No. _____

In The

Supreme Court of the United States

RONALD BARNETT,

Petitioner,

versus

STATE OF FLORIDA

Respondent(s).

APPENDICES

Appendix A	Denial Order Of The Motion For Rehearing Dated April 14, 2023
Appendix B	Motion For Rehearing Dated April 6, 2023
Appendix C	Per Curiam Order Dated March 22, 2023 Denying Petitioner's Initial Brief
Appendix D	State's Response Dated January 17, 2023
Appendix E	Third District Court of Appeal Show Cause Order Dated January 6, 2023
Appendix F	Appellant's Initial Brief Dated December 28, 2022
Appendix G	Notice Of Appeal And Acknowledgment Of New Case Number
Appendix H	Order Denying Rule 3.800(a), Florida Rules Of Criminal Procedure.
Appendix I	Motion To Correct Illegal Sentence

No. _____

In The

Supreme Court of the United States

RONALD BARNETT,

Petitioner,

versus

STATE OF FLORIDA

Respondent(s).

Appendix A

Denial Order Of The Motion For Rehearing Dated April 14, 2023

IN THE DISTRICT COURT OF APPEAL

OF FLORIDA

THIRD DISTRICT

APRIL 14, 2023

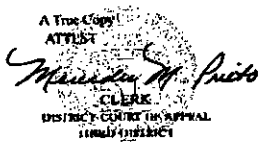
RONALD BARNETT,
Appellant(s)/Petitioner(s),
vs.
THE STATE OF FLORIDA,
Appellee(s)/Respondent(s).

CASE NO.: 3D22-1653

L.T. NO.: F06-5320

Upon consideration, pro se Appellant's Motion for Rehearing is hereby denied.

FERNANDEZ, C.J., and MILLER and BOKOR, JJ., concur.



cc: Office of Attorney General Richard L. Polin Ronald Barnett

la

No. _____

In The

Supreme Court of the United States

RONALD BARNETT,

Petitioner,

versus

STATE OF FLORIDA

Respondent(s).

Appendix B

Motion For Rehearing Dated April 6, 2023

IN THE DISTRICT COURT OF APPEAL
THIRD DISTRICT OF FLORIDA

RONALD BARNETT,
Appellant,

v.

Case No. 3D22-1653
L.T. Case No: F06-5320

STATE OF FLORIDA,
Appellee.
_____/

MOTION FOR REHEARING

COMES NOW the Appellant, Ronald Barnett, *pro se*, and moves this Most Honorable Court for a rehearing pursuant to Rule 9.330 of the Florida Rules of Appellate Procedure, and provides the following in support thereof:

On March 22, 2023, this Court *per curiam* affirmed the trial court's order denying the motion to correct illegal sentence, pursuant to Rule 3.800(a), Florida Rules of Criminal Procedure 3.800(a) of the Florida Rules of Criminal Procedure, for the removal of the sexual predator designation imposed nearly fourteen (14) years after the Appellant was before the court for sentencing for a current offense.

This Court cited **State v. McKenzie**, 331 So.3d 666 (Fla. 2021), and **Alvarez v. State**, 345 So.3d 378 (Fla. 3rd DCA 2022) in support of its ruling. This Court overlooked or misapprehended the controlling point of law in Florida Statutes Section 775.21(5)(a)2. Which clearly defines the

Statute of Limitations, the recapture provision, and the doctrine of laches for offenders who were before the court for sentencing for a current offense. In **McKinzie**, the Florida Supreme Court correctly held that "nothing in Section 775.21(5)(c) placed a restriction of the court's jurisdiction over those offenders who were required to be designated as a sexual predator at the time of sentencing but were not"; however, the Florida Supreme Court and this Court continues to overlook the portion of Section 775.21(5)(c) that is unambiguous in showing that the section (Id.) **only applies to** offenders identified in subparagraph (a)1. – those who were civilly committed under Chapter 394 as a violent sexual predator – and offenders identified in subparagraph (a)3. – those who establish temporary or permanent residence in this state and committed a similar offense in another jurisdiction. This Court and the Florida Supreme Court are egregiously misapprehending Legislative intent by wrongfully applying Section 775.21(5)(c), Florida Statutes, to a group of offenders-those who are before the court for sentencing for a current offense-that is intentionally not identified as part of the recapture provision of subparagraph (5)(c).

This Court has overlooked or misapprehended the law established by Legislature for offenders who meet the designation requirements of Section 775.21(5)(a)2. Any reasonable person would conclude that the Section (Id.)

only applies to offenders who are/were currently before the court for sentencing for a current offense. As well, it is unambiguous that for this legislatively defined group of offenders, the court **must** make its written findings at the time of sentencing. This Court and the Florida Supreme Court are erroneously misapprehending the clearly defined restraints of Section 775.21(5)(a)2., Florida Statutes. Any reasonable person would conclude that for this particular group of offenders, Legislature unmistakably set a statute of limitations of "before the court for sentencing" and required the court make its written findings "at the time of sentencing". This Court is overlooking the fact that any delay beyond legislative intent for offenders specified under F.S.A. Section 775.21(5)(a)2. is a forfeiture of the right to seek designation because the doctrine of laches immediately apply once the sentencing hearing has concluded. In the case at hand, seeking the designation nearly fourteen (14) years after the fact is unreasonable and incomprehensible, especially where the plain language of Section 775.21(5)(a)2. is unambiguous and no where else throughout the entire Florida Sexual Predator Act, is subparagraph (5)(a)2. referred to for any other reason or purpose.

Furthermore, this Court is overlooking or misapprehending the violation of the Appellant's constitutional rights defined by the Fourteenth

Amendment; Art. I, § 9, cl.3; and Art. I, § 10, cl. 1, of the United States Constitution for protection against *ex post facto* laws. The rulings in **State v. McKenzie**, 331 So.3d 666 (Fla. 2021), **Alvarez v. State**, 345 So.3d 378 (Fla. 3rd DCA 2022); and **Cuevas v. State**, 345 So.3d 290 (Fla. 3rd DCA 2010) occurred years after the Appellant's alleged offense from 2006 and are being errantly applied retroactively to a time period when they were not in effect. That is the epitome of an *ex post facto* law as defined by Black's Law Dictionary (11th Ed., page 726) and Ballentine's Law Dictionary (3rd Ed.). In **Alvarez**, supra, this Court held that a sexual predator "designation is merely a status resulting from the conviction [and] there is no violation of the *ex post facto* clause because it does not modify the sentence or punishment". This is a misapprehension of the legal definition of an *ex post facto* law which encompasses any increase in relation to the offense or its consequences where the situation of a party is altered to his disadvantage. **Lindsey v. Washington**, 301 U.S. 397, 81 L.Ed 1182, 57 S.Ct. 797 (1937). This Court has overlooked the fact that the sexual predator designation is not "merely a status" because it comes with stringent registrating, reporting, and living requirements which could lead to additional imprisonment if not strictly adhered to. Any reasonable person would conclude, in and of itself,

that undeniably increases an offender's punishment beyond what is prescribed by law or rendered by a trier of fact.

In addition, this Court is misapprehending Legislative intent as it pertains to the usage of a rule 3.800(a) motion for challenging the sexual predator designation. Legislature, the Florida Supreme Court, this Court, and all other courts have uniformly agreed that an appellant is required to use rule 3.800(a) in order to correct the illegal designation of sexual predator. This Court in overlooking that its ruling in **Alvarez** is in direct conflict with the establish law and itself by holding that an appellant is ineligible for relief when challenging the sexual predator designation through a rule 3.800 motion because this Court contrarily and erroneously believe that the sexual predator designation is "merely a status". This Court is misapprehending the legal process for challenging the sexual predator designation and has unconstitutionally given the impression in **Alvarez** that it will never grant relief for any appellant using a rule 3.800 motion for challenging the sexual predator designation.

WHEREFORE, the Appellant requests this Court to grant this Motion For Rehearing and rule upon the merits of the claims in this instant motion and the Appellant's Initial Brief as they pertain to the plain language of the laws established in Florida Statutes Section 775.21(5)(a)2. and Rule

3.800(a), Florida Rules of Criminal Procedure. As well, the Appellant respectfully requests that this Court provide written reasons and portions of the record to support its rulings towards the merits oversights, and misapprehensions that were raised. Lastly, the Appellant asks for an order directing the lower court to remove the sexual predator designation and any other relief that it deems appropriate.

