(B) even after

Petitioner repeatedly requested trial court to do so which the Florida Supreme Court recommended a full appellate review by way of habeas corpus because due-process of law required that the Florida Supreme Court afford Petitioner a full appellate review to be applied for in the 1st District Court of Appeal of his conviction, judgment and sentence which is empowered to grant the ultimate relief. Thus, trial proceedings should not be validated if State fails to initiate steps necessary to insure affording all requirements of due process, including right to a Speedy Trial, 3.191(A)(B) of course, the requirement that the deprivation of the necessary incidents be attributable to the State action which springs from the required presence of the State to activate the equal protection and due process clause of the 14th Amendment to the Federal Constitution, it is clearly argued that this type of default should be attributed to the State in testing the application of the 14th Amendment, in most instances in ascertaining whether there exists a failure or deprivation attributable to State actions is shown when a responsible official in the State's system of justice fails to take proper steps to affording a individual his or her constitutional right to a Speedy and Public Trial. 3.191(A)(B) certainly, it was not the intention of the legislature to grant a legal right and then to afford no method of obtaining that legal right.

(ARGUMENT)

Under Florida Statute 918.01 and 918.02 there now exists and emergency so that it is necessary for this court to adopt a rule providing the procedure through which the right to a Speedy Trial is guaranteed: the Florida Courts shall, by rule provide procedures through which the right to a Speedy Trial is guaranteed by subsection (1) and by section (16) Article (1) of the State Constitution which shall be realized: thus according to the rules and law, in order for a court to issue a Show Cause Order, a petitioner must show that there is a clear legal right to the performance of a clear legal duty by a public officer, and that there are no other legal remedies available to him or her. But if the Court finds the allegations "factually" insufficient, it will deny the Petition: however if the petition is facially sufficient, the Court must issue an order directed to the Respondent to either perform the legal duty or to show cause why the requested relief should not be granted. Once a show cause order has issued, it becomes in all respects the complaint, then it is up to the Respondent to admit or deny the factual allegation upon which relief is based and to present any and all affirmative defenses if any they have, all facts alleged in the order to show cause which generally incorporates by reference the original petition; the original petition. Wherein, it is arrived at as the result of the performance of a specific duty arising from legislatively designated facts absent any authorization of discretion to the officer and the

performance being required is directed by law or imposed by law, and is mandatory and imperative.

All Florida Courts has the power to issue a show cause order which enables a superior court to exercise supervisory jurisdiction over a inferior court, which may be used by a superior tribunal to compel a lower tribunal to perform a clear legal duty. Thus to compel a lower tribunal to rule on a ministerial matter after a reasonable period of time: where as to state a cause of action for mandatory relief. The Response shall cite applicable case law and the Respondent must attach all relevant portions of the record which support or refute claim including, but not limited to transcripts of hearings or proceedings.

CONCLUSION

In the instant case it is extremely apparent that trial court has made errors in the ruling and handling, of this case. It is obvious that the trial court has committed a violation of the Petitioner's constitutional right to a Speedy Trial 3.191(A)(B) and F.S.A. 918.01(2), has been violated, "the Respondent's has refused and still refuses to dismiss said case unless restrained and compelled by this Court, because clearly trial court lost original jurisdiction to convict and Petitioner has no plain, speedy or adequate remedy in the course of law"

RELIEF SOUGHT

WHEREFORE, in the interest of due process of law and expedient justice, Petitioner prays that this Honorable Court send down an order of directive to the State Attorney General to show cause within 30 days why Petitioner's appeal which is under full appellate review by way of habeas corpus from the Florida Supreme Court, should not be granted for relief, or that this Honorable Court order Petitioner be discharged from his present restrained liberty.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Initial Brief has been furnished to the proper authorities.

I DECLARE under penalty of perjury that the foregoing is true / correct: This Oath is made in compliance with 28 U.S.C.A. 1746.

I HEREBY CERTIFY that a copy of the foregoing Initial Brief has been mailed to: Ashley Moody, Attorney General, Capitol Building PL-01, Tallahassee, Florida 32399-1050 and 1st District Court of Appeal, 2000 Drayton Drive, Tallahassee, Florida 32399-0950 on this 18 day of April, 2019.

