

PROVIDED TO
MARTIN CORRECTIONAL INSTITUTION
ON 1/22/24
FOR MAILING
(15)

No. 23-5798

ORIGINAL

RKB

IN THE
SUPREME COURT OF THE UNITED STATES

Supreme Court, U.S.
FILED

JAN 22 2024

OFFICE OF THE CLERK

EDGAR E. OLIVER --- PETITIONER

vs.

FLORIDA COMMISSION ON OFFENDER REVIEW --- RESPONDENT(S)

ON PETITION FOR REHEARING

UNITED STATES SUPREME COURT RULE 44

PETITION FOR A REHEARING

Edgar E. Oliver DC# 047716
MARTIN CORRECTIONAL INSTITUTION
1150 S.W. Allapattah Road
Indiantown, Florida 34956-4301

COMES NOW, the Petitioner, Edgar E. Oliver, Pursuant to Rule 44, moves this Honorable Supreme Court for Leave to file Petition for Rehearing to prevent [and] correct a fundamental miscarriage of justice. This Motion is presented in Good faith.

The intervening circumstances that are raised in this cause are:

- 1.)The Petitioner was denied due process of Law within the Fourteenth Amendment of the United States Constitution whereas when an agency of the State uses false information to base a decision to deny a Petitioner's life and liberty according to the fundamental principles of due process, and continues to do so at present.
- 2.)The Lower Tribunal failed to consider or address due process violations, whereas to not review the issues according to Statute, and fairness according to the Fourteenth Amendment of the United States Constitution, resulting in a serious misapplication of the law. This variance in the application of rightfulness unto the Petitioner resulted in neglecting and disregarding of the Fourteenth Amendment due process clause, which should be overall considered unto the Petitioner, and all likes of others to come in the future.
- 3.)This Court is requested to proceed to the merits of the actual controversy and review all findings and aspects of fairness which is implicit in the Due Process Clause of the

Fourteenth Amendment by which that States are bound.

- 4.)To review this cause in the light of the Eighth Amendment, which thus far has deprived Petitioner of Life and Liberty, and subjecting Oliver to severe cruel and unusual punishment, constituting a Miscarriage of Justice, and a Manifest of Injustice. Thereby, not affording Due Process of Law.
- 5.)This Court should review the challenges of Petitioner on the grounds that it is an "invalid exercise of delegated legislative authority", when the Agency deprives a Petitioner of life and liberty by committing fraudulent means and the likes of all evil that should not be.
- 6.)To review this cause in the interest of insuring that constitutional provisions and outlines will remain intact throughout the Union of the United States of America.

THIS IS OF GREAT PUBLIC IMPORTANCE BECAUSE:

It would without doubt convey the wrong alternative to the State of Florida if this Court does not intervene. And the error will certainly repeat itself over and over if this Court fails to correct the wrong of Constitutional dimension. And hereby, which would affect a multitude of people in the State of Florida, would appear to be a forum not affected nor bound by [Art. VI cl.2]. And this High Court precedents.

And in support thereof petitioner will state affirmatively that:

(1) This case involves exceptional circumstances which confines this Court to review and evaluating it in relation to the Federal Constitution.

(2) This Article III High Court may intervene "only" to correct wrongs of Constitutional dimension.

ANALYSIS

On three (3) occasions, Petitioner Oliver has met the set established PPRD date. On each denial, Oliver has complied with what was stated as in Extra Program Participations. After, successfully competing such stated reasons and Programs, each time Oliver has been denied release, and a new date being set resulting in more years of incarceration unto Oliver.

The first PPRD date that Oliver met was in 2012. Wherein, he was informed that because of Program active, or lack of, his PPRD was extended five years (5). Oliver was transferred to Lake Correctional Institution. While at Lake Correctional, Oliver successfully completed numerous programs, in compliance with the stated reasons.

One week before Oliver's release date of January 15, 2017, the Commission sent a new Order, rejecting the established date, and again issued a Order to extend Oliver's date another additional three (3) years, recommending that Oliver be sent to Charlotte Correctional Institution to participate in another program.

The new date was established to be January 15, 2020. Oliver successfully completed programs at Charlotte.

Upon the entering of the January 15, 2020 date, again the Commission rejected the release honoring of Oliver, and a Extraordinary Review was scheduled and held on March 4, 2020. The results therein were more devastating, as well as catastrophe, as it remains that Oliver's date, is suspended, and the next hearing date was set off (7) seven more years.