/s/ Ronald Barnett
Ronald Barnett, *pro se*
DC# M63300
Desoto Correctional Institution Annex
13617 Southeast Highway 70
Arcadia, Florida 34266-7800

CERTIFICATE OF SERVICE

I, Ronald Barnett, HEREBY CERTIFY that a true and correct copy of the foregoing Motion For Rehearing has been placed in the hands of an authorized DeSoto Correctional Institutional Annex personnel hands for mailing via the United States Postal Service to the following:

- Clerk of Court; Third District Court of Appeal; 2001 S.W. 117th Avenue; Miami, Florida 33175
- Attorney General's Office, One S.E. Third Avenue; Suite 900; Miami, Florida 33131

On this 6th day of April 2023.

/s/ Ronald Barnett

Ronald Barnett, *pro se*
DC# M63300
Desoto Correctional Institution Annex
13617 Southeast Highway 70
Arcadia, Florida 34266-7800

No. _____

In The

Supreme Court of the United States

RONALD BARNETT,

Petitioner,

versus

STATE OF FLORIDA

Respondent(s).

Appendix C

Per Curiam Order Denying Petitioner's Initial Brief

Dated March 22, 2023

Third District Court of Appeal

State of Florida

Opinion filed March 22, 2023.
Not final until disposition of timely filed motion for rehearing.

No. 3D22-1653
Lower Tribunal No. F06-5320

Ronald Barnett,
Appellant,

vs.

The State of Florida,
Appellee.

An Appeal under Florida Rule of Appellate Procedure 9.141(b)(2) from the Circuit Court for Miami-Dade County, Joseph Perkins, Judge.

Ronald Barnett, in proper person.

Ashley Moody, Attorney General, and Richard L. Polin, Assistant Attorney General, for appellee.

Before FERNANDEZ, C.J., and MILLER, and BOKOR, JJ.

PER CURIAM.

Affirmed. See State v. McKenzie, 331 So. 3d 666 (Fla. 2021), and Alvarez v. State, 345 So. 3d 378 (Fla. 3d DCA 2022).

IN THE DISTRICT COURT OF

APPEAL

OF FLORIDA

THIRD DISTRICT

MAY 01, 2023

RONALD BARNETT,
Appellant(s)/Petitioner(s),
vs.
THE STATE OF FLORIDA,
Appellee(s)/Respondent(s),

CASE NO.: 3D22-1653

L.T. NO.: F06-5320

BY ORDER OF THE COURT:

In re: Article I, section 16(b)(10)b. Time Limitations

Article I, section 16(b)(10)b. of the Florida Constitution provides that all state-level appeals and collateral attacks on any judgment must be complete within two years of the date of appeal in non-capital cases and five years from the date of appeal in capital cases unless a court enters an order with specific findings as to why the court was unable to comply and the circumstances causing the delay. Pursuant to the administrative procedures and definitions set forth in Supreme Court of Florida Administrative Order No. AOSC19-76, this case was not completed within the time frame required by Article I, section 16(b)(10)b. because the time frame had already expired by the time this case was filed in this Court.

cc: Office of Attorney General Richard L. Polin Ronald Barnett

la

No. _____

In The

Supreme Court of the United States

RONALD BARNETT,

Petitioner,

versus

STATE OF FLORIDA

Respondent(s).

Appendix D

State's Response

Dated January 17, 2023

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA, THIRD DISTRICT

CASE NO. 3D22-1653
Lower Tribunal No. F08-5320

RONALD BARNETT,

Appellant,

v.

RESPONSE

THE STATE OF FLORIDA,

Appellee.
_____/

Appellee, THE STATE OF FLORIDA, hereby files this Response, pursuant to this Court's order of January 6, 2023, and states the following:

This is an appeal from the denial of a Rule 3.800(a) motion to correct illegal sentence. As alleged in the motion to correct illegal sentence, which is accompanied by the written sentence of the lower court, Barnett was found guilty at a jury trial in 2008 for the offense of lewd and lascivious molestation on a child under the age of 12. He was sentenced at that time to 35 years in prison, with a 25-year mandatory minimum sentence, to be followed by probation for life as a mentally disordered sex offender. (R. 3, 8). The sentence was corrected in 2013, and the term of imprisonment was reduced to 25 years, and the MDSO probation was reduced to five years. (R. 3, 12).

Neither of the written sentences designated Barnett as a sexual predator under section 775.21, Florida Statutes.

The motion to correct sentence alleges that on July 20, 2022, the trial court filed an order designating him a sexual predator. (R. 3). The motion to correct sentence does not append that designation. Barnett proceeded to argue that that language in section 775.21(5)(a)(2) authorized the imposition of the sexual predator designation, but only "at the time of sentencing." (R. 4).

The lower court filed a written order denying the motion to correct illegal sentence on August 23, 2022, finding that Barnett's argument lacked merit on the basis of the decisions of State v. McKenzie, 331 So. 3d 686 (Fla. 2021), and Alvarez v. State, 345 So. 3d 378 (Fla. 3d DCA 2021).

Although not included in the record on appeal in this Court as either an attachment to the Rule 3.800(a) motion or to the lower court's order denying the motion, the online docket includes docket entry 439, which consists of a one-paragraph order designating Barnett a sexual predator under section 775.21, with a copy of the State's written motion seeking the imposition of the sexual predator designation, which written motion reflects a filing date of July 20, 2022, appended to the designation order. These documents are not a part of the record before this Court, but that does not affect this Court's

review of this appeal, as Barnett's lower court motion alleged the existence of the order designating him a sexual predator.

The two decisions cited in the lower court's written order – McKenzie and Alvarez – clearly support the lower court's denial of the motion. McKenzie addressed the statutory language at great length, as did this Court's prior decision in Cuevas v. State, 31 So. 3d 290 (Fla. 3d DCA 2010). Barnett's motion to correct sentence does not acknowledge or address those decisions.

In McKenzie, the defendant completed his sentence in 2015. Three years later, the State filed a motion requesting that the trial court designate him as a sexual predator under section 775.21, as that had not been done at the time of the original sentencing in 2009. The Florida Supreme Court addressed a conflict between this Court and the Fifth District as to whether the designation could be imposed after the sentence had been completed when it had not been imposed at the time of sentencing. This Court, in Cuevas v. State, 31 So. 3d 290 (Fla. 3d DCA 2010), had concluded that the trial court had jurisdiction to impose the designation.

The Florida Supreme Court agreed with this Court's decision in Cuevas and disagreed with the Fifth District's contrary conclusion in McKenzie v. State, 272 So. 3d 808 (Fla. 5th DCA 2019). The Supreme Court started its

analysis with the statutory language of section 775.21(5)(a)2., which provided that "the sentencing court must make a written finding at the time of sentencing that the offender is a sexual predator. . . ." This statutory provision "addresses offenders at sentencing but does not directly address the category of offenders that are at issue here: offenders who were statutorily mandated to be designated a sexual predators at sentencing but were not. But we cannot reasonably read the procedural directions under section 775.21(5)(a)2. regarding the timing of the designation in a way that defeats the Legislature's substantive mandate to impose the sexual predator designation." 331 So. 3d at 671. Rather, the statutory mandate to impose the designation at the time of sentencing was "simply one procedural mechanism designed to implement the Legislature's substantive policy of protecting the public from sexual predators." 331 So. 3d at 672. This was corroborated by the strongly stated legislative policy regarding the compelling interest of protecting the public, including children, from predatory sexual activity, which language was set forth in section 775.21(5)(a)2., Florida Statutes. 331 So. 3d at 672.