Respectfully submitted,

Victor Wilson

Victor Wilson, DC#J00910
Dade Correctional Institution
19000 S.W. 377th Street
Florida City, Florida 33034

Appendix/Attachment/Exhibit

FIRST DISTRICT COURT OF APPEAL
STATE OF FLORIDA

No. 1D17-4513

VICTOR WILSON,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

On appeal from the Circuit Court for Duval County.
Steven B. Whittington, Judge.

October 7, 2019

PER CURIAM.

AFFIRMED.

RAY, C.J., and MAKAR and KELSEY, JJ., concur.

Not final until disposition of any timely and authorized motion under Fla. R. App. P. 9.330 or 9.331.

Victor Wilson, pro se, Appellant.

Appendix / Attachment / EXHIBITS

IN THE FIRST DISTRICT COURT OF APPEAL
FIRST DISTRICT STATE OF FLORIDA

FILED
2019 OCT 28 AM 10:38
KRISTINA SAMUELS
CLERK, DISTRICT COURT OF APPEAL
FIRST DISTRICT

Legal Mail Received
OCT 21 2019
Dade C.I.

VICTOR WILSON,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

_____/

DCA Case No.; 1D17-4513
L.T. Case No.: 162012CF012271AXXXMA

MOTION FOR

[redacted] REHEARING CERTIFICATION, AND/OR OPINION PURSUANT TO FLA. R. APP. P. 9.330(A)(D)(E)THIS IS A CASE WHICH INVOLVES GREAT PUBLIC IMPORTANCE BASIS FOR INVOKING JURISDICTION UNDER THE 6TH AND 14TH AMENDMENTS

The Appellant, Victor Wilson, *pro se*, pursuant to Fla. Rules of App. Pro. Rule 9.330(a) respectfully prays that this Honorable Court grant motion despite of its 10-7-19 per, curiam without written opinion of the above styled cause and in support thereof would show as follows: pursuant to Rule 9.100, Appellant, Victor Wilson files this "Motion for Rehearing to Certify Conflict in order to stop a manifest of injustice that has occurred, Florida Const. and Rule 9.030 of the Fla. R. App. P. (2015) rehearing review. A case pending in a district court of appeal will be considered by the judges in a regular active service. A rehearing decision must be by a [redacted] decision (A) of the active judges actually participating and voting on the merits of the case, hearing are most likely to occur when it becomes apparent to a

panel of judges that proposed decision will be in conflict with a prior decision of the courts. See Garrett v. State, 87 So.3d 799, 37, Fla. Law Weekly D1032. Also Hill v. State, 132 So.3d 925, 930 (Fla. 1st DCA 2014) because clearly this is a miscarriage of justice; to grant relief to one and deny relief to another identically situated: As this court has said before: "in a system in which the search for truth is the principal goal particularly when the issues relate to similar facts where mandatory relief is warranted. However, the analysis of a miscarriage of justice should not have, and must not end there; for it is the responsibility of this court to correct the injustice when it can, for it is self evidence that "an exception". . is recognized because the law of case doctrine has an exception to the rule and that is when reliance of previous rulings would result in a miscarriage of justice: for example Appellant and Agee v. State, 622 So.2d 473 (Fla. 1993) and also Laundry v. State, 666 So.2d 121, (Fla. 1995) are virtually identically situated, and for this court to grant Agree and Laundry relief and deny Appellant relief, results in a fundamental miscarriage of justice. The Appellant is being illegally detained, a violation of his constitutional right to due process protected by the U.S.C. Amend. 6th and 14th Fla. Const. Art. 1, sec. 9,) Jurisdiction is also conferred upon this Honorable Court because of a miscarriage of justice that is apparent on the face of the record with supporting evidence that the Appellant has been a victim of a fundamental miscarriage of justice; in order to prevail it has been required to show

