

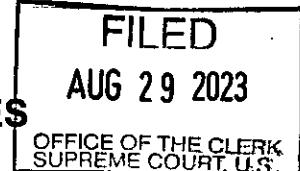
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STAFF INITIALS 

IN THE  
SUPREME COURT OF THE UNITED STATES



SHAWN CASTIGLIONE – PETITIONER  
(Your Name)

VS.

STATE OF FLORIDA – RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

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

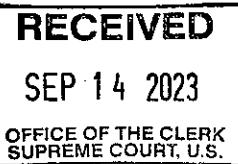
PETITION FOR WRIT OF CERTIORARI

SHAWN CASTIGLIONE # 166721  
(Your Name)

1599 SW 187th Avenue

Miami, Florida, 33194 – 2801

305-228-2000  
(Phone Number) Warden



## **QUESTION(S) PRESENTED**

- 1) Whether the Florida Statutes, Chapter 794 and Chapter 800, under which Petitioner was charged, tried, convicted, sentenced and incarcerated, are constitutionally valid statutes, or are they invalid, unconstitutional, and void ab initio;
- 2) Did the lower Court err, and violate Petitioner's right to due process and equal protection of the law, when the lower Courts refused to hear and rule on a constitutional question of law, as a matter of great public importance, and an apparent case of first impression, said lower Courts both ignoring the issue completely, and;
- 3) Whether the Seventeenth Judicial Circuit Court in and for Broward County, Florida, erred, and violated Petitioner's right to due process and equal protection of law when that Court illegally converted Petitioner's Petition for Writ of Habeas Corpus for Immediate Release, into a Motion for Post Conviction Relief, 3.850, then denied the Motion as untimely and procedurally barred.

## 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:

## RELATED CASES

1. *Shawn Castiglione v. Mark Inch, Florida Department of Corrections*,  
The 12<sup>th</sup> Judicial Circuit, Sarasota County, Florida.  
Judgment entered: July 28, 2022.  
Case No.: 2001 CF 000329 NC
2. *Shawn Castiglione v. State of Florida*,  
Case No.: 2D22-3663  
Second District Court of Appeal, State of Florida,  
Judgment entered: June 14, 2023.
3. *Shawn Castiglione v. State of Florida*,  
Case No.: SC2023-1016,  
Supreme Court of Florida,  
Judgment entered July 18, 2023.

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Case No.: 2001 CF 000329 NC  
Twelfth Judicial Circuit Court, Sarasota County, Florida.

APPENDIX B: Judgment Order from June 14, 2023  
Case No.: 2D22-3663  
Second District Court of Appeal, State of Florida

APPENDIX C: Judgment Order from July 18, 2023  
Case No.: SC2023-1016  
Supreme Court of Florida

APPENDIX D: Notice of Constitutional Question of law, submitted to each  
of the Courts in Appendices A-C above.

APPENDIX E: *DeBenedetto v. State*, 2021-CA-002433 WS/G.  
Order on Petition for Writ of Habeas Corpus for Immediate  
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Constitutional Question sufficient to require a response  
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## TABLE OF AUTHORITIES CITED

### A. CASES

*Shore v. Well*, 365 So. 3d 447 (Fla. 2018)

*Joseph DeBenedetto v. State*, 2021-CA-002433 WS/G

*Bell Atlantic MD v. Prince Georges County*, 202 F. 3d 863 94<sup>th</sup> Cir. 2000)

### B. FLORIDA CONSTITUTIONS

1) Article III, S.6

### C. STATUTES AND RULES

1) Rules of the Supreme Court, U.S. – Rule 10(a)(1), Rule 11

2) Fla. R. Civ. P. Rule 1.071

3) Fla. Statutes, Chapter 794

4) Fla. Statutes, Chapter 800

5) Fla. Statutes, 11.2421 – 2424

6) Fla. R. Crim. P. Rule 3.850

### D. OTHER

1) 28 U.S.C. § 1257(a)

2) 28 U.S.C. § 2101(e)

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 D 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 C 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 B 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 highest State Court to review the merits 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 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 July 18, 2023. A copy of that decision appears at Appendix C.

That Court ordered that no Motion for Rehearing or reinstatement will be entertained.

The deadline to file the Petition for Writ of Certiorari in this case is October 18, 2023.

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

## **CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED**

### **1) FEDERAL**

- a) Federal Rules of Judicial Procedure and Rules of the Supreme Court,  
Rule 1)(a)(1) and Rule 11**

### **2) STATE**

- a) Florida Constitution, Article 11, 5, 6**
- b) Florida Rules of Crim. Pro. 3.850**
- c) Florida Statutes Chapter 794, Chapter 800, §11.2421-2424**

