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IN THE

SUPREME COURT OF THE UNITED STATES

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SUPREME COURT, U.S.

Billy Noel Catherwood — PETITIONER
(Your Name)

vs.

Sec'y FLDOCUSAP11 22-12721 — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES 11TH CIRCUIT COURT OF APPEALS
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Billy Noel Catherwood, DC# 630162
(Your Name)

% Dade C.I., 19000 S.W. 377th Street
(Address)

Florida City, FL 33034
(City, State, Zip Code)

N/A
(Phone Number)

RECEIVED

AUG 23 2023

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SUPREME COURT, U.S.

QUESTION(S) PRESENTED

1) Did the Mid. Dis. of FL, U.S. Ct. of App. err (in 2021) in not following Supreme Court Order (pg. 478, 2021 Fed. Cr. C. & R.) allowing 150 day extension of time for filing Fed. U.S.C. 28 § 2254 during National Emergency for Covid-19? Time period of National Emergency falling squarely within Petitioner's 1 year allotted under AEDPA.

2) Does violations of Article VIII warrant immediate release for remand for retrial and/or completion of proper ^{charges} or reversal of all charges with prejudice?

This is a factor of confinement, either duration or fact.

LIST OF PARTIES

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

☒ All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

- 1) 11th Cir., U.S. Ct. of App. 22-12721
- 2) Mid. Dis. of FL, U.S. Ct. of App.
~ 8:21-cv-594/1469-KKM-CPT/TGW
- 3) Catherwood v. Sec'y FL DOC, et al.
2nd DCAT FL 18-CF-000051A
(used only if Justice selects to use in addendum)
RE: Question #2 - see Appendix R

RELATED CASES

- 1) Catherwood v. Sec'y FL DOC, et al. USAF11 22-12721
U.S. Ct. of App. 11th Cir. - Notice of Case Closed 5/18/23,
Judgement entered 3/02/23, Judgement entered 12/02/22
- 2) Catherwood v. Sec'y FL DOC, et al.
~ 8:21-cv-1469-KKM-TGW
Final Judgement entered 4/29/22
~ 8:21-cv-594-KKM-CPT
U.S. Ct. of App., Mid. Dis. of FL, Tampa Div.
- 3) Catherwood v. State of FL
18-CF-000051 & 51A
Mandamus issued 1/6/2020

United States Supreme Court Case No. _____

UNITED STATES SUPREME COURT

**CERTIFICATE OF INTERESTED PERSONS
AND CORPORATE DISCLOSURE STATEMENT (CIP)**

Billy Noel Catherwood,
Petitioner

vs.

Ricky Dixon, Secretary, Department of Corrections, State of Florida
Respondent.

Appeal No. 22-21721-F

Banker Lopez Gassler Attorneys-at-Law Hodge, Ashley (Employer)
Castillo, Christopher J. Asst. St. Attorney at Trial 13th Judicial Circuit, FL
Chase, Brett S. Public Defender 2nd DCA, FL (Appointed Counsel)
Darrigo, Kaley Asst. St. Att. Trial (Co-Counsel) 13th Judicial Circuit, FL
Diapizza, Sabrina Public Defender at Trial (Co-Counsel)
Dimmig, II, Howard L. Public Defender 2nd DCA, FL
Hodge, Ashley Public Defender at Trial (Counsel)
Honeywell, Honorable Charlene Edwards U.S. District Judge 2nd DCA
Mizelle, Honorable Kathryn Kimball U.S. District Judge 2nd DCA

United States Supreme Court Case No. _____

UNITED STATES SUPREME COURT

**CERTIFICATE OF INTERESTED PERSONS
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Billy Noel Catherwood,
Petitioner

vs.

Ricky Dixon, Secretary, Department of Corrections, State of Florida
Respondent.

Appeal No. 22-21721-F

Moody, Ashley Attorney General State of Florida

Morales, Mrs. (Indirect Victim - mother of passengers)

Murray, Kay S. Public Defender 13th Judicial Circuit, FL

Sandoval, Ashley (Victim - passenger)

Sandoval, Jesus (Victim - driver)

Sandoval, Rodner (Victim - passenger)

Sandoval, Sahirys (Victim - passenger)

