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SUPREME COURT OF THE UNITED STATES

**VICTOR WILSON,**

**Petitioner,**

v.

Case No.: 22-7564

Lt. Case No.: 22-12141

**STATE OF FLORIDA,**

**Respondent.**

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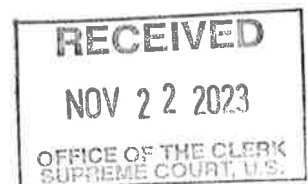
AMENDED

PETITION FOR REHEARING REVIEW TO AVOID INCONGRUOUS AND  
MANIFESTLY UNFAIR RESULTS

**THIS IS A CASE WHICH INVOLVES GREAT PUBLIC IMPORTANCE  
UNDER ARTICLE V. FEDERAL RULES AND PROCEDURES**

- 1.) This court has overlooked and misapprehended the essential requirements of law and facts:
- 2.) The trial court and respondents defaulted which is a failure to do something required by law:
- 3.) Thus respondents failed to appear for a legal proceeding:
- 4.) The respondents also failed to file a legal brief that was ordered by this court. 8<sup>th</sup> and 14<sup>th</sup> amendment violations see all exhibits

The Petitioner, victor Wilson, pro sé, applies pursuant to Article V of the Constitution Section 28 U.S.C. Rule (44) Federal Law and Rule 9.030(3), and R.App.P. 9.100(c) and Rule Crim.P. 3.191(a) and Rule 918.01(2) delayed trial violations, and R.App.P. 9.120. Notice: By constitutional law a petition for rehearing under manifest injustice can be filed at any time. The jurisdiction of this Court is invoked 28 U.S.C. **"I certify as a pro sé litigant that this petition for rehearing review is presented in good faith and not for delay".**



This Court has basis for jurisdiction by virtue of Art. I, Sec. 9. U.S. Const. R.Civil.Pro 1.630 and prays that this Honorable Court issue a petition for rehearing review directed to Respondent the State of Florida. **“I certify as a pro sé litigant that the grounds are limited to interviewing circumstances of substantial or controlling effect.”**

Because 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 Country designed to insure that a manifest injustice guarantee’s Petitioner review which the order under Federal review departed from the essential requirements of law, thereby causing irreparable injury, Petitioner would not be able to have the right restored in an appeal from his conviction and sentence if imposed. “A manifest injustice certifies intra district conflict which is a direct conflict with the same decisions in the same Court. Unfortunately, the United States Supreme Court on the same questions of Law.” A manifest injustice claim is an appropriate remedy when Constitutional Rights are deprived or delayed during the pendency of a legal proceeding.

**UNDER: THE 8<sup>TH</sup> AMENDMENT FOR CRUEL AND UNUSUAL PUNISHMENT: “FACTS UPON WHICH PETITIONER RELIES”**

The Petitioner was accused and arrested for Homicide on December 16<sup>th</sup>, 2012. The information was filed on January 9<sup>th</sup>, 2013. On January 17<sup>th</sup>, 2014. Petitioner filed a notice of expiration of speedy trial, and at which time

the trial Court denied Petitioner on the grounds, that the speedy trial time had not expired. On February 7<sup>th</sup>, 2014, the Petitioner filed a Motion to Invoke Notice of Expiration of Speedy trial and the trial court held a hearing on February 14<sup>th</sup>, 2014 and denied the motion on erroneous grounds; on February 27<sup>th</sup>, 2014, the Petitioner filed a Motion to Demand for Speedy trial, and a hearing was then held on March 19<sup>th</sup>, 2014. The trial Court granted the Motion to Demand but Petitioner never received his 14<sup>th</sup> Amendment Constitutional Right to a public and speedy trial. The Trial Court had (2) options under the Rule (1) strike the demand as invalid: or (2) order Petitioner be brought to trial within ten (10) days under Fla.R.Crim.P 3.191(3). The "175 days speedy trial default period, but the trial court did neither. Therefore, Petitioner was intitled to relief; according to Landry v. State 666, So. 2d 121, Fla. (1995) 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 manifest injustice claim plays a vital role in protecting Constitutional Rights; under Federal and State 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 speedy trial is guaranteed.