## STATEMENT OF THE CASE

1. In the course of his research regarding the Florida State Appellate Rules and Procedures as they apply to his case, Petitioner began to educate himself on the laws and statutes under which he was arrested, tried, convicted, sentenced and incarcerated.
2. With the assistance of law clerks, he researched the history of each statute used in his case, and studied the legislative mandates and procedures required, in order for a statute to be brought before the Florida Legislature, and enacted into law.
3. As Petitioner accessed the legislative record in order to verify the validity of the statutes in question, one important piece of legislatively required documentation appeared to be missing.
4. The Florida Constitution requires that when a statute is created, amended, revised or repealed, a 'Revisers Bill' shall be attached to that legislation.
- 5(a). Florida Statutes § 11.2421-2424 states in part, "...all statutes and laws, or parts thereof which have expired, become obsolete, are invalid, repealed or superseded, either expressly or by implication, "shall" be omitted through the process of "Revisers Bill" duly enacted by the Legislature." (emphasis added)

5(b). The Florida Constitution, Article IV, s.6 states "...No law shall be revised, or amended by reference to its title only. Laws to revise and amend shall set out in full the revised or amended act, section, subsection or paragraph of a subsection."

6. Petitioner utilized family, friends and legal counsel to research this issue. They personally visited the offices of the Florida State Archives, the Florida Secretary of State, and various law school archives, and they conducted a thorough on-line search for the Revisers Bill that was mandated to be attached to the statutes in question, but that Revisers Bill cannot be found.

7. Petitioner, concluding that because that very important component of the legislative process to enact the statutes in question appeared to be missing, discovered that the statutes were enacted in violation of the provision of the Florida Constitution, specifically, Florida Constitution Article III. s.6, and also violates Florida Statute Chapter 11.242, and Chapter 11.2121-2424.

8. At this point, Petitioner filed a Petition for Writ of Habeas Corpus for Immediate Release with the 17<sup>th</sup> Judicial Circuit Court in and for Broward County, Florida.

9. The 17<sup>th</sup> Judicial Circuit Court, in violation of Petitioner's right to due

process and equal protection of the law, illegally converted the Petition for Writ of Habeas Corpus for Immediate Release, into a Motion for Post Conviction Relief, 3.850.

10. Following that illegal conversion, the 17<sup>th</sup> Judicial Circuit Court denied the illegally converted Motion as time barred and procedurally insufficient. (See Appendix A).

11. Also before the 17<sup>th</sup> Judicial Circuit Court, Petitioner filed a procedurally correct and timely Notice of Constitutional Question. (See Appendix D).

12. The Notice of Constitutional Question informed that and subsequent jurisdiction of the Constitutional Question of Florida Statute Chapter 794 and 800, and stated a Matter of Great Public Importance.

13. As the record clearly shows, the 17<sup>th</sup> Judicial Circuit Court pointedly and completely ignored the Notice.

14. Petitioner then timely filed his Notice of Appeal and Initial Brief in the matter, including the Notice of Constitutional Question, before the Florida District Court of Appeal, Fourth District.

15. The Fourth District Court of Appeal denied the appeal per curiam affirmed, no opinion. (See Appendix B).

16. Because no opinion was given, the Florida Supreme Court dismissed

the case due to a lack of jurisdiction to review an unelaborated decision from the District Court of Appeal. (See Appendix C).

17. This Petition for Writ of Certiorari follows:

18. As a point of note for consideration, at every step in the proceedings at bar, Petitioner has offered a remedy to the matter - simply produce a certified copy of the Revisers Bill in question, and Petitioner's argument is moot.

19. The Petition for Writ of Habeas Corpus, Motion to Produce, Notices and Requests for Subpoenas From Non-Parties, and at every other step in the judicial process here, and in and from every jurisdiction, the requests for the Revisers Bill has been pointedly ignored.

20. The elephant in the room, the Notice of Constitutional Question of Law as a Matter of Great Importance, which was procedurally correct and timely filed has been ignored.

21. As a second point of note for consideration, the Florida Supreme Court had jurisdiction to hear and rule on the appeal set before them, even with no opinion from the 4<sup>th</sup> DCA, under *Shore v. Wall*, 365 So. 3d 447 (Fla. 2018), where a case of first impression like the one at bar, is "a case brought before a Court of competent jurisdiction, where the Florida Supreme Court has not ruled on the issue.

22. As a case of first impression, the Florida Supreme Court, as well as the 4<sup>th</sup> DCA and the 17<sup>th</sup> Judicial Circuit Court, all had a duty to hear and rule on the issues herein, as they had not been heard before a Florida Court of competent jurisdiction before.

23. As a third point of note for consideration, the Court in *Bell Atlantic Md. V. Prince Georges County*, 212 F. 3d 863 94<sup>th</sup> Cir. 2000) ruled that "Deciding a constitutional question of law that is essential to the disposition of the case is "required" under due process when the question is one of great public importance." (emphasis added).

24. Petitioner contends that, setting aside the importance to the case at bar, Petitioner emphatically states that any constitutional question of law that affects 10's OF THOUSANDS OF PEOPLE, has to be a question of great public importance.

25. Following the *Bell Atlantic* Court opinion, the 17<sup>th</sup> Circuit Court herein, the 4<sup>th</sup> DCA, and the Florida Supreme Court have all violated the due process rights of this Petitioner, by ignoring a constitutional question of great public importance presented to them by Petitioner.

