

No. 23-12188

ORIGINAL

23-5992

IN THE

SUPREME COURT OF THE UNITED STATES

FILED

OCT 30 2023

OFFICE OF THE CLERK
SUPREME COURT, U.S.

In Re John Bailer — PETITIONER
(Your Name)

ON PETITION FOR A WRIT OF HABEAS CORPUS

PETITION FOR WRIT OF HABEAS CORPUS

John Bailer

(Your Name)

C/o Dorothy Norton

1024 E. 23rd Ave.

(Address)

Tampa, FL 33605

(City, State, Zip Code)

850-624-5931

(Phone Number)

QUESTION(S) PRESENTED

1. Whether Petitioner's judgments of conviction pursuant to the State's Habitual Sentencing pursuant to F.S. 775.084 is in violation of The U.S. Constitution As Petitioner was sentenced to consecutive Habitual terms in violation of state law while others similarly situated are not sentenced in such a manner or are given timely relief from such a sentence which sentence violates the Due Process and Equal Protection clauses of The U.S. Constitution. Fifth and Fourteenth Amendments.

2. Whether Petitioner is being overly detained without due process of law as his sentences are completed

3. Whether it is ever constitutionally permissible to hold a person / defendant / ^{petitioner} even a day past the end of sentence

4. Whether it is constitutionally permissible to deprive a person / defendant / petitioner of freedom on an uncharged offense.

5. Whether it is ever constitutionally permissible for a State to violate its own Constitution and Laws in sentencing a person / defendant / petitioner in a manner different to others similarly situated in violation of the Equal Protection Clause

Questions Presented For Review Rule 14.1(a)

6. Whether ET IS UNCONSTITUTIONAL TO UNLAWFULLY RESTRAIN A PERSON

WITHOUT DUE PROCESS OF LAW

7. Whether Petitioner IS BEING UNCONSTITUTIONALLY AND UNLAWFULLY RESTRAINED

WITHOUT DUE PROCESS OF LAW

8. Whether Petitioner's Claims Are Meritorious

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IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF HABEAS CORPUS

Petitioner respectfully prays that a writ of habeas corpus issue.

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 UNK; or, } UNK
☐ 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☐ is unpublished.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 UNK; or, } UNK
☐ 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☐ is unpublished.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 C to the petition and is

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☐ is unpublished.

The opinion of the Florida Supreme court appears at Appendix D to the petition and is

☒ reported at UNK; or, } UNK
☐ 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 06/08/2023 + 07/07/2023

☐ 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: 07/07/2023, and a copy of the order denying rehearing appears 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.

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 01/13/2023.
A copy of that decision appears at Appendix C.

☒ A timely petition for rehearing was thereafter denied on the following date: UNK, and a copy of the order denying rehearing appears at Appendix Can't locate ~~_____~~

☐ 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

5th, 6th, 8th, 13th, ~~14th~~ 14th Amend

Federal § 3811 Charging an offense "on or about"

Fla. ~~225.084~~ 775.084

3.140 (b) variance in date on charging papers

**STATEMENT OF THE CASE
& RULE 20.4(A) STATEMENT**

Presiding Judge Brandt Downey at Pinellas County, Florida,
On September 30, 1992 a single trial was held on 4 Counts of possession
of Firearm by convicted felon leading to conviction on all counts and
sentencing to 5 years each ~~consecutively~~ and as habitual offender for
a total of 20 years to follow an unrelated property crime charge of 20
years habitual, and thus a 40 year sentence was had. Judge A. Roncolmo ^{was} ~~Property Crime~~
~~Judge~~
Just before trial at trial on record Judge Downey offered me a 7 year deal
for all charges; earlier on record he threatened me that if I did not take
his deal that I would regret it and would die in prison or would never
get out of prison. My Public Defender refused my requests to seek Recusal so
I then filed pro se. Judge Downey "took issue" with the motion to ~~Recuse~~
by law in Florida his taking issue Mandated Recusal as he was now disqualified to
preside. My appointed Appeals Attorney refused my request to file or raise the
issue — "a dealbang winner" — on appeal, ~~in~~ in spite of the on record un-
fair prejudicial trial and vindictive sentence.

At appeal one of the 4 possession charges was overturned and resentencing ordered on
the remaining 3. On July 17, 1994 resentencing ~~was~~ was had without me in
attendance thru no ~~for~~ fault of my own; I wanted to be there and never
knowingly or intentionally waiving the right. Judge Downey Reimposed the same
20 years; but after motions and appeal pro se a 15 year sentence resulted.
I am being overly-restrained, or unlawfully held in illegal, unconstitutional and
Completed, vindictive sentences.