The Court then summarized its conclusions:

> We agree with the Third District in *Cuevas*: Section 775.21(5)(c) simply sets forth certain notice requirements for offenders under sections 775.21(5)(a)1. and 775.21(5)(a)3. For these

> offenders, section 775.21(5)(c) simply places an obligation on the department or another law enforcement agency to "notify" the appropriate state attorney, who in turn must "bring the matter to the court's attention." Section 775.21(5)(c) goes on to state that the offender is not obligated to register with the department unless the State brings the matter to the court's attention and the court then makes a written finding that the offender qualifies as a sexual predator. But nothing in section 775.21(5)(c) places a restriction on the court's jurisdiction over those offenders who were required to be designated as sexual predators at sentencing but were not. The text contains no such express restriction and the implication of such a restriction is unreasonable given the whole statutory context. This provision of the statute is designed to help ensure that sexual predators do not escape designation as such. It is not designed to require that a judicial fumble will guarantee that a sexual predator will forever escape designation and the attendant consequences.
>
> We thus reject the view that the absence of a mechanism in subparagraph (c) specifically addressing the type of error presented by this case – a failure to impose the required designation at sentencing – implies that the error is beyond subsequent remedy. An interpretation should not be imposed on the statutory text by implication when that interpretation contradicts the manifest purpose of the text as well as an unequivocal requirement stated in the text.

331 So. 3d at 673.

This Court recently abided by both McKenzie and its own prior decision in Cuevas, in Alvarez v. State, 345 So. 3d 378 (Fla. 3d DCA 2022), in holding that the trial court did not err by amending the sentence during the pendency

of the direct appeal, absent a motion under Rule 3.800(b)(2), to include the sexual predator designation that was erroneously omitted at the time of the original sentencing. This Court also reiterated prior holdings to the effect that the designation was regulatory and procedural, and did not constitute punishment, and therefore did not implicate the ex post facto clause of the constitution and did not impermissibly modify a criminal sentence or punishment.

Based on the foregoing cases and argument, Barnett's argument, which is based solely on the language in section 775.21(5)(a)(2), that "the sentencing court must make a written finding at the time of sentencing," is an argument which has been expressly addressed and rejected, by both this Court, in Cueves, and the Florida Supreme Court, in McKenzie.

Conclusion

Based on the foregoing, the order of the lower court denying the motion to correct illegal sentence should be affirmed.

Respectfully submitted,

ASHLEY MOODY
Attorney General

/s/ Richard L. Polk

RICHARD L. POLK
Florida Bar No. 0230987
Assistant Attorney General

Office of the Attorney General
Department of Legal Affairs
One S.E. Third Avenue
Suite 900
Miami, Florida 33131
(305) 377-441
P: CrimAppMIA@myfloridalegal.com
S: Richard.Polin@myfloridalegal.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been mailed this 17th day of January 2023, to RONALD BARNETT, DC# M63300, DeSoto Correctional Institution Annex, 13617 Southeast Highway 70, Arcadia, Florida 34266-7800.

/s/ Richard L. Polin

RICHARD L. POLIN

No. _____

In The

Supreme Court of the United States

RONALD BARNETT,

Petitioner,

versus

STATE OF FLORIDA

Respondent(s).

Appendix E

Third District Court of Appeal Show Cause Order

Dated January 6, 2023

IN THE DISTRICT COURT OF APPEAL

OF FLORIDA

THIRD DISTRICT

JANUARY 06, 2023

RONALD BARNETT,
Appellant(s)/Petitioner(s),
vs.
THE STATE OF FLORIDA,
Appellee(s)/Respondent(s),

CASE NO.: 3D22-1653

L.T. NO.: F06-5320

The State of Florida is ordered to file a response within forty-five (45) days from the date of this Order as to why the relief sought by the appellant should not be granted. Pro se Appellant may file a reply brief within thirty (30) days of service of the response.

A True Copy
ATTEST
CLERK
DISTRICT COURT OF APPEAL
THIRD DISTRICT

cc: OFFICE OF ATTORNEY GENERAL

RONALD BARNETT

ts

No. _____

In The

Supreme Court of the United States

RONALD BARNETT,

Petitioner,

versus

STATE OF FLORIDA

Respondent(s).

Appendix F

Appellant's Initial Brief

Dated December 28, 2022

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

RONALD BARNETT,
Appellant,

V.

STATE OF FLORIDA,
Appellee. /

DCA No.: 3D22-1653
LT. Case No.: F06-5320

On Appeal From
The Circuit Court of the Eleventh Judicial Circuit
in and For Miami-Dade County, Florida

APPELLANT'S INITIAL BRIEF

Ronald Barnett, Appellant
DC# M63300
Desoto Correctional Institution Annex
13617 Southeast Highway 70
Arcadia, Florida 34266-7800

TABLE OF CONTENTS

TABLE OF CITATIONS

Cases

Statutes

Other Authorities

Rules

PRELIMINARY STATEMENT

The Appellant, Ronald Barnett, submits this instant Initial Brief as an appeal of the lower court's denial of his Rule 3.800(a), Florida Rules of Criminal Procedure motion and as a *pro se* litigant who is untrained in the law.

The Appellant requests for and relies on this Court's leniency that is appropriate for an incarcerated, pro se litigant. The Appellant moves this Honorable Court to not let or permit form to override substance or to allow procedural technicalities to defeat fairness and justice. Also, the Appellant believes, to the best of his knowledge, that this Brief has merit and is timely filed.

This Initial Brief involves the denial of a request to have the sexual predator designation removed. In this Brief, the Appellant will be referred to as such or by name. The State will be identified as such. In the same, the lower court will be cited as such or by trial court.

Citations from the face of the record will list the document, page number(s), and line number(s).

The following abbreviations will be used.

D.O.: Denial Order

S.H.: Sentencing

STATEMENT OF CASE AND FACTS

1. On March 24, 2006, the Appellant was charged with one count of lewd and lascivious molestation on a child victim less than twelve.

2. On April 21-23, 2008, a jury trial was held and the Appellant was declared guilty.

3. On June 30, 2008, the lower court adjudicated the Appellant guilty and imposed a 35-year, 25-years minimum mandatory, MDSO life probation sentence. **(Appendix A)**

4. On April 2, 2013, the Appellant filed a Rule 3.800(a), Florida Rules of Criminal Procedure Motion to Correct Illegal Sentence, that was granted.

5. On July 26, 2013, the Appellant was re-sentenced to a 25-year sentence followed b five (5) years MDSO probation, which was corrected on August 9, 2013. **(Appendix B)**

6. On July 20, 2022, the trial court filed an Order designating the Appellant as a sexual predator. **(Appendix C)**

7. On August 10, 2022, the Appellant filed a Rule 3.800(a) motion challenging the sexual predator designation.

8. On August 23, 2022, the lower court submitted an Order denying the Motion to Correct Illegal Sentence. **(Appendix D)**

SUMMARY OF THE ARGUMENT

In violation of the Petitioner's due process rights, the State sought to designate the Petitioner as a sexual predator over 14 years after the originally imposed sentence. The Florida Sexual Predator Act is unambiguous in the three distinct categories an offender may be designated under. Each category defines the procedures that must be followed, the statute of limitations for the State to seek the designation and the court to impose it, the statutory recapture period, and if any laches would not apply. Whenever the State or court fails to perform its judicial duties within the requirements of the law, it becomes deprived of jurisdiction over that particular subject-matter. In this current case, the Petitioner was originally sentenced on June 30, 2008 and resentenced on July 26, 2013 as the result of an illegal sentence. Section 775.21(5)(a)2., Florida Statute (2006), which the Petitioner may be designated under, sets a statute of limitation of "at the time of sentencing" and a statutory recapture clause of "before the court for sentencing." As well, the doctrine of laches would apply as a result of the statutorily defined statute of limitations and recapture clause. From the face of the record, the State did not ask for the sexual predator designation nor did the court make any written findings during the original sentencing (over 14 years ago) or the resentencing (nearly 9 years ago). The July 20, 2022 sexual predator designation is an egregious and blatant violation of the Petitioner's due process rights which demands reversal.

ARGUMENT ONE

WHETHER THE TRIAL COURT ERRED BY DENYING APPELLANT'S RULE 3.800(A) MOTION REQUESTING THE REMOVAL OF THE SEXUAL PREDATOR DESIGNATION IN VIOLATION OF THE APPELLANT'S FOURTEENTH AMENDMENT RIGHTS

The Appellant, Ronald Barnett, strongly asserts that the trial court erred by denying the Appellant's Rule 3.800(a) motion requesting the removal of the sexual predator designation in violation of the Appellant's Fourteenth Amendment rights. Section 775.21(5)(a), Florida Statute (2006) is unambiguous on the criteria that must be met in order to designate an individual as a sexual predator. In the same, the section clearly delineates what category of offenders fall under which specific subsection, what statute of limitations exist for that category of particular offenders, whether there is a statutory recapture provision, and if the doctrine of laches do not apply.