that the Petitioner/Appellant is the victim of a fundamental miscarriage of justice. See Murry v. Carrier, 447 U.S. 478, 515, 106 S.Ct. 2639-2660)(1986). The Appellant right to equal protection was denied, because equal protection guarantees that every man, woman, and child shall benefit from each law equally, regardless of race, age or gender. This Court has overlooked an misapprehended points of law and facts in regards to Appellant's right to a Speedy Trial, (3.191(a)) which was violated, according to Slater v. State, 316 So.2d 539, (1975) the Florida Supreme Court has stated: We pride ourselves in a system of justice that requires equality before the law, defendants should not be treated differently upon the same or similar facts when the facts are the same the law should be the same, because to afford relief to one offender and deny another who is identically situated would be a fundamental miscarriage of justice, and a denial of Appellant's equal protection rights under the 8th Amendment, United States Constitution of America, the Appellant would direct this Honorable Court to the opinions in similar cases that was reversed and remanded: Reynolds v. Willis, 255 So.2d 287, (1st DCA 1971), Turner v. Olliff, 281 So.2d 384 (Fla. App. 1st Dist. 1973), State v. Burris, 424 So.2d 128 (Fla. App. 1st DCA 1982), Reed v. State, 154 So.3d 455, (Fla. 5th DCA 2014) DeRiso v. State, 42 Fla. Law Weekly D1330, (5th DCA 2017) these are similar cases which are under the laws of the land!!!

See:
ALL-EXHIBITS

CONCLUSION

The trial court has made errors in the rulings and handling of this case, it is obvious that the trial court has committed a violation of Appellant's constitutional right to a Speedy Trial (3.191) and F.S.A. 918.01(2) additionally the State accepted Appellant's statement of the case and facts as being generally supported by the record. See Exhibit (A) Appellant shows that he has a legal right to the performance of a clear administration duty and the failure to do so undermines the public confidence to all of the courts; our system of the administration of justice suffers when any accused is treated unfairly.

RELIEF SOUGHT

Appellant is respectfully praying that this Honorable Court grant this motion for Rehearing and/or Certification and/or opinion issuing the proper rulings to ensure that the rules of law are held to standard in the above-styled cause, reversing judgment and conviction with directions.

UNNOTARIZED OATH

I CERTIFY that a copy of the foregoing has been furnished to the proper authorities. I declare under penalty of perjury that the foregoing is true and correct.

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Motion for Rehearing and/or Certification has been mailed to the 1st District Court of Appeal, 2000 Drayton Drive, Tallahassee, Florida 32399-0950 and Ashley Moody, Attorney General, the Capitol Pl-01, Tallahassee, Florida 32399-1050.

Respectfully submitted,

V. W.

Victor Wilson, *Pro se*
Dade Correctional Institution
19000 S.W. 377th Street
Florida City, Florida 33034

V. W.

APP

DISTRICT COURT OF APPEAL, FIRST DISTRICT
2000 Drayton Drive
Tallahassee, Florida 32399-0950
Telephone No. (850)488-6151

December 06, 2019

CASE NO.: 1D17-4513
L.T. No.: 2012-012271

Victor Wilson	v.	State of Florida
Appellant / Petitioner(s),		Appellee / Respondent(s)

BY ORDER OF THE COURT:

Appellant's motion filed October 28, 2019, for rehearing, certification and/or opinion pursuant to Fla. R. APP. P. 9.330 is denied.

I HEREBY CERTIFY that the foregoing is (a true copy of) the original court order.

Served:

Hon. Ashley Moody, AG
Victor Keith Wilson

Robert Quentin Humphrey,
AAG

th

KRISTINA SAMUELS, CLERK

DISTRICT COURT OF APPEAL
SAT CITO SI RECTE
FIRST DISTRICT
STATE OF FLORIDA

APPendix/Affidavit/EXHIBITS

V-VL-

IN THE FIRST DISTRICT COURT OF APPEAL
FIRST DISTRICT STATE OF FLORIDA

VICTOR WILSON,
Appellant,

v.