Twine-Thomas, Honorable Barbara Judge 13th Judicial Circuit, FL

Warren, Thomas State Attorney 13th Judicial Circuit, FL

Wilson, Hon. Magistrate Judge Thomas G. U.S. District Judge 2nd DCA

TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

Stewart v. Martinez-Villareal, 537 U.S. 637 (1998)	12
Slack v. McDaniel, 529 U.S. 473 (2000)	12
Henderson v. Sec. of Corr., 518 F.2d 694	16
Clark v. Zimmerman, 394 F. Supp. 1161	16

STATUTES AND RULES

2021 Fed. Cr. C. + R. - U.S. Su. Ct., pg. 478, Miscellaneous Orders	3 + 12
U.S. Constitution, Article III, Section 1 + 2	3 12
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APPENDIX C	- Appearance of Counsel for FL DOC
APPENDIX D	- Partial Docket for Mid. Dis. of FL, U.S. Ct of Appeals
APPENDIX E	- Letter denying 11th Cir. Docket copy to Petitioner (no mention of log requested)
APPENDIX F	- <u>Writ of Habeas Corpus</u> , 2nd DCA FL
APPENDIX G	- <u>Motion to Dispense with Joint Appendix</u> to be filed in: U.S. Supreme Court (Supplement to Certiorari)

IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

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

OPINIONS BELOW

☒ For cases from **federal courts**:

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

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

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

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

☐ For cases from **state courts**:

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

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

The opinion of the _____ court appears at Appendix _____ to the petition and is

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

JURISDICTION

☒ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was December 2, 2022.

☐ 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: March 2, 2023, and a copy of the order denying rehearing appears at Appendix A.
Case Closed - Notified May 18, 2023. Letter at Appendix A.

☐ 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.

☒ An extension of time was filed 8/1/23. Unanswered as of 8/13/23.
The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

☐ For cases from **state courts**:

The date on which the highest state court decided my case was _____.
A copy of that decision appears at Appendix _____.

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

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

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

1) U.S. Constitution, Article III, Section 1:
"The judicial Power of the United States shall be vested in one supreme Court, and in such inferior Courts as Congress may from time to time ordain and establish."

2) U.S. Constitution, Article III, Section 2:
"The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority; ..."

3) Federal Rules of Court dictate the progression of the Courts from U.S. District to U.S. Circuit to U.S. Supreme Court establishing the Supreme Court of the United States as the final and ruling arbiter.

Under these Rules and the above quoted Articles of the Constitution, Orders of the Supreme Court take precedence over all other Courts, rulings, and previously established Acts.

(No references within attached Appendixes)

4) U.S. Constitution, Article III:

"Excessive bail shall not be required,
nor excessive fines, nor cruel and
unusual punishment inflicted."

STATEMENT OF THE CASE

Petitioner originally filed timely U.S.C. 285 2254 in the Middle District of Florida, U.S. Ct. of App. It was returned with instructions to Amend. It was timely refiled; however, due to clerical error, it was unsigned (accompanying, as next to last page, was signed oath attesting to above facts).

Petitioner refiled (signed & additionally amended) using U.S. Supreme Court order found on page 478 of 2021 Fed. Cr. C. and R. for extension of time for filing. The Mid. Dis. of FL ruled deeming filing untimely even though existing U.S. Supreme Court order.

Petitioner, though an educated person, is (and was) uneducated, uncomprehensive, and a neophyte unto criminal law, procedures, and rules of court. Even though Petitioner did indeed have 5 months (as stated in Mid. Dis. of FL's denial of 2254 - App. B, pg. no. 5); Petitioner was severely limited to less than 50 hours of research, comprehension, and compilation of statutes, laws, forms, motions, and rules of criminal courts due to Petitioner's work assignment and other restrictions at Martin Correctional Institution (lockdowns, bad counts, quarantines, etc.). Petitioner was also limited by Martin C.I.

not allowing inmates to store legal work and associated paperwork in their cell. (Only a tiny bit of paperwork was allowed due to space in storage lockers [70+ % given to State issued clothes] was extremely. Only about 1 1/2 to 2 hours worth of work - once a week, as library & legal storage was only available once a week, except for last 14-16 days before deadline when Petitioner had an avg. of 2 hrs - 2 hrs on these days in the library.)

Petitioner appealed to U.S. 11th Cir. Ct. of App. by (under Rules of 11th Cir.) Filing Notice of Appeal in the Mid. Dis. of FL on May 12, 2022 with a copy to 11th Cir. on the same date. (See Letter from 11th Cir. sent to Petitioner - attached to 60-D Motion as "Appendix A".) Letter states 11th Cir. accepts Notice of Appeal in lieu of COA as COA was denied to Petitioner in Mid. Dis.'s denial of Amended Petition, unless appellant filed otherwise, and giving Petitioner a case number for the 11th Cir. and instructions.