In identifying the first category of offenders, Section 775.21(5)(a)1., Florida Statutes (2006) states in pertinent part:

> "An offender who meets the sexual predator criteria described in paragraph (4)(d) is a sexual predator, and the court shall make a written finding at the time such offender is determine to be a sexually violent predator **under chapter 394**..." (Emphasis added)

In accord with Section 775.021(1), Florida Statutes (2006), Rules of Construction, the strict interpretation of the language used by the legislature is unambig uous in that **only those offenders** who have been **convicted under Chapter 394** and determined to be a sexually violent predator are to be designated as a sexual predator pursuant to Section 775.21(5)(a)1., Florida Statutes (2006). As well, subsection (a)1. clearly defines legislative intent as to a statute of limitations for designating this particular group of offenders. The plain language of the law states, "at the time such offender is determined to be "" Id. is the time in which the court shall make its written findings. It is unmistakable that it is legislative intent to not have a limit for when an offender under Chapter 394 may be designated as a sexual predator. Legislature further supports its intent under Section 775.21(5)(a)3. (c), Florida Statutes (2006) where its statutory recapture clause evinces:

> "If the Department of Corrections ... obtains information ... that an offender meets the sexual predator criteria but the court did not make a written finding ... the ... agency shall notify the state attorney ... for offenders described in subparagraph (a)1."

The statutory recapture clause eliminates the doctrine of laches and further defines legislative intent as to when an offender under Section 775.21(5)(a)1., Florida Statutes (2006), may be designated as a sexual predator.

Therefore, legislative intent in Section 775.21(5)(a)1., (2006) is extremely clear and precise in that it only associates with offender who have been "determined to be a sexual violent predator under Chapter 394" and "meets the sexual predator criteria described in paragraph (4)(d)." In addition, if the court failed to make a written finding, the prosecuting state attorney may seek designation from the court upon being notified by a law enforcement agency at any time.

Section 775.21(5)(a)2., Florida Statutes (2006), deals with the second group of offenders who may meet the criteria for being designated as a sexual predator.

Subparagraph (a)2. states:

> "An offender who meets the sexual predator criteria described in paragraph (4)(a) who is **before the court for sentencing** for a current offense ... is a sexual predator, and the sentencing court must make a written finding **at the time of sentencing**" (Emphasis added)

Following the strict interpretation of the language used to express legislative intent, pursuant to Section 775.021(1), Florida Statutes (2006),

Rules of Construction, legislature has made it clear that this category of offenders are **only those offenders** who are **before the court** for sentencing **for a current offense**. The statute of limitations is unambiguous for when the designation is to be imposed and what must be done to make the designation legal. Legislature clearly limits the designation to "**before the court for sentencing** for a current offense;" in addition to limiting the written finding to "**at the time of sentencing.**" These defined statutes of limitations are clearly shown through the plain language of Section 775.21(5)(a)2., Florida Statutes, and only applies to those offenders who may be designated pursuant to subsection (a)2. **No where else in the entire** Florida Sexual Predators Act is there any reference to Section 775.21(5)(a)2.; therefore, there are no statutory recapture clauses attached to the Section and absent a recapture clause enables for the doctrine of laches to apply to this Section and all interested parties.

Therefore, legislative intent in Section 775.21(5)(a)2. (2006) is unmistakable in that it only applies to those offenders who are "before the court for sentencing for a current offense" and "who meets the sexual predator criteria described in paragraph (4)(a)." In addition, "[I]f the court does not make a written finding [at the time of sentencing] ... the offender may not be designated as a sexual predator." Section 775.21(4)(a)3.(c)2.,

Florida Statutes (2006)

Section 775.21(5)(a)3(a), Florida Statutes (2006), refers to the last group of offenders who may be designated as a sexual predator in the State of Florida. Subparagraph (a)3(a) states, in pertinent part,

> "an offender **who establishes or maintains** a permanent or temporary **residence in this state [and]** meets the sexual predator criteria described in paragraph (4)(a) or paragraph (4)(d) **because** the offender was civilly committed or committed a **similar violation in another jurisdiction.**" (Emphasis added)

Pursuant to Section 775.021(1), Florida Statutes, Rules of Construction, the plain language of subparagraph 775.21(5)(a)3.(a) pertains to **only those offenders who establish residence in this state and who committed a similar violation in another jurisdiction**. Legislature is very clear on this point and further expresses that there is no statute of limitations for designating an offender from this category. Subparagraph (a)3.(a) says "[i]f agency obtains information ... agency shall notify the state attorney of the county ... [and] the state attorney shall file a petition..." Any reasonable person would conclude that legislative intent is for those from other jurisdictions who are deemed sexual predators and establish residence in Florida may be designated at any time by a state attorney upon receiving notification. Legislature further supports its intent

under Section 775.21(5)(a)3., Florida Statutes (2006) where its statutory recapture clause states,

> "If the Department of Corrections ... obtains information ... that an offender meets the sexual predator criteria but the court did not make a written finding ... the ... agency shall notify the state attorney ... of the county where .. first entering the state for offenders described in subparagraph (a)3."

The above statutory recapture provision eliminates the doctrine of laches and clearly defines legislative intent as to when an offender may be designated as a sexual predator under Section 775.21(5)(a)3., Florida Statutes.

The three distinct groups of offenders, under the Florida Sexual Predators Act exist today because the original enactment of 1993 was amended in 1996 due to the unconstitutionality of grouping different categories of offenders together and unjustly imposing requirements upon those offenders who were not eligible. As shown above, legislature has set forth a detailed process for designating an offender as a sexual predator under each particular section. **State v. McKenzie**, 331 So.3d 666 (Fla. 2021). As well, it is unambiguous that legislature requires a written finding from a court; otherwise, a defendant cannot be deemed a sexual predator. **Therrien v. State**, 914 So.2d 942, 946 (Fla. 2005); Section 775.21(4)(c), Florida Statutes (2006).

In the case at bar, the Appellant was found guilty as charged by a jury on April 23, 2008. The trial court imposed an illegal sentence on June 30, 2008 (**Appendix A**). That sentence was corrected on August 9, 2013, pursuant to a Rule 3.800(a) motion, Florida Rules of Criminal Procedure. (**Appendix B**). On July 20, 2022, in an ex parte hearing, the trial court filed an order designating the Appellant as a sexual predator. (**Appendix C**). From the face of the record and in accordance with the circumstances of the above-styled case, it is unambiguous that the Appellant can only be designated as a sexual predator pursuant to Section 775.21(5)(a)2., Florida Statutes (2006). Prima facie, the Appellant was before the court twice, fourteen years ago and again nearly nine years ago, and at no time did the State seek a sexual predator designation nor did the trial court make any written findings to legally declare the Appellant as a sexual predator.

Section 775.21(5)(a)2., undeniably states that a court's authority to designate an offender as a sexual predator is **limited to** when the offender is **before the court for sentencing for a current** offense. As well, the plain language of the Section **does not expressly grant** a trial court authority to impose the designation at **any other time** after the time of sentencing. There is no Section of the entire Florida Sexual Predators Act that expressly and specifically grants authority to a court to designate an

offender, who meets the criteria of Section 775.21(5)(a)2., as a sexual predator other than when the defendant is before the court at the time of sentencing. The determination of the meaning of a statute begins with the plain language of that statute, **Lopez v. Hall**, 233 So.3d 451, 453 (Fla. 2018) (citing **Holly v. Auld**, 450 So.2d 217, 219 (Fla. 1984), and its an abuse of discretion and an encroachment of due process for a court to look behind the Statute's plain language for legislative intent or to take legislative intent of one section and egregiously and illegally attach it to another section.