It is also noted that this is Oliver's first imprisonment of his entire life. Even the fact that he has never had any Juvenile infractions. Why then must Oliver be subjected to such inhumane treatment? -- Severely so, after Oliver has served Forty-eight years, (Four decades plus eight years) and counting. The record or opinions below never conclusively attach any records that refutes the fraud. Or never refutes the allegation of the fraud that was used. To allow such treatment against Oliver overlooks any accountability by the Florida's Judicial System as well as corrective measures by Florida's Penal System. Such treatment allows a manifest injustice. That the Ends of justice will never come unto Oliver. Thereby, allowing the State of Florida to be hyprocrites of the union, in and for the United States of America. And that there is not a Constitution in which the State of Florida has to be accountable for, regardless of Due Process, and Equal Protection of the law withstanding any

Constitutional Amendments, that has been the roots of the United States for all it's historical existence.

ARGUMENT

This Court is requested to proceed to the merits of the actual controversy and reverse the Lower Courts, instructing the Court to grant the original petition for Writ of Mandamus, by way of its Certiorari. Further, to deal with an aspect of fairness which is implicit in the Due Process Clause of the Fourteenth Amendment by which the States are bound. The failure of the District Court to examine the factual issues, and the merits of the issues presented, thereby neglecting to issue the Writ constitutes an interference with the Constitution of the United States Fourteenth Amendment, as well as the Eighth Amendment, thereby depriving the Petitioner of Life and Liberty, and subjecting Oliver to severe cruel and unusual punishment, constituting a Miscarriage of Justice, and a Manifest of Injustice. Thereby, not affording Due Process of Law. The Administrative agency, has no authority to reject the United States Supreme Court precedent. No agency shall have authority to adopt a rule only because it is reasonably related to the purpose of the enabling legislation and is not arbitrary and capricious or is within the agency's class of powers and duties, nor shall an agency have the authority to implement statutory

provisions setting forth the general al legislative intent or policy.

Oliver put forth his claims as that the Florida Commissions continually relies on fraudulent practices, under the disguise of its discretion, as opposed to abiding by the Florida Statutes and Rules, in which the Florida Legislatures has imposed in these matters.

Inaccurate information in the files of Oliver that remain unverified or un-rebutted inflates the risk of erroneous decisions, and thus flaw the truthful decision making process. Incorrect statements stated within the records and/or files of Petitioner Oliver is a direct violation of Due Process of the Fourteenth Amendment, wherein an agency uses and relies on such erroneous information as true, to deprive Petitioner Oliver of his life and liberty. These actions within themselves amounts to conscience - shocking behavior, which is unfair and unreasonable exertion of government power, by so extravagant or arbitrary as to constitute abuse or power, and all reasonable presumptions are in favor of law's validity. The erroneous statements of presumed fact is worthy of constitutional protection. Some degree of abuse is inseparable from the proper use of everything; and in no instance is this more true than in the case of Oliver. And punishment of error runs the risk of

inducing a cautious and restrictive exercise of the constitutionally guaranteed freedoms.

The applicability of due process protections turns "on the extent to which an individual will be condemned to suffer grievous loss" citing Joint Anti-Fascist Refugee Committee v. McGrath, 341 U.S. 123, 168, 71 S.Ct. 624, 646, 95 L.Ed. 817 (1951) (Frankfurter, J., concurring), and on the "nature of the interest." 408 U.S., at 481, 92 S.Ct. at 2600. This liberty interest derived solely from the existence of a system that permitted criminal offender to serve their sentence on probation or parole. A criminal offender's interest in securing release on parole is therefore directly comparable to the liberty interests that the United States Supreme Court recognized in Morrissey v. Brewer, 408 U.S. 471, 92 S.Ct. 2593, 33 L.Ed.2d 484 (1972); Gagnon v. Scarpelli, 411 U.S. 778, 93 S.Ct. 1756, 36 L.Ed.2d 656 (1973) and Wolff v. McDonnell, 418 U.S. 539, 555-556, 94 S.Ct. 2963, 2974, 2975 41 L.Ed.2d 935 (1974).

More-so, Oliver challenges on the grounds that it is an "invalid exercise of delegated legislative authority". Whereas, actions that goes beyond the powers, functions, and duties delegated by the Legislature. To use such fraudulent practices against Oliver, goes beyond the Legislature's intent. Therein, this agency has committed Fraud unto the Court, by the usage of fraudulent means, and the likes of all evil that should not be.

Courts are the central dispute-settling institutions in America's society. They are bound to do equal justice under law, to rich and poor alike. They fail to perform their function in accordance with the Equal Protection Clause if they shut their doors to indigent Petitioners altogether.