## **ARGUMENT**

Petitioner filed these legally sufficient motions around or about (3) years before the actual trial, which was preserved for appellate “De-Novo” review from the denial of the circuit court: and can be attacked collaterally in which the Petitioner attacked the denial of his speedy trial right’s under 3.191(A)(B) “the Petitioner challenged and argued and filed the proper motions way before trial and after trial”. SEE: ALL EXHIBITS Furthermore, these claims were pending in the Florida Supreme Court during “The Mocked Kangaroo” Court trial: the Florida Supreme Court granted Petitioner full appellate “De-Novo” review to be applied for in the 4<sup>th</sup> Judicial Circuit Court of Duval County and the 1<sup>st</sup> DCA Court of Appeal of his sentence judgment conviction because the Florida Supreme Court reviewed and recognized the severe violation of Petitioner’s constitutional right to a public and speedy trial 3.191(A)(B). under the “14<sup>th</sup>” Amendment of due process; in the present case the State asserts that Petitioner did not raise these valuable issues during these proceedings; this is “erroneous”; the thing is the Petitioner’s legally sufficient pro sé motions was filed and in existence and very much active since November 25<sup>th</sup>, 2013-2023 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. Congress expressed no intention to allow trial Court procedural error to bar vindication of substantial constitutional rights on appeal: 14<sup>th</sup> Amendment of due process.

### **STANDARD OF REVIEW**

**Klopper 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: 14<sup>TH</sup> AMENDMENT VIOLATION**

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 for 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 had lost its right to have the benefit of the 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. 2010, 77 L.Ed. 413 (1932) as this court has said: should be liberally

construed in favor of protecting the rights of Defendant's designed to be protected by such statutes; one of the important 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 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 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 an 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, Federal and State 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 State's responsibility to bring those arrested to trial within the times provided in the "speedy trial" rule U.S.C.A. Const. 14<sup>th</sup> Amendment due process F.S.A. RCRP. Rule 3.191(A)

## **GROUND TWO**

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 14th Amendment of 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 *Keeny v. Tamapyo – 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 a procedural error and a clear 14<sup>th</sup> Amendment 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 an indigent pro sé 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 initiative and flexibility essential to ensure that miscarriages of justice within its reach are surfaced and corrected. Because when 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 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 exhibit's/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 that 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 pretrial delay. *Redd v. Sowders*, 809 F.2d 1266, 1229, (6<sup>th</sup> Cir. 1987).

And a hearing is most likely to occur when it becomes apparent to a United States Supreme Court Judge that a proposed decision will be in conflict with a prior decision of the United States Supreme Court cases: because as every 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 manifest injustice should not have and must not end there; for it is the responsibility of the United States Supreme 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 ruling from this court would result in a manifest injustice: for example *Petitioner and Klopfer v. North Carolina* 386, U.S. 213 (1967) speedy trial violation and also *Dickey v. Florida* 398, U.S. 30 S. Ct. (1970) speedy trial violation are virtually identically situated circumstances and for the Supreme Court to grant *Klopfer* and *Dickey* (3.191) Speedy Trial relief and deny *Petitioner* 3.191 Speedy trial relief results in a fundamental manifest injustice. The *Petitioner* is being illegally detained, a violation of his constitutional right to due process protected by the U.S.C. 14<sup>th</sup> Amendment Const. Art. 1, sec. 9,) Jurisdiction is also conferred upon this Honorable Court because of a manifest

injustice that is apparent on the “face of the record” with supporting evidence that the Petitioner 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 *Murray v. Carrier*, 447 U.S. 478, 515 106 S. Ct. 2639-2660 (1986). The Petitioner’s 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 and misapprehended points of Law and facts in regards to Petitioner’s right to a speedy trial (3.191(a)) which was violated. Also 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: these are clearly established Supreme Court precedent cases. See: *State v. Agee* 622, So. 2d, 473 Fla. (1993); *Reed v. State* 619, So 2d 1043 Fla. (1994) *Genden v. Fuller* 648, So. 2d 1183 Fla. (1994) when the facts are the same the law should be the same, because to afford relief to one offender and deny another who is under virtually identically situated circumstances would be a fundamental Manifest Injustice, and a denial of Petitioner’s equal protection rights under the 8<sup>th</sup> Amendment, United States Constitution of America, the Petitioner would direct this Honorable Court to the opinions in similar cases that was reversed

and remanded with directions for discharge, *United States v Taylor* 487 U.S. 326, 101 L. Ed 2d. 297 108 S. Ct. 2413 (1988, *Klopper v. North Carolina*, 386 U.S. 213, 18 L. Ed 2d, 187, S. Ct. 988, (1967) *Dickey v. Florida* 398, U.S. 30 S. Ct. (1970) These are similar cases that are under the law of the land.

### **CONCLUSION**

Petitioner 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; because to give relief to one and deny another the same relief under virtually identical situated circumstances is manifest injustice that does not promote in fact, it corrodes uniformity in the decision of the United States Supreme Court Justice system. Petitioner is asking this Court for a certified Judgment /opinion

### **NATURE OF RELIEF SOUGHT**

The Petitioner is respectfully praying that this Honorable Court grant this petition for rehearing review pursuant to Federal Rules and Laws and 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 style cause: are system of the administration of justice suffers when any accused is treated unfairly.

**Additional material  
from this filing is  
available in the  
Clerk's Office.**