In this case, the trial court relied upon **State v. McKenzie**, 331 So.3d 666 (Fla. 2021) to impose the designation and deny the Appellant's Rule 3.800(a) motion. The Florida Supreme Court erroneously squashed **McKenzie v. State**, 272 So.3d 808 (Fla. 5th DCA 2019), approved **Cuevas v. State**, 31 So.3d 290 (Fla. 3rd DCA 2010), and fallaciously has the lower court believing that legislature "expresses no intention that the consequence of a failure to make a written finding at the time of sentencing is a waiver of the right to make the finding in the future." That is a blatant misinterpretation of legislative intent because from the face of Section 775.21(5)(a)2. (2006) and its plain language "**the court must make a written finding at the time of sentencing.**" (Emphasis added) Pursuant to

F.S.A. Section 775.021(1), Florida Statutes (2006), the strict interpretation of legislative intent is that the statutory limitations for a written finding is **only** at the time of sentencing. Anytime afterward is an absolute waiver of the right and if "the court **does not make a written finding** ... the offender **is not required to register** ... [and] ... agency **shall not administratively designate** ... as a sexual predator ..." (Section 775.21(5)(a)3. (c))(2006) (Emphasis added) It is an abuse of discretion and a violation of a defendant's due process, as a matter of law, for any court to conclude that "**must,**" as written in Section 775.21(5)(a)2., (2006) means that the sentencing court has a mandatory duty to designate an offender of an enumerate offense as a sexual predator. "**Must**" only means that if it is determined by the court that an offender meets the criteria for being designated as a sexual predator, pursuant to subparagraph (a)2., **then** it is mandatory for the written findings to be filed **at the time of sentencing for a current offense**; otherwise, in accordance with subparagraph (a)3. (c), the offender has not been legally designated as a sexual predator.

Case in point, in **Robinson v. State**, 804 So.2d 451 (Fla. 4th DCA 2001), the defendant was convicted of an enumerated offense under F.S.A. Section 787.01, Florida Statutes. The appellate court ruled, and it was affirmed by the Florida Supreme Court, that it was unconstitutional for the

lower court to designate *Robinson* as a sexual predator. As a result of the erroneous interpretation of the way legislature uses the word "must" in Section 775.21(5)(a)2., (2006) the designation was squashed because the trial court's determination was based solely on the conviction of an enumerated offense and did not safeguard due process by considering the evidence adduced. *Robinson's* conduct did not meet the legal definition of a sexual predator as expressed in Section 775.21(3)(a), Florida Statutes (2001) and Black's Law Dictionary; therefore, **it was not mandatory** for the trial to impose the sexual predator designation. In this current case, the original sentencing and re-sentencing courts determined that the Appellant did not qualify for the sexual predator designation and knowingly and intelligently did not impose the designation. The clearly defined statute of limitations of **"before the court for sentencing"** and **"at the time of sentencing"** attached once the sentencing hearings concluded and it stripped the lower court of all authority to impose and jurisdiction over the sexual predator designation.

The State would argue that the Florida Supreme Court's ruling in **State v. McKenzie**, 331 So.3d 666 (Fla. 2021), authorized the lower court to impose the designation at anytime because the statutory recapture clause of Section 775.21(4)(a)3. (c)1., Florida Statutes (2006) states:

> "The court did not, for whatever reason, make a written finding at the time of sentencing that the offender was a sexual predator..."

This is an erroneous interpretation of legislative intent because subparagraph (4)(a)3. **does not apply** to those offenders who may be designated under Section 775.21(5)(a)2. From the plain language of the statute, subparagraph (4)(a)3. (c), **strictly and only applies to** " a conviction of a felony or similar law **of another jurisdiction.**." and "If an offender **has been registered** as a sexual predator." In this current case, the Defendant was before the court fourteen years ago and **had not been** priorly "registered as a sexual predator." As well, the Defendant was before the court for a current Florida offense and **not one** "of another jurisdiction." In the same, the lower court erred in accepting the Florida Supreme Court's ruling that the statutory recapture clause of Section 775.21(5)(a)3. (c) (2006) applies to offenders who can be designated under Section 775.21(5)(a)2. Florida Statutes (2006). Legislative intent is unambiguous in that subparagraph (5)(a)3. (c), **only applies** to offenders described in subparagraph (5)(a)1., and subparagraph (5)(a)3.

At no time throughout the entire drafting of the Florida Sexual Predators Act does legislature directly or implicitly expresses an intent to have a statutory recapture clause attached to Section 775.21(5)(a)2.

(2006). In S. Crim. Just. Comm. Rep. 2444-307, Reg. Sess (Fla. 2004), legislature removed offenders who were not committed under the Jimmy Ryce Act and before the court for sentencing into a separate category (Section 775.21(5)(a)2. (2006)) that does not carry a recapture provision. As a matter of law, it is unconscionable and a violation of substantive due process for the Florida Supreme Court or any other court to take legislative intent of one statute and egregiously attach it to another "when the language of the statute is clear and unambiguous and conveys a clear, definite meaning [and] there is no occasion for resorting to the rules of statutory interpretation and construction." **Lopez v. Hall**, 233 So.3d 451, 453 (Fla. 2018), **Holly v. Auld**, 450 So.2d 217, 219 (Fla. 1984). Legislative intent **must be derived from** the words used in Section 775.21(5)(a)2. (2006) without involving incidental rules of construction or engaging in speculation as to what the judges might think that the legislators intended or should have intended. **Tropical Coach Line, Inc. v. Carter**, 121 So.2d 779, 782 (Fla. 1960). The absence of a statutory recapture provision that specifically attaches to Section 775.21(5)(a)2. (2006) enables the doctrine of laches to apply.

"The doctrine of laches ... is an instant of the exercise of the reserved power of equity to withhold relief otherwise regularly given where in the

particular case the granting of such relief would be unfair or unjust." William F. Walsh, A Treatise on Equity 472 (1930). Black's Law Dictionary (8th Edition) defines laches as an unreasonable delay in pursuing a right or claim. In this case at hand, no one can refute that fourteen years is an unreasonable delay for the State to seek the sexual predator designation and for the court to make its written findings where the clearly defined statute of limitations in Section 775.21(5)(a)2. Florida Statutes (2006) is "**before the court for sentencing** for a current offense" and "**at the time of sentencing,**" respectively.

It is prejudicial to the Appellant for the trial court to file its order on July 20, 2022, (**Appendix C**) which is over fourteen years after the Appellant was "before the court for sentencing" on June 30, 2008. (**Appendix A**) The delay is beyond the period of statute ("at the time of sentencing") applicable at law; therefore, the designation is to be removed on the ground of laches. John F. O'Connell, Remedies in a Nutshell 16 (2d ed. 1985).

The lower court's sexual predator designation prejudices the Appellant to life-long registration requirements and fees and is violatory of the Appellant's due process rights because the designation is egregious and extremely beyond the statute of limitations prescribed by Section

775.21(5)(a)2. (2006) F.S.A., and there was a lack of knowledge on the part of the Appellant that the State would assert its right to seek designation over fourteen years after sentencing.

The State would argue that the Florida Supreme Court's ruling in **State v. McKenzie**, 331 So.3d 666 (Fla. 2021), where it approved **Cuevas v. State**, 31 So.3d 290 (Fla. 3rd DCA 2010), gives the unlimited right to impose the sexual predator designation pursuant to Florida Statute Section 775.21(5)(a)2. (2006). The **Cuevas** court held that the recapture provisions that are specific to Section(s) 775.21(5)(a)1. and 3. (2006) reveal special notice and venue rules for those special cases, not exclusive descriptions of the only circumstances in which the State can perform its duty after the defendant is sentenced.

This fallacious ruling is a violation of substantive due process because the plain language of Section 775.21(5)(a) creates three distinct forms of special cases and legislature provides exclusive descriptions of the only circumstances in which the State can perform its duty per each particular Section. Subparagraph (5)(a)1. is exclusive to those offenders who were committed under Chapter 394; subparagraph (5)(a)2. is exclusive to those offenders who have committed a current offense in the State of Florida; and subparagraph (5)(a)3. is exclusive to those offenders

who maintain or establish residence in Florida and violated a similar law of another jurisdiction.