The Petitioner submits that the jurisdiction of this Court can be protected by the issuance of a constitutional writ under the provisions of the United States Supreme Court of America.

The United States Supreme Court of America has jurisdiction to review decisions of a States Supreme Court, and Florida District Court of Appeal that are certified to be of great public importance and those that are certified to be in conflict with other District Court decisions.

The United States Supreme Court of America has discretionary jurisdiction under the United States Constitution to review certain kinds of decisions implemented by these constitutional provisions and outlines the procedures for discretionary review in such cases.

This cause before this Court on Writ of Certiorari pursuant to 28 U.S.C. Section 1251; and U.S. Const., Amdt. 11.; and Petitioner moves this High Court to employ "the Ends of Justice" analysis (test) on whether Writ of Certiorari must issue to correct a fundamental miscarriage of justice, "whereby an Agency

of the State of Florida, has a failure to comply with the laws implemented by the Constitution of the United States".

This Honorable Supreme Court is called upon to consider a question that has important implications for Fourteenth Amendment Jurisprudence.

Moreover, this High Court expressly recognized that "the cause and prejudice standard will be met in cases where review of a State Prisoner's claim is necessary to correct a fundamental miscarriage of Justice."

Here, Petitioner without doubt has met the fundamental miscarriage of justice standard by asserting a colorable claim of fraudulent practices being applied unto him.

The crux of Petitioner's claim is his due process rights were violated because of the Administrative Agency's misconduct.

This Honorable Court **"must"** intervene to correct the wrong of Constitutional dimension where a State Agency has violated Petitioner Federal protected right guaranteed to [him] by the Fourteenth Amendment, and the Courts of Florida have idly sat by without any concerns of rectifying all matters, in which the Constitution stands for.

Wherefore, Petitioner affirmatively argues that the Lower Court not only failed to act to "avoid" or "correct" a Fundamental Miscarriage of Justice, as defined by Law, a long series of Supreme Court decisions of course, that established

the proposition that the "Fourteenth Amendment" cannot tolerate a State's Administrative Agency to obtain a decision, which denies Petitioner of Life and liberty, by the knowing use of false evidence, and fraudulent practices.

But, such a decision exceeded its power in ruling contrary to the judicial decisions of this Court. Petitioner's proceedings were tainted by prejudice through deliberate fabrication.

Petitioner presented "specific allegations" before the Court that fully developed, was able to demonstrate that Petitioner is entitled to relief. It was the Court's Constitutional duty to provide the necessary facility and procedures for an adequate inquiry.

This Court must not fail in this context and its failure amounts to illegitimate and unconstitutional practice.

Petitioner affirmatively asserts that reconsideration is necessarily based on the need to correct clear error or prevent manifest injustice.

This is a simple claim of material facts, which demonstrates usurpation of Judicial Power. The Doctrine of Judicial Independence does not afford judges, (and for Administrative agencies) the power to do as they please.

Thus, Writ of Certiorari is appropriate where there is a clear abuse of discretion and/or usurpation of Judicial Power.

Thus, the Court's decision clearly contradicts the relevant Supreme Court conclusions on materially indistinguishable facts; which is the functional equivalence of violating the law simply to deny the entitled relief.

The Supreme Court of the United States has consistently held that a decision obtained by the knowing use of perjury is fundamentally unfair. See: Pyle v. Kansas, 317 U.S. 213, 63 S.Ct. 177, 87 L.Ed. 214; Alcorta v. Texas, 355 U.S. 28, 78 S.Ct. 103, 2 L.Ed.2d 9; Napue v. Illinois, 360 U.S. 264, 79 S.Ct. 1173, 3 L.Ed.2d 1217; Miller v. Pate, 386 U.S. 1, 87 S.Ct. 785, 17 L.Ed.2d 690; Giglio v. United States, 405 U.S. 150, 92 S.Ct. 763, 31 L.Ed.2d 104; Donnelly v. DeChristoforo, 416 U.S. 637, 94 S.Ct. 273, 38 L.Ed.2d 216.

The use of fraudulent practices arguably give rise to any inference of perjury, and does deprive Oliver of fair proceeding as guaranteed by the Due Process Clause of the Fourteenth Amendment.

The constitutional obligation to disclose material is not measured simply by the moral culpability of the Agency, ordinarily appropriate when the accused was prejudiced by the actions. If the agency knowingly presents perjured facts, all presentations of perjured fact is "a corruption of the truth-seeking function of the process". And if there is a substantial

basis for claiming that the material, is true, the failure to disclose is rarely excused.

