

No. \_\_\_\_\_

**22-7868**

**ORIGINAL**

IN THE

SUPREME COURT OF THE UNITED STATES

Supreme Court, U.S.  
FILED

JUN 14 2023

OFFICE OF THE CLERK

LAWRENCE BROVIAK

(Your Name)

— PETITIONER

vs.

STATE OF FLORIDA

— RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Supreme Court of Florida

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

PETITION FOR WRIT OF CERTIORARI

LAWRENCE BROVIAK

(Your Name)

Franklin Correctional Institution

(Address)

1760 HWY. 67 North, Carrabella Fl. 32322

(City, State, Zip Code)

N/A

(Phone Number)

**QUESTION(S) PRESENTED**

CAN A VINDICTIVE SENTENCE BE EXPUNGED DUE TO  
PERSONAL BIAS BEING COMMITTED BY A JUDGE?

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## LIST OF PARTIES

[ ] All parties appear in the caption of the case on the cover page.

[X] All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows: Judge Chet A. Tharpe, Mr. Ficarotta, Ms. Gean-Loui Courtney Derry, Timothy Ferrari, and Howard L. Dimmig II, plus Kierster E. Jensen

## RELATED CASES

1. Lower Tribunal Case No: 12-CF-001632

2. Appellate Case No: 2D14-2998

3. Supreme Court of Florida Case No: SC2023-0111

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## TABLE OF AUTHORITIES CITED

### CASES

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BARNHILL v. STATE, 140 So. 3d. 1055 (Fla. 2nd DCA 2015) 4  
GOLDSTEIN v. STATE, 154 So. 3d. 469 (Fla. 2d. 2015) 4

### STATUTES AND RULES

FLORIDA CODE OF JUDICIAL CONDUCT CANON 3 B500 #4  
FLORIDA STATUTE 827.03(1)(c)  
FLORIDA RULES OF CRIMINAL PROCEDURE 3.800 (c)  
FLORIDA RULES OF CRIMINAL PROCEDURE 3.850

OTHER FLORIDA JUDICIAL QUALIFICATIONS COMMISSION

IN THE  
SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

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

**OPINIONS BELOW**

☐ For cases from **federal courts**:

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

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☐ is unpublished.

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

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☐ is unpublished.

☐ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix AC to the petition and is

☐ reported at \_\_\_\_\_; or,  
☒ has been designated for publication but is not yet reported; or,  
☐ is unpublished.

The opinion of the Second District Court of Appeal of Fla. court appears at Appendix A to the petition and is

☐ reported at \_\_\_\_\_; or,  
☒ has been designated for publication but is not yet reported; or,  
☐ is unpublished.

## JURISDICTION

☐ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was \_\_\_\_\_.

☐ No petition for rehearing was timely filed in my case.

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

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

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

☐ For cases from **state courts**:

The date on which the highest state court decided my case was March 22, 2023.  
A copy of that decision appears at Appendix C.

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

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

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

**CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED**

1. F.S. 827.03 (1)(c)

2. FLORIDA RULES OF CRIMINAL PROCEDURE 3.850

3. FLORIDA RULES OF CRIMINAL PROCEDURE 3.800(c)



## STATEMENT OF THE CASE

Petitioner was sentenced to 165.3 months to The Florida Department of Corrections, c.i.e. see Enclosed information in future letter) C.i.e. See also Enclosed Appendices) Petitioner contends that his sentence is vindictive stemming from jurist's personal bias towards petitioner due to his offenses. Petitioner appealed his conviction and sentence; only to be informed by his Appellate attorney c.i.e. Timothy J. Ferreri) that his direct appeal was mandated. The Second District Court of Appeal of Florida did not give any reasons for affirming the lower tribunal's decision which <sup>was</sup> non-favorable to petitioner. During the pendency of petitioner's case, Judge Chet A. Tharpe was investigated regarding his personal bias towards certain defendants of whom were charged with certain offenses that only encouraged said jurist to issue only harsh and vindictive sentences to these defendants, resulting in a substantial period of incarceration. In cases such as BARNHILL v. STATE, 140 So. 3d 1055 (Fla. 2d DCA 2014) and GOLDSTEIN v. STATE, 154 So. 3d 469 (Fla. 2d DCA 2015) The Second District Court of Appeal of Florida overturned two decisions of which were made by Judge Chet A. Tharpe in The thirteenth Judicial Circuit Court of Hillsborough County, Florida based on personal bias towards said two defendants/appellants by said jurist; only indicating his personal bias towards defendants with these kinds of offenses. Said jurist was later moved to a different form; c.i.e. but never permanently removed from office) but not in time enough to issue another vindictive sentence; which was received by petitioner. Petitioner was subjected to the injudicious behavior of said jurist; as he still suffers from the vindictive sentence at the hands of a biased judge who issued said sentence upon petitioner. The Florida Code of Judicial Conduct Canon 3B5 states that a judge shall perform judicial duties without bias or prejudice. A judge shall not in the performance of judicial duties, by words or ~~prejudice~~ conduct, manifest bias or prejudice. Judge Tharpe manifested bias and prejudice towards petitioner during and before sentencing; in which petitioner has made repeated efforts to remedy this issue through post-conviction/appellate proceedings only to be denied without reason. Petitioner even made attempts to place said jurist under

## STATEMENT OF THE CASE c.i.e. continued)

investigation through The Florida Judicial Qualifications Commission in Tallahassee, Florida, to no avail. Petitioner request that This Honorable Court of The United States to grant his certiorari petition; expunge his conviction and sentence c.i.e. pursuant to case numbers mentioned herein) issued upon him by bias jurist, and to immediately discharge petitioner from the custody of The Florida Department of Corrections

## REASONS FOR GRANTING THE PETITION

1. To prevent a manifest injustice
2. The biased and prejudice treatment of petitioner from said jurist established a fundamental miscarriage of justice.
3. Said jurist departed from the essential requirements of the law when performing judicial duties allowing bias to be established by words, actions, and/or conduct.
4. Petitioner has no other adequate legal remedy
5. It certifies conflict with BAXTER v. STATE, 127 So. 3d. 726 (Fla. 1st DCA 2013)

### CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,  
LAWRENCE BROVIAK

Lawrence BroviaK

Date: 5/19/23