STATE OF FLORIDA,
Appellee.
_____/

DCA Case No.; 1D17-4513
L.T. Case No.: 162012CF012271AXXXMA

AMENDED MOTION FOR "REHEARING/REHEARING EN BANC" UNDER SUBSECTION (c)(1) WHICH GOVERN REHEARING EN BANC. A LITIGATE MAY APPLY FOR AN EN BANC REHEARING ONLY ON THE GROUNDS THAT INTRA-DISTRICT CONFLICT DECISIONS EXISTS PURSUANT TO FLA. R. APP. P. 9.331(c)(1) THIS IS A CASE WHICH INVOLVES GREAT PUBLIC IMPORTANCE: BASIS FOR INVOKING JURISDICTION UNDER THE 6TH AND 14TH AMENDMENTS TO AVOID INCONGRUOUS AND MANIFESTLY UNFAIR RESULTS

The Appellant, Victor Wilson, *pro se*, pursuant to Fla. Rules of App. Pro. Rule 9.331(c)(1) respectfully prays that this Honorable Court grant motion despite of its 10-7-19 per curiam without written opinion of the above styled cause and in support thereof would show as follows: pursuant to Rule 3.191, Appellant, Victor Wilson files this "Motion for Rehearing En Banc to Certify Intra-District Conflict in order to stop a manifest of injustice that has occurred, Florida Const. and Rule

9.030 of the Fla. R. App. P. (2015) rehearing review. A case pending in a district court of appeal will be considered by the judges in a regular active service. A rehearing decision must be by a majority of the active judges actually participating and voting on the merits of the case, (A) hearing are most likely to occur when it becomes apparent to a panel of judges that proposed decision will be in conflict with a prior decision of the courts. See Garrett v. State, 87 So.3d 799, 37, Fla. Law Weekly D1032. Also Hill v. State, 132 So.3d 925, 930 (Fla. 1st DCA 2014) because clearly this is a miscarriage of justice; to grant 3.191 Speedy Trial relief to one and deny 3.191 Speedy Trial relief to another identically situated: As this court has said before: "in a system in which the search for truth is the principal goal particularly when the issues relate to similar facts where mandatory relief is warranted. However, the analysis of a miscarriage of justice should not have, and must not end there; for it is the responsibility of this court to correct the injustice when it can, for it is self evidence that "an exception". . is recognized because the law of case doctrine has an exception to the rule and that is when reliance of previous rulings would result in a miscarriage of justice: for example Appellant and Garrett v. State, 87 So.3d 799 (Fla. 1st DCA 2012) and also Hill v. State, 132 So.3d 925 (Fla. 1st DCA 2014) are virtually identically situated and for this court to grant Garrett and Hill 3.191 Speedy Trial relief and deny Appellant 3.191 Speedy Trial relief results in a fundamental miscarriage of justice. The Appellant is being

illegally detained, a violation of his constitutional right to due process protected by the U.S.C. Amend. 6th and 14th Fla. Const. Art. 1, sec. 9,) Jurisdiction is also conferred upon this Honorable Court because of a miscarriage of justice that is apparent on the face of the record with supporting evidence that the Appellant has been a victim of a fundamental miscarriage of justice; in order to prevail it has been required to show that the Petitioner/Appellant is the victim of a fundamental miscarriage of justice. See Murry v. Carrier, 447 U.S. 478, 515, 106 S.Ct. 2639-2660)(1986). The Appellant right to equal protection was denied, because equal protection guarantees that every man, woman, and child shall benefit from each law equally, regardless of race, age or gender. This Court has overlooked an misapprehended points of law and facts in regards to Appellant's right to a Speedy Trial, (3.191(a)) which was violated, according to Slater v. State, 316 So.2d 539, (1975) the Florida Supreme Court has stated: We pride ourselves in a system of justice that requires equality before the law, defendants should not be treated differently upon the same or similar facts when the facts are the same the law should be the same, because to afford relief to one offender and deny another who is identically situated would be a fundamental miscarriage of justice and a denial of Appellant's equal protection rights under the 8th Amendment, United States Constitution of America, the Appellant would direct this Honorable Court to the opinions in similar cases that was reversed and remanded: Reynolds v. Willis, 255

So.2d 287, (1st DCA 1971), Turner v. Olliff, 281 So.2d 384 (Fla. App. 1st Dist. 1973), State v. Burris, 424 So.2d 128 (Fla. App. 1st DCA 1982), Martin v. State, 503 So.2d 994, (Fla. 1st DCA 1987); Doctor v. State, 68 So.3d 335 (Fla. 1st DCA 2011) these are similar cases which are under the laws of the land!!!