The touchstone of due process analysis is the fairness of the proceedings. The Defendant's actions are "vindictive" and "scandalous." Whereas, the Defendant's conduct severely constitute a most serious act of misconduct that warrants correction in the immediate and appropriate ways of the judicial system. If it wasn't for the assiduous efforts of Oliver seriously seeking his liberty, the actions that are and were against him could have prevailed forever. Thereby in itself, shows that they are vindictive and scandalous against Oliver. The use of such false information on a numerous of occasions, clearly has shown that it appears calculated to evade or stymy in the central issues against Oliver's liberty interest. Whereas the integrity of the civil litigation process depends on the truthful disclosure of facts.

The Eighth Amendment places a flat prohibition against the infliction of "cruel and unusual punishments." This reflects a societal judgment that there are some punishments that are so barbaric and inhumane that the Supreme Court of the United States will not permit them to be imposed on anyone, no matter how opprobrious the offense. See: **Robinson v. California**, 370 U.S. 660, 676, 82 S.Ct. 1417, 1425, 8 L.Ed.2d 758 (1962).

This Court is also requested to be reminded and mindful that a decision in this cause should not disregard basic principles of justice established centuries ago and enshrined beyond the reach of administrative/governmental interference in the Bill of Rights.

QUESTION(S) PRESENTED TO THE UNITED STATES SUPREME COURT

DOES THE FLORIDA COMMISSION ON OFFENDER REVIEW, HAS THE FREEDOM TO DISOBEY THE UNITED STATES SUPREME COURT, THE CONSTITUTION OF THE UNITED STATES, THE FLORIDA LEGISLATURE, AND THE CONSTITUTION OF FLORIDA, IN THE NAME OF DISCRETION?

WILL THE UNITED STATES SUPREME COURT ALLOW FRAUDULENT PRACTICES TO BE ALLOWED WITHIN THE STATE OF FLORIDA'S JUDICIAL SYSTEM AND PENAL SYSTEM?

As a matter of: "To have a great effect on the proper administration of justice:

WHOM SHALL BE THE AUTHORITY OF THE UNITED STATES OF AMERICA, OR THE UNITED STATES SUPREME COURT, OR THE STATE OF FLORIDA, WHEREBY AN AGENCY OF FLORIDA HAS THE POWER TO OVERRIDE THE SUPREME COURT OF THE UNITED STATES?

Petitioner contends *arguendo*, that the Supremacy Clause [Art. VI cl.2] give force to Federal action authorized by the Constitution. See: Cook v. Moffate & Curtis, 46 U.S. 295, 12 L.Ed.159 (1947).

Thus, the correction of a miscarriage of justice is not merely a judicial power, it is an unrenunciabile judicial duty to render the Federal Constitution in violative. This Court must ensure that justice is applied fairly and evenly.

THE SUPREMACY CLAUSE

Under § 1343(3), Congress has created federal jurisdiction of any civil action authorized by law to redress the deprivation under color of state law "of any right, privilege or immunity secured [1] by the Constitution of the United States or [2] by any Act of Congress providing for equal rights of citizens or of all persons within the jurisdiction of the United States."

Oliver points out that the first prepositional phrase can be fairly read to describe rights secured by the Supremacy Clause. For even though that Clause is not a source of any federal rights, it does "secure" federal rights by according them priority whenever they come in conflict with State law. ¹

As to other rights protected by the Constitution and hence secured by it, brought within the provisions of R.S. § 5508, 18 U.S.C.A. § 51; Logan v. United States, 144 U.S. 263, 12 S.Ct. 617, 36 L.Ed. 429; In re Quarles and Butler, 158 U.S. 532 15 S.Ct. 959, 39 L.Ed. 1080; United States v. Mosley, 238 U.S. 383, 35 S.Ct. 904, 59 L.Ed. 1355; Hague v. CIO, 307 U.S. 496, 526-527, 59 S.Ct. 954, 969, 83 L.Ed. 1423.

The due process clause contains a substantive component that bars certain arbitrary, wrongful government actions regardless

¹ The argument that the phrase in the statute 'secured by the Constitution' refers to rights created, rather than protected by it, is not persuasive. The preamble of the Constitution, proclaiming the establishment of the Constitution in order to 'secure the Blessings of Liberty, uses the word 'secure' in the sense of 'protect' or 'make certain.'