The language of each subsection clearly expresses legislative intent, which provides a detailed, exclusive process for designating an offender as a sexual predator. Subparagraph (5)(a)1. specifically states that when an agency obtains information that an offender meets the criteria for the violent sexual predator designation **and** the court failed to make a written finding, the agency is to notify the prosecuting state attorney in order to petition for the designation.

From the plain language of the statute, legislature intended for this special notice and venue rules to **only apply** to violent sexual predators. In the same, subparagraph (5)(a)2. specifically states that the offender has to be before the court for sentencing **and** the written finding must be done at the time of sentencing. It is irrefutable that the legislators intended for those specific rules to be **exclusively applied** to offenders of a current offense.

Lastly, subparagraph (5)(a)3. specifically states that when an agency obtains information that an offender has established or maintains residence in this State **and** meets the criteria described in paragraph (4)(a) or (4)(d) **and** the offense was from another jurisdiction, the agency is to notify the state attorney of that county in order to petition for the designation.

Legislative intent is unambiguous of the three exclusive requirements that must be met in order for an offender to be designated as a sexual predator in this particular subsection.

Had Legislature intended for the above descriptions not to be exclusive to the only circumstances in which the State can perform its duty after the defendant is sentenced, it would not have intentionally and intelligently singled out subparagraphs (5)(a)1. and (5)(a)3. of the Florida Sexual Predators Act for having no statute of limitations. Florida Statutes Section 775.21(5)(a)2. (2006) has a clearly defined and exclusive description for when the State may seek for the sexual predator designation and when the court must make its written findings if the offender meets the criteria described in Section 775.21(4)(a); therefore, legislature had no reason to write in a recapture clause thereby allowing for the doctrine of laches to attach.

It was error for the trial court to file its written findings fourteen years after the statute of limitations of **at the time of sentencing** and a violation of the Appellant's due process rights for the State to seek the designation without the Appellant's knowledge fourteen years after the statute of limitations of **before the court for sentencing for a current offense.** No where in the entire Florida Sexual Predators Act has legislators expressed

an intent to eliminate their clearly defined statute of limitations that is exclusively written for Section 775.21(5)(a)2. Florida Statutes (2006).

CONCLUSION

After fourteen years of failing to impose the sexual predator designation, the lower court is deprived of its jurisdiction. Section 775.21(5)(a)2, Florida Statutes (2006) clearly has a defined statute of limitations of **"at the time of sentencing"** and there is no statutory recapture clause because the designation process must be performed on those defendants who are **currently "before the court for sentencing."** (Emphasis added). The Section is unambiguous and there is no language stating that this particular category of defendants may be designated at any other time, unlike Section(s) 775.21(5)(a)1. and Section 775.21(5)(a)3. The doctrine of laches would apply because over fourteen years is an unreasonable delay for the State and trial court to pursue their judicial duties. There are no justifications for the State to sleep on its rights and then over fourteen years later claim that it is equitable to exercise them. That is not only unreasonable, but also unfair, unjust, and prejudicial to the Petitioner. John F. O'Connell, Remedies in a Nutshell 16 (2d ed. 1985); William F. Walsh, A Treatise on Equity 472 (1930). As detailed in **State v. Robinson**, 804 So.2d 451 (Fla. 2001), the court held "that designation as a

sexual predator constitutes a deprivation of a protected liberty. We conclude that being designate[d] as 'sexual predator' certainly constitutes a stigma. No one can deny that such a designation affects one's good name and reputation." That prejudice is coupled with the lifelong registration and reporting requirements that come with being designated as a sexual predator.

As a result of the manifest injustice created out of the violation of the Petitioner's due process rights, the designation should be stricken.

Respectfully submitted,

Ronald Barnett, Appellant
DC# M63300
Desoto Correctional Institution Annex
13617 Southeast Highway 70
Arcadia, Florida 34266-7800

CERTIFICATE OF SERVICE

I, Ronald Barnett, HEREBY CERTIFY that a true and correct copy of the foregoing **Appellant's Initial Brief** has been placed in the hands of an authorized DeSoto Correctional Institution Annex personnel for mailing via the U.S. Postal Service to the following:

- Third District Court of Appeal; 2001 S.W. 117th Avenue; Miami, Florida 33175-1716
- Office of the Attorney General; 1 S.E. 3rd Avenue; Suite 650; Miami, Florida 33131

on this 28th day of December, 2022.

Ronald Barnett, Appellant
DC# M63300
Desoto Correctional Institution Annex
13617 Southeast Highway 70
Arcadia, Florida 34266-7800

CERTIFICATE OF COMPLIANCE

I CERTIFY that this computer-generated reply brief is set in the Arial or an equivalent typeface at a 14-point font, pursuant to the type size and style requirements of Rule 9.210(a)(2), Florida Rule Appellate Procedure and the relevant portions thereof total no more than 5,000 words, pursuant to Rule 9.045, Florida Rule Appellate Procedure

Ronald Barnett, Appellant
DC# M63300
Desoto Correctional Institution Annex
13617 Southeast Highway 70
Arcadia, Florida 34266-7800

APPENDIX A

IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT IN AND FOR MIAMI-DADE COUNTY, FLORIDA 228

DIVISION
[X] CRIMINAL

SENTENCE

AS TO COUNT: 1

PLAINTIFF(S)	VS. DEFENDANT(S)
THE STATE OF FLORIDA	RONALD BARNETT

CASE NUMBER: F06-005320 OBTS NUMBER

, Ronald A Barnett

The Defendant, being personally before this Court, accompanied by his/her attorney(s): JENNIFER PARGANO,PD and having been adjudicated guilty herein, and the Court having given the defendant an opportunity to be heard and to offer matters in mitigation of sentence, and to show cause why he/she should not be sentenced as provided by law, and no cause having been shown:

CLOCK IN

And the court having on 04/23/08 deferred imposition of sentence until this date

IT IS THE SENTENCE OF THE COURT that the defendant is hereby:

Is hereby committed to the custody of the Florida Department of Corrections..

TO BE IMPRISONED:

For a term of 35.00 Year(s).

In the event the defendant is ordered to serve additional split sentences, all incarceration portic shall be satisfied before the defendant begins service of the supervision terms.

25 YEARS MINIMUM MANDATORY PER COURT

SPLIT SENTENCE

Split Counts: 1

Probation Length: LIFE (M.D.S.O)

Followed by a period of (the specified length), on Probation under the supervision of the Department of Corrections according to the terms and conditions of supervision set forth in a separate order entered herein.

X

CR -07/03/08
REV 10/02

IN RE/: Defendant
RONALD BARNETT

OTHER PROVISIONS

CASE NUMBER: F06-005320

CATEGORY	OTHER PROVISION DESCRIPTION	SPECIFICATION
Jail Credit	It is further ordered that the Defendant shall be allowed a total of the specified time as credit for time incarcerated prior to imposition of this sentence.	117 DAYS

In the event the above sentence is to the Department of Corrections, the Sheriff of Dade County, Florida, is hereby ordered and directed to deliver the defendant to the Department of Corrections at the facility designated by the Department together with a copy of this Judgment and Sentence and any other documents specified by Florida Statutes.

The defendant in Open Court was advised of his right to appeal from this sentence by filing notice of appeal within thirty days from this date with the Clerk of this Court, and the defendant's right to the assistance of counsel in taking said appeal at the expense of the State upon showing indigence.

In imposing the above sentence, the Court further,

[X] Orders

COURT COSTS TO BE IMPOSED PURSUANT TO F.S.775.083(2)--$50.00, F.S.938.01 & 938.15--$5.00, F.S.938.03(4)--$50.00, F.S.938.05(1)--$200.00, F.S.938.185(1)(A)ADD'L CRIMI COSTS--$65.00, F.S.27.52(2)P.D.--$40.00, F.S.938.185(1)(B)SURCHARGE--$85.00, F.S.938.19(2)TERM COURT --$3.00-- TOTAL $498.00

DONE AND ORDERED in Open Court in Miami-Dade County, Florida this 30th day of June, 2008.

JUDGE BARBARA ARECES

CT -07/03/08
REV 10/02

IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT IN AND FOR MIAMI-DADE COUNTY, FLORIDA
OR IN THE COUNTY COURT IN AND FOR MIAMI-DADE COUNTY, FLORIDA

DIVISION
☒ CRIMINAL
☐ OTHER

FINGERPRINTS OF DEFENDANT

THE STATE OF FLORIDA VS.