See:
Standard of Review
Klopfer v. North Carolina, 386 U.S. 213,
87 S.Ct. 988 (1967)

CONCLUSION

The trial court has made errors in the rulings and handling of this case, it is obvious that the trial court has committed a violation of Appellant's constitutional right to a Speedy Trial (3.191) and F.S.A. 918.01(2); additionally the State accepted Appellant's statement of the case and facts as being generally supported by the record. See Exhibit (A) Appellant shows that he has a legal right to the performance of a clear administration duty and the failure to do so undermines the public confidence to all of the courts; our system of the administration of justice suffers when any accused is treated unfairly.

RELIEF SOUGHT

Appellant is respectfully praying that this Honorable Court grant this motion for Rehearing and Rehearing En-banc issuing the proper rulings to a intra-district conflict and to ensure that the rules of law are held to standard in the above-styled cause, reversing judgment and conviction with directions; because to give relief to

one and deny another the same relief under virtually identical circumstances is manifest that does not promote - in fact, it corrodes uniformity in the decision of this Court.

UNNOTARIZED OATH

I CERTIFY that a copy of the foregoing has been furnished to the proper authorities. I declare under penalty of perjury that the foregoing is true and correct.

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Motion for Rehearing an[redacted] Rehearing en banc [redacted] has been mailed to the 1st District Court of Appeal, 2000 Drayton Drive, Tallahassee, Florida 32399-0950 and Ashley Moody, Attorney General, the Capitol Pl-01, Tallahassee, Florida 32399-1050.

Respectfully submitted,

V. W.

Victor Wilson, *Pro se*
Dade Correctional Institution
19000 S.W. 377th Street
Florida City, Florida 33034

Appendix / Attachment / Exhibit

MANDATE

from

FIRST DISTRICT COURT OF APPEAL

STATE OF FLORIDA

This case having been brought to the Court, and after due consideration the Court having issued its opinion;

YOU ARE HEREBY COMMANDED that further proceedings, if required, be had in accordance with the opinion of this Court, and with the rules of procedure, and laws of the State of Florida.

WITNESS the Honorable Stephanie W. Ray, Chief Judge, of the District Court of Appeal of Florida, First District, and the seal of said Court at Tallahassee, Florida, on this day.

December 27, 2019

Victor Wilson v.
State of Florida

DCA Case No.: 1D17-4513
Lower Tribunal Case No.: 2012-012271

KRISTINA SAMUELS, CLERK
District Court of Appeal of Florida, First District

th
Mandate and opinion to: Hon. Ronnie Futsell, Clerk
cc: (without attached opinion)
Hon. Ashley Moody, AG
Victor Keith Wilson
Robert Quentin Humphrey, AAG

Appendix, Affidavit Exhibit

DISTRICT COURT OF APPEAL, FIRST DISTRICT
2000 Drayton Drive
Tallahassee, Florida 32399-0950
Telephone No. (850)488-6151

January 22, 2020

CASE NO.: 1D17-4513
L.T. No.: 2012-012271

Victor Wilson	v.	State of Florida
Appellant / Petitioner(s),		Appellee / Respondent(s)

BY ORDER OF THE COURT:

Appellant's amended motion filed December 27, 2019, for rehearing/rehearing en banc is denied.

I HEREBY CERTIFY that the foregoing is (a true copy of) the original court order.

Served:

Hon. Ashley Moody, AG
Victor Keith Wilson

Robert Quentin Humphrey, AAG

th

KRISTINA SAMUELS, CLERK

DISTRICT COURT OF APPEAL FIRST DISTRICT STATE OF FLORIDA