of the fairness of the procedures used to implement them. Zinerman v. Burch, 494 U.S. 113, 125, 110 S.Ct. 975, 983, 108 L.Ed.2d 100 (1990). See also: Salerno, 481 U.S. at 746, 107 S.Ct. at 2101; Daniels v. Williams, 474 U.S. 327, 331, 106 S.Ct. 662, 664-665, 88 L.Ed.2d 662 (1986). Freedom from bodily restraint has always been at the core of the liberty protected by the Due Process Clause from arbitrary governmental action. Youngberg v. Romeo, 457 U.S. 307, 316, 102 S.Ct. 2452, 2458, 73 L.Ed.2d 28 (1982) "It is clear that commitment for any purpose constitutes a significant deprivation of liberty that requires due process protection". Jones v. United States, 463 U.S. at 361, 103 S.Ct. 3043 at 3048; Addington v. Texas, 441 U.S. 418, 425, 99 S.Ct. 1804, 1809, 60 L.Ed.2d 323 (1979). Therefore, a State must have "a constitutionally adequate purpose for the confinement." O'Connor v. Donaldson, 422 U.S. 563, 574, 95 S.Ct. 2486, 2493.

The Supreme Court of the United States have always been careful not to "minimize the importance and fundamental nature" of the individual's right to liberty. Salerno, *supra*, 481 U.S. at 750, 107 S.Ct. at 2103.

The United States Supreme Court has repeatedly recognized that civil commitment for any purpose constitutes a significant deprivation of liberty that requires due process protection.. See: e,g, Jackson v. Indiana, 406 U.S. 715, 92 S.Ct. 1845, 32

L.Ed.2d 435 (1972); Humphrey v. Cady, 405 U.S. 504, 92 S.Ct. 1048, 31 L.Ed.2d 394 (1972); In re Gault, 387 U.S. 1. 87 S.Ct. 1428, 18 L.Ed.2d 527 (1967); Specht v. Patterson, 386 U.S. 605, 87 S.Ct. 1209, 18 L.Ed.2d 326 (1967).

The Courts' failure or refusal to grant the petition for Writ of Certiorari, thereby by not addressing the merits that were place before them. The petitioner respectfully submits that this Court should issue a constitutional writ directing the Court to issue a Writ of Mandamus, by it's Certiorari power to the agency, compelling the immediate release of Petitioner Oliver.

Wherefore, Petitioner affirmatively argues that the Lower Court not only failed to act to "avoid" or "correct" a Fundamental Miscarriage of Justice, as defined by Law, a long series of Supreme Court decisions of course, that established the proposition that the "Fourteenth Amendment" cannot tolerate a State's Administrative Agency to obtain a decision, which denies Petitioner of Life and liberty, by the knowing use of false evidence.

The use of fraudulent practices arguably give rise to any inference of perjury, and does deprive Oliver of fair proceeding as guaranteed by the Due Process Clause of the Fourteenth Amendment.

The constitutional obligation to disclose material is not measured simply by the moral culpability of the Agency,

ordinarily appropriate when the accused was prejudiced by the actions. If the agency knowingly presents perjured facts, all presentations of perjured fact is "a corruption of the truth-seeking function of the process". And if there is a substantial basis for claiming that the material, is true, the failure to disclose is rarely excused.

The Eighth Amendment places a flat prohibition against the infliction of "cruel and unusual punishments." This reflects a societal judgment that there are some punishments that are so barbaric and inhumane that the Supreme Court of the United States will not permit them to be imposed on anyone, no matter how opprobrious the offense. See: **Robinson v. California**, 370 U.S. 660, 676, 82 S.Ct. 1417, 1425, 8 L.Ed.2d 758 (1962).

Presented in Good faith.

Executed this 22nd day of January, 2024.

CONCLUSION

Based on the preponderance of facts here, there can be no doubt that such circumstances inherently results in a complete miscarriage of justice. The Petitioner respectfully prays that this Court will entertain and Order hereby GRANTING this petition for a Rehearing in this cause.

Respectfully submitted,

/s/

Edgar E. Oliver
DC# 047716 A-2105-L
Martin Correctional Institution
1150 S.W. Allapattah Road
Indiantown, Florida 34956-4301

United States Supreme Court Case No. 23-5798

UNITED STATES SUPREME COURT

Edgar E. Oliver,
Petitioner/Appellant,

vs.

Case No.: 23-5798

Florida Commission
On Offender Review,
Respondent/Appellee.
_____ /

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

Check the appropriate box in section 1, and check the box in section 2

1. Type-Volume

This document complies with the word limit of S. Ct. 33(2)
Because, excluding the parts of the document exempted by
S. Ct. 33(1)(d) This document contains 3,990 words.

2. Type face and Type-Style

This document complies with the typeface requirements of
S. Ct. 33(1)(b) and the type -style requirement of S
.Ct. 33(1)(b)

(s) Edgar E. Oliver

Dated: January 22nd, 2024.