Petitioner filed an Extension of Time motion with the 11th Cir. on or about July 5, 2022 asking for 30 days. Motion was granted giving Petitioner until August 13, 2022 for filing Appeal.

Petitioner filed Appeal on August 12, 2022. Petitioner included a re-printed copy of Notice of Instructions to the Clerk of Courts. Courts.

26.
7.

REASONS FOR GRANTING THE PETITION

Petitioner bases his certiorari action on U.S. Supreme Court order found on pg. 478, 2021 Federal Cr. C. and R. under miscellaneous order addressing the extension of filing deadlines:

"In light of... Covid-19... shall apply to cases prior to a ruling on a writ of certiorari... the deadline to file any petition... after a date of this order (March 20, 2020) is extended 150 days from the date the lower court judgement, order denying... a timely petition..."

And cites:

- Slack v. McDaniel, 529 U.S. 473 (2000)
- Stewart v. Martinez-Villareal 637 (1998)

Where Justice Breyer observed that the Supreme Court shows an indication (proclivity) that under AEDPA, "Congress did not want to deprive state prisoners of first federal habeas corpus review".

Petitioner asks that Supreme Court

direct the Mid. Dcs. of FL U.S. Ct. of App. to rule on the merits and/or based on violations of Article VIII shown below, grant Petitioner immediate release on bail, own recognition or property bond pending re-trial, [see Writ of Habeas Corpus filed in FL 2nd DCA - Appendix F] or granting release recognizing improper (illegal under FL Statutes) charges found in Appendix F (Petitioner will continue to contest original charges).

Violations of Article VIII of U.S. Constitution are twofold: (1) Excessive bail: Petitioner was denied reasonable bail while awaiting trial. (Bail was set at bond hearing with presiding judge of the case at \$205,000.00 dollars cash, later reduced to \$115,000.00 cash. Petitioner at the time was ruled indigent by the courts. He was a Disabled Social Security pensioner with no other income at the time. Petitioner's sole asset was a wholly owned (no mortgage) home and lot valued at \$200,000.00 dollars. Property bond was either denied or improperly conveyed to the judge by Public Defender (Petitioner does not know which).

Denying Petitioner his Constitutional right to participate in his own defense and to make an attempt to obtain his attorney (i.e. not Public

Defender's And (12) Petitioner's current circumstances and institution would be considered "actual and unusual punishment" by any legal humane standards (if inmates were animals, that inmates at this institution, Dade CI, would be shown on commercial for ASPCA and example) and would be a cruel and unusual punishment. Inmates here are subject inadequate diets - quite often portion served are less than half specified inmate rations, items are left off (no substitute) RPT: Records showed 2 inmates die inmates are subject to weeks without recreation privileges (again inadequate staffing and failure to keep to proper schedule for prisoner movement), described as RMI Butler et al. Inmates are subject to inadequate medical treatment (one doctor for almost 2000 inmates and several providers - whose job is to deny the treatment or to give inadequate treatment).

Petitioner's own circumstances include one (Chen) is over 2 1/2 months, yet has not seen physician or "provider" that could renew his medical passes (DOC rules dictate that only a physician at inmate's current institution can give medical passes - 10 days at this arrival specified). Now has been able to get medications (chronic & previous prescriptions) renewed.

Petitioner cites: Henderson v. Sec. of Corr.

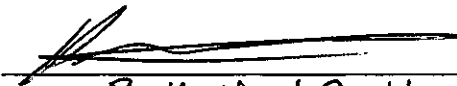
518 F.2d 694

& Clark v. Zimmerman, 394 F. Supp. 1161

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,


Billy Noel Catherwood

Date: August 14, 2023

U.S. Supreme Court Case No. _____

UNITED STATES SUPREME COURT

Billy Noel Catherwood,
Petitioner/Appellant,

VS.

RE: USAP11 22-12721

Secretary, FLDOC, et al.,
Respondent/Appellee.

**CERTIFICATE OF COMPLIANCE WITH TYPE-VOLUME LIMITS
TYPEFACE REQUIREMENTS, AND TYPE-STYLED REQUIREMENTS**

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2. This document complies with the typeface requirements of S. Ct.
3391(b) and the type-style requirement of S. Ct. 3391(b)

s. _____

Billy Noel Catherwood

Dated: August 14, 2023

18. 19.