## **REASONS FOR GRANTING THE PETITION**

1. The most obvious reason for this Honorable Court to grant this Petition is the fact that the mandated Revisers Bill for the Florida Statutes Chapter 794 and Chapter 800 does not appear to exist.
2. This Petitioner has made multiple requests to multiple Courts, and to various non-party entities, in a due diligence search for the requested Revisers Bill.
3. Moreover, multiple petitioners, in multiple jurisdictions, have submitted the self-same requests for the Revisers Bill for Florida Statutes, Chapter 794 and Chapter 800.
4. Not one single Court, State entity or non-party has, to date, produced the Revisers Bill, which is mandated, required to be part and parcel of the legislative process of enacting the statutes in question.
5. One production of a certified copy of that Revisers Bill, renders every argument in the matter moot.
6. No Revisers Bill in the legislative process mandated by the Florida Constitution, means that the process of enacting Florida Statutes Chapter 794 and Chapter 800 was non-conforming to the constitutionally mandated legislative process.
7. Because the mandated legislative process was not strictly followed,

indeed was not followed, Florida Statutes Chapter 794 and Chapter 800 are invalid ab initio, were unconstitutionally enacted, and in practice do not constitutionally exist.

8. The State argues that subsequent repeals, revisions, additions and deletions cured the error, but the bell was rung and cannot be undone – every appeal, revision, addition and deletion was accomplished on a statute that did not exist in the first place.

9. The only cure was for the statutes to be rewritten, constitutionally submitted to the legislative process, and constitutionally enacted, and this did not take place in reality.

10. In the case at bar, the reality is that the Petitioner was arrested, tried, convicted, sentenced and incarcerated, for charges under a statute which never constitutionally existed.

11. In the case at bar, the Petitioner is innocent in accordance with the due process rights afforded him by the U.S. and Florida Constitutions, and is being restrained of his liberty in violation of those constitutional protections.

12. Moreover, literally tens of thousands of incarcerated individuals in Florida, were arrested, indicted, plead guilty or were convicted, and are incarcerated under the very same statutes under a scrutiny in the case at

bar.

13. In the Federal Rules of Civil Judicial Procedure and Rules, we find the following:

Rules of the Supreme Court

(9) Rule 10: Review on a Writ of Certiorari is not a matter of right, but of judicial discretion, the following indicates the character of the reasons the Court considers:

(1) A State Court.... has so far departed from the accepted and usual course of judicial proceedings... as to call for an exercise of this Court's supervisory power.

14. Comment: Petitioner submits that for the 17<sup>th</sup> Judicial Circuit Court, and the 4<sup>th</sup> District Court of Appeal, to both pointedly ignore a legitimate question of constitutional law, and the called into question of the constitutionality of the statutes in question, is a clear departure from the usual course of judicial proceedings, enough as to call for this Court to exercise its jurisdiction and power.

15. Moreover, there appears to be a markedly difference of opinion between the 17<sup>th</sup> and the 6<sup>th</sup> Judicial Circuit Courts in Florida.

16. In *Joseph Debenedetto v. State of Florida*, 2021-CA-002433 WS/G, that Court also heard a Petition for Writ of Habeas Corpus for Immediate Release (6<sup>th</sup> Judicial Circuit Court), with that argument mirroring the case at bar.

17. That Court held the Petition in abeyance so that *Debenedetto* could

bring the case into compliance with Florida Rules of Civil Procedure, Rule 1.071. (See Appendix "E" and "F.")

18. This rule requires the submission of a Notice of Constitutional Question, and that Court certified the question when it Ordered the State to respond.

19. In not one single State response, not in *Debenedetto*, nor in the case at bar, is the simple request, the requirement as proof of the State's assertions that the statutes are constitutional, been fulfilled – a simple production of a certified copy of the Revisers Bill from the legislative process that created Florida Statute 794 and 800.

20. The Courts in the instant case chose to simply ignore the constitutional question.

21. Finally, in the Rules of the Supreme Court, Rule 11, we find that, "A Petition for Writ of Certiorari to review a case before a judgment is entered in that Court, will be granted only upon a showing, that the case is of such imperative public importance, as to deviate from normal appellate practice, and to require immediate determination in this Court. (See U.S.C. 28 § 21.01(e)).

22. Petitioner contends that the fact that he is incarcerated under statutes that do not legally exist would be sufficient in and of itself to compel this

Honorable Court to act.

23. Petitioner further contends that the fact that there are literally tens of thousands of men and women in Florida, who have been arrested, tried, convicted, incarcerated and excoriated upon release, based on statutes which were invalid *ab initio*, are unconstitutional, and do not exist, make the determination of this Honorable Court imperative, of great public importance, and of sufficient reason to deviate from any appellate practice, and hear the matter.

24. For all that is included in this petition to this point, petitioner humbly submits that he has shown this Honorable Court the reasons for hearing and ruling in the case at bar, and the reasons for the granting of this petition.

## CONCLUSION

The petition for writ of certiorari should be granted.

Respectfully submitted,

 # 166721

Shawn Castiglione, pro se

DC# 166721

Everglades Correctional Institution

1599 SW 187<sup>th</sup> Ave.

Miami, FL 33194-2801

Date: August 29, 2023