Ronald Barrett

PLAINTIFF DEFENDANT

CASE NUMBER: 06-5320

FILED
CLOCK IN
JUN 30 2008
CLERK

I herby certify that the foregoing fingerprints on this judgment are the fingerprints of the defendant named above, and that they were placed thereon by said defendant in my presence, in open court, on this date and that the defendant provided the below Social Security Number or was unable to provide said number as indicated.

Fingerprints taken by: E. Owens CDE
Name Title

FINGERPRINTS OF DEFENDANT

1. R. Thumb	2. R. Index	3. R. Middle	4. R. Ring	5. R. Little
				
1. L. Thumb	**2. L. Index**	**3. L. Middle**	**4. L. Ring**	**5. L. Little**
				

Social Security Number of Defendant _____

DONE AND ORDERED in Open Court in Miami-Dade County, Florida this 30 day of June, 20 08

JUDGE

Page ___ of ___

CR/CT 854. REV. 7/03

Clerk's web address: www.miami-dadeclerk.com

APPENDIX B

IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT IN AND FOR MIAMI-DADE COUNTY, FLORIDA

#220-291

DIVISION
[X] CRIMINAL

CORRECTED SENTENCE

AS TO COUNT: 1

PLAINTIFF(S)	VS. DEFENDANT(S)
THE STATE OF FLORIDA	RONALD BARNETT

CASE NUMBER: F06-005320 OBTS NUMBER _____

, Ronald A Barnett

the Defendant, being personally before this Court, accompanied by his/her attorney(s) MATTHEW MCNAIGHTS,PD
and having been adjudicated guilty herein, and the Court having given the defendant an opportunity to
be heard and to offer matters in mitigation of sentence, and to show cause why he/she should not be sentenced as provided by law, and no cause having been shown:

CLERK OF CIRCUIT & COUNTY COURTS
MIAMI-DADE COUNTY, FL
CIRCUIT CRIMINAL #26.
2013 AUG -9 PM 2:31

IT IS THE SENTENCE OF THE COURT that the defendant is hereby:
Is hereby committed to the custody of the Florida Department of Corrections.

TO BE IMPRISONED:
For a term of 25.00 Year(s).

In the event the defendant is ordered to serve additional split sentences, all incarceration portic shall be satisfied before the defendant begins service of the supervision terms.

SPLIT SENTENCE
Split Counts: MDSO
Probation Length: 5 Year(s)
Followed by a period of (the specified length), on Probation under the supervision of the Department of Corrections according to the terms and conditions of supervision set forth in a separate order entered herein.

DMB-07/31/13

RECORDED

IN RE: Defendant
RONALD BARNETT

CORRECTED OTHER PROVISIONS

CASE NUMBER: F06-005320

CATEGORY	OTHER PROVISION DESCRIPTION	SPECIFICATION
Jail Credit	It is further ordered that the Defendant shall be allowed a total of the specified time as credit for time incarcerated prior to imposition of this sentence.	901 DAYS

In the event the above sentence is to the Department of Corrections, the Sheriff of Dade County, Florida, is hereby ordered and directed to deliver the defendant to the Department of Corrections at the facility designated by the Department together with a copy of this Judgment and Sentence and any other documents specified by Florida Statutes.

The defendant in Open Court was advised of his right to appeal from this sentence by filing notice of appeal within thirty days from this date with the Clerk of this Court, and the defendant's right to the assistance of counsel in taking said appeal at the expense of the State upon showing indigence.

DONE AND ORDERED in Open Court in Miami-Dade County, Florida this 26th day of July, 2013.

JUDGE BARBARA ARECES DIV. 09

APPENDIX C

IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT
IN AND FOR MIAMI-DADE COUNTY, FLORIDA

STATE OF FLORIDA,

Plaintiff,

vs.

Ronald Barrett,

Defendant(s)

CASE NO: F96-005320
SECTION NO. F009
JUDGE: Joseph Perkins
DOB: 03/28/1969
Jail # 1300433530

ORDER FINDING DEFENDANT A SEXUAL PREDATOR

Pursuant to Section 775.21, Florida Statutes, this Court hereby enters an Order Finding Defendant to be a Sexual Predator, and hereby Orders the Clerk of the Court to notify the Department of Corrections and the Florida Department of Law Enforcement to register the Defendant as a Sexual Predator. The Defendant is subject to community and public notification.

DONE AND ORDERED at Miami, Miami-Dade County, Florida, this 20th day of July, 2022.

CIRCUIT COURT JUDGE
IN AND FOR MIAMI-DADE COUNTY, FLORIDA
Joseph Perkins

cc: Gary Lawton Brown
PO Box 1489
Tallahassee, FL 32302

Division Chief
Sexual Battery/Child Abuse Unit
State Attorney's Office

Florida Department of Corrections
Business Services and Transportation Department
501 South Calhoun St, Tallahassee, FL 32399-2500

(For offenses occurring after October 1, 1997)

Florida Department Law Enforcement (FDLE)
Amy Eantz
e-mail: sexpred@fdle.state.fl.us
PO BOX 1489 Tallahassee, FL 32302

Chief Counsel
Miami-Dade Department of Corrections
2525 Northwest 62nd Street
Suite 2309
Miami, FL 33147

STATE OF FLORIDA, COUNTY OF DADE
I HEREBY CERTIFY that the foregoing is a true and correct copy of the original on file in my office.
July 20, 2022
HARVEY RUVIN, Clerk of Courts, Miami-Dade County, Florida
Deputy Clerk

APPENDIX D

IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT
IN AND FOR MIAMI-DADE COUNTY, FLORIDA

STATE OF FLORIDA,

Plaintiff,

v.

Ronald Barnett

Defendant,

CASE NO.: F06-5330
SECTION: 09
JUDGE: Perkins

FILED
AUG 15 2022
CLERK

ORDER DENYING MOTION FOR POSTCONVICTION RELIEF

The Court has considered defendant's motion for post-conviction relief ("Motion") filed on Aug. 10, 2022 pursuant to Florida Rule of Criminal Procedure ~~3.850~~ 3.800 and denies the motion without an evidentiary hearing on the following ground(s).

☐ **The Motion is untimely.**

☐ **The Motion is legally insufficient because**

Denied pursuant to SOF v. McKenzie, 331 So2d 646 (Fla 1976) and Ahmet v. State ___ So2d ___ (Fla 3DCA Aug 3, 2022) (JP)

- ☐ the oath is missing or legally insufficient.
- ☐ the Rule 3.850(n) English-language certification is missing or legally insufficient.
- ☐ it does not
  - ☐ explain the judgment or sentence under attack and the court that rendered the same.
  - ☐ explain whether the judgment resulted from a plea or trial.
  - ☐ explain whether there was an appeal from the judgment or sentence and its disposition.
  - ☐ explain whether a previous postconviction motion has been filed and, if so, how many.
  - ☐ identify the nature of the relief sought.
  - ☐ contain a sufficient statement of the facts supporting the motion.
- ☐ it asserts a newly discovered evidence claim and does not attached the required affidavit or explain why it is unobtainable.

☒ **The motion can be conclusively resolved either (a) as a matter of law, or (b) by reliance upon the attached records in this case.**

This is a ☐ non-final, non-appealable order, and defendant has sixty days to file a legally sufficient amended motion. ☒ final, appealable order, and defendant has thirty days to appeal.

DONE AND ORDERED in Miami, Florida, this 23 day of August, 2022.

JOSEPH PERKINS
CIRCUIT JUDGE

The clerk shall mail a copy of this Order to Ronald Barnett, DC# 163300, DeSoto Correctional Inst. Annex 13617 S.E. HWY 70, Arcadia, FL 34266-7800

No. _____

In The

Supreme Court of the United States

RONALD BARNETT,

Petitioner,

versus

STATE OF FLORIDA

Respondent(s).

Appendix G

Notice Of Appeal And Acknowledgment Of New Case Number

IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT
IN AND FOR MIAMI-DADE COUNTY, FLORIDA

RONALD BARNETT,
Defendant,

v.