On April 28, 1999 the U.S. District Court, M.D. of Florida found and ruled the
charges to be "a continuous series of events." Unfortunately, for me ~~I~~ ^I
did not know the meaning or relevance of that ruling until recently. APP. E
As possession ^{of firearm is} a continuing crime ~~is~~ "Continuous Series of events" Same firearm
possessed on different dates is a single offense; single sentences cont...

Statement of the Case

Cont... 1

Moreover, a single trial here is evidence of a single offense calling for a single sentence. Which here is 5 years total. ~~So~~ is completed. Further, my sentences are illegal under State and Federal law due to the fact that my sentences are consecutive habitual and ~~can't~~ can't be both.

All other similarly situated in Florida are treated differently as they are not sentenced and or serving sentences like my sentences, And ~~or~~ ~~if~~ ^{if} sentenced in such manner relief is readily given.

Even though my illegal sentences are ~~com~~ completed I am on supervised release with a GPS ankle monitor and a 7-7 curfew.

~~and~~

Statement of The Case

Cont... 2

And OR

On April 6, 2012 I ~~was~~ was released on Conditional Release ~~Supervision~~ even though this unconstitutional, illegal sentence were already completed.

In 2018 I was sent back to prison on a violation which was the fruit of an entrapment.

There ~~was~~ was a new law violation and 4 technicals which would and could not stand without the ~~new~~ new law violation as they hinge on the new law offense and would not exist without it. The only properly ^{charged} new law offense is at ~~the~~ ^{warrant} App. F

The new offense resulted in a 3rd month sentence ^{con-}current with the original and completed sentences. And ended in October, 2018. But I was still ~~held~~ ^{held} on the completed sentence. ~~I~~ I should have been released at that ~~time~~ ^{time} even if the 1992 sentence had not been completed. Because the parole / CAS hearing officer found me not guilty of the only lawfully charged or properly charged new law offense. And ~~again~~, the technical ~~would~~ would not have existed ~~but~~ ^{but} for the new law offense. ~~As~~ as ~~the~~ ~~new~~ ~~law~~ ~~offense~~ ~~not~~ ~~guilty~~ New law offense not guilty, App. G at Allegations 2, 3 and 4. And see App. H Affidavit ~~charging~~ charging a different violation altogether, but never heard.

Also the Court did not sentence me to any ~~period~~ period of supervised release.

As I am a layman without ⁱⁿ ~~the~~ ^{the} law, ignorant and thus unable to hire competent counsel I pray this ~~the~~ Court treat me rather leniently and not hold me to the exacting standards of an attorney. (cite omitted)

Statement of The Case

Cont... 3

And or

I unconstitutionally received ~~Constitutionally~~ ~~Constitutionally~~ illegal consecutive habitual sentences as Florida Law mandates current, and or Federal Law and Florida mandates one Sentence in this possession of ~~Firearm~~ of Firearm case.

I am actually innocent of the illegal, unconstitutional sentences, Not the offender Florida Courts unconstitutionally ~~barred~~ ~~me~~ without ~~Reaching~~ ~~merit~~ in this manifest Injustice case. And the Florida Supreme Court improperly concluded it had ~~no~~ no jurisdiction here.

Reference to and incorporate by reference all appendices.

REASONS FOR GRANTING THE PETITION

I pray this petition shows that the writ will be in aid of the Courts appellate Jurisdiction as it shows a life ~~near~~ ^{also} Restraint without benefit of due process ~~and~~ ^{and} ~~also~~ ^{also} shows a ~~to~~ violation of the 13th Amendment. And ~~the~~ these exceptional circumstances ~~can~~ ^{discretionary} warrant the exercise of the Courts Jurisdiction.

Each day here Brings a ~~new~~ new challenge of action

And as Judge Julia Carnes ~~present~~ formally ^{the} ~~in~~ Atlanta Courts of Appeal and now at the 5th Circuit ~~State and Fed~~ said

in 2005 ~~at least~~ 48 hours is the ~~most part of a~~
~~year~~ the most time that should pass if a person is overn

mechanical. I ~~propose~~ phosphate.

renewed. I ~~presented~~ paraphrase.
I tried to file in the Middle District But was dismissed
and the 11th Circuit denied application for second habeas,
And all other courts simply denied all without reaching merits.
This court is my last and ~~only~~ effort. Resort. I've taken all other

~~Available~~ ~~document~~ ~~Available~~

At 79 years old I am being returned to ~~the~~ Prison for losing a part of the GPS system even ~~though~~ I ~~report~~ reported the loss immediately

CONCLUSION

The petition for a writ of habeas corpus should be granted.

Respectfully submitted,

John Bailen
John Bailen John Bailen

Date: ~~09/09/2023~~ October 30, 2023

I Declare under penalty of perjury the above is true.

John Bailen
10/30/2023

John Bailen

John Bailen
10/12/2023

10/20/2023

John Bailen 10/30/2023