STATE OF FLORIDA,
Respondent.
_____/

PROVIDED TO DESOTO C. I.
ON 9/18/22 FOR MAILING
INMATE INITIALS R.B.
OFFICER INITIALS R.S

Case No: F06-5320

NOTICE OF APPEAL

COMES NOW, the Defendant Ronald Barnett, *pro se* and pursuant to Fla. R. App. P. 9.110 and 9.141(b)(2)(A), appeals to the Third District Court of Appeal of Florida the order this Court rendered on August 23, 2022. **(Appendix A)**

The nature of the order appealed from is a final, appealable order denying the Defendant's Motion to Correct Illegal Sentence dated August 10, 2022 without conducting an evidentiary hearing.

CERTIFICATE OF SERVICE

I, Ronald Barnett, HEREBY CERTIFY that, a true and correct copy of the foregoing Notice of Appeal has been placed in the hands of an authorized DeSoto C.I. Annex personnel for delivery via first-class U.S. Mail to:

- Clerk of Court, 1351 N.W. 12th Street, Suite 9000, Miami, Florida 33125
- Office of the State Attorney, 1350 N.W. 12th Avenue, Miami, Florida 33136

On this 18th day of September 2022.

Ronald Barnett, *pro se*
DC# M63300
DeSoto Correctional Institution Annex
13617 Southeast Highway 70
Arcadia, Florida 34266-7800

DISTRICT COURT OF APPEAL
THIRD DISTRICT
2001 S.W. 117 AVENUE
MIAMI, FLORIDA 33175-1716

TELEPHONE (305) 229-3200

ACKNOWLEDGMENT OF NEW CASE

DATE: September 27, 2022

STYLE: RONALD BARNETT, v. THE STATE OF FLORIDA,

3DCA#: 3D22-1653

The Third District Court of Appeal has received the Notice of Appeal reflecting a filing date of 9/22/22.

The county of origin is Dade.

The lower tribunal case number provided is F06-5320.

Case Type: Criminal The filing fee is No Fee-3.800.

The clerk of the lower tribunal shall index and paginate the record and send copies of the index and the record to the parties. See Fla. R. App. P. 9.141(b)(2)(B).

The Third District Court of Appeal'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.

Please review and comply with any handouts enclosed with this acknowledgment.

cc:

Miami-Dade Clerk
Office Of Attorney General
Ronald Barnett

ss

No. _____

In The

Supreme Court of the United States

RONALD BARNETT,

Petitioner,

versus

STATE OF FLORIDA

Respondent(s).

Appendix H

Order Denying Rule 3.800(a), Florida Rules Of Criminal Procedure.

No. _____

In The

Supreme Court of the United States

RONALD BARNETT,

Petitioner,

versus

STATE OF FLORIDA

Respondent(s).

Appendix I

Motion To Correct Illegal Sentence

Box# 220 291
Div: 09

IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT
IN AND FOR MIAMI-DADE COUNTY, FLORIDA 8/23/22

RONALD BARNETT,
Defendant,

v.

STATE OF FLORIDA,
Respondent.
_____/

Case No: 2006-CF-5320

PROVIDED TO DESOTO C. I.
ON 8/29/22 FOR MAILING
INMATE INITIALS
OFFICER INITIALS

MOTION TO CORRECT ILLEGAL SENTENCE

COMES NOW, the Defendant, Ronald Barnett, *pro se* and pursuant to Rule 3.800(a), Florida Rules of Criminal Procedure files this Motion to Correct Illegal Sentence and moves this Court to vacate its Order designating the Defendant as a sexual predator. A Rule 3.800(a) motion is the appropriate vehicle for challenging a sexual predator designation and the following is offered in support thereof:

STATEMENT OF THE CASE AND FACTS

1. On March 24, 2006 the Defendant was charged with one count of lewd and lascivious molestation on a child victim less than twelve.

2. On April 21-23, 2008 a jury trial was held and the Defendant was declared guilty.

3. On June 30, 2008, the Court adjudicated the Defendant guilty and imposed a 35-year, 25 years minimum mandatory, MDSO life probation sentence. (Exhibit A)

4. On April 2, 2013, the Defendant filed a motion to Correct Illegal Sentence.

5. On July 26, 2013, the Defendant was re-sentenced to a 25-year sentence followed by five years MDSO probation. (Exhibit B) On August 9, 2013, the sentence was corrected.

6. On July 20, 2022, the trial court filed an order designating the Defendant as a sexual predator.

Legal Standard:

An illegal sentence is one that imposes a punishment or penalty that no judge under the entire body of sentencing statutes and laws could impose under any set of factual circumstances. Williams v. State, 957 So.2d 600 (Fla. 2007); Carter v. State, 786 So.2d 1173 (Fla. 2001). Any designation that enhances a sentence beyond statutory requirements is subject to correction under Rule 3.800(a), Florida Rules of Criminal Procedure, when the illegality is revealed by the face of the records. In accordance with Dragon v. State, 3 So.3d 1188 (Fla. 2009) and Saintelier v. State, 990 So.2d 494, 497 (Fla. 2008) a Rule 3.800(a) motion is the correct vehicle for challenging a sexual predator designation.

ARGUMENT 1

WHETHER THE TRIAL COURT ERRED IN DESIGNATING THE DEFENDANT AS A SEXUAL PREDATOR IN VIOLATION OF HIS FOURTEENTH AMENDMENT CONSTITUTIONAL RIGHTS

The Defendant, Ronald Barnett, adamantly states that the trial court erred in designating him as a sexual predator in violation of his Fourteenth Amendment Constitutional rights. Section 775.21, Florida Statutes (2006) is unambiguous on the criteria that must be met in order to declare a defendant as a sexual predator. Subsection (5)(a)(2) states in pertinent part:

> "An offender who meets the sexual predator criteria described in paragraph (4)(a) who is before the court for sentencing ... the sentencing court must make a written finding at the time of sentencing that the offender is a sexual predator." (Emphasis added)

In the case at hand, the Defendant was originally sentenced on June 30, 2008. (Exhibit A). During that proceeding, the State did not seek any designations and the trial court did not make any written findings for designating the Defendant as a sexual predator. Over five (5) years

later, the Defendant went back before the court for sentencing in order to correct an illegal sentence. The trial court imposed a 25-year FSP sentence to be followed by five (5) years of MDSO probation. **(Exhibit B)** At no time during the re-sentencing process did the State or trial court motioned for the Defendant to be designated as a sexual predator. This is a clear indication that the State and trial court never intended to impose the designation.

Florida Statutes 775.21(5)(a)(2) is clear that an offender is to be before the court and a written finding must be done at the time of sentencing for imposing the sexual predator designation. On July 20, 2022, over 14 years after, being originally sentenced, the trial court held an *ex parte* hearing and egregiously filed an order to designate the Defendant as a sexual predator. That was a direct violation of the Defendant's due process, constitutional rights and the requirements of Section 775.21(5)(a)(2) (2006). To attempt to impose the sexual predator designation 14 years later, when the face of the record evinces that the original sentencing and re-sentencing court never intended for the designation, is illegal.

CONCLUSION

WHEREFORE, the Defendant, Ronald Barnett, respectfully requests this Court to overturn the erroneous order that was filed, declaring the Defendant to be a sexual predator. As well, the Defendant asks that all concerned agencies be notified accordingly.

Ronald Barnett, *pro se*
DC# M63300
DeSoto Correctional Institution Annex
13617 Southeast Highway 70
Arcadia, Florida 34266-7800

CERTIFICATE OF SERVICE

I, Ronald Barnett, HEREBY CERTIFY that, a true and correct copy of the foregoing Motion to Correct Illegal Sentence has been placed in the hands of an authorized DeSoto C.I. Annex personnel for delivery via first-class U.S. Mail to:

- Clerk of Court at, 1351 N.W. 12th Street, Suite 9000, Miami, Florida 33125
- Office of the State Attorney at, 1350 N.W. 12th Avenue, Miami, Florida 33136

On this 10th day of August 2022.

Ronald Barnett, *pro se*
DC# M63300
DeSoto Correctional Institution Annex
13617 Southeast Highway 70
Arcadia, Florida 34266-7800

Exhibit A

June 30, 2008 Sentencing Sheet