

8  
12  
No. 23-12188

In The

Supreme Court of The United States

John Bailey r Petitioner.

vs

Florida Dept of Corrections, State of Florida, Ashlyn Miller,  
Florida Commission on Offender Services, Respondents.

Appendices A - N

Petition for Writ of Habeas Corpus

10/30/2023

John Bailey

John Bailey

John Bailey

John Bailey

John Bailey

John Bailey

10/12/2023

Appendices

- App. A. US. Court of ~~Appeals~~ Appeals 11th Cir. Order No. 23-1771 and 23-12188
- App. B. US. ~~MO~~ MO order — Court locate
- App. C. Florida 2PCA order 2023-0003
- App. D. Florida Supreme Court order SC2023-0302 ~~0302~~ 0302
- App. E. US MO ~~order~~ order 96-1351 - Cir-T- 29 E
- App. F. Florida Comm'n on offender Review <sup>Chargers</sup> Warrant (VOP) Charging
- App. G. Comm'n ~~Review~~ ~~Review~~ Hearing Officer's Findings
- H. ~~Florida~~ Florida Probation ~~the~~ Charge Affidavit

John Barker

John Barker

In the  
United States Court of Appeals  
For the Eleventh Circuit

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No. 23-11771

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In re: JOHN BAILEY,

Petitioner.

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Application for Leave to File a Second or Successive  
Habeas Corpus Petition, 28 U.S.C. § 2244(b)

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Before WILSON, NEWSOM, and BRANCH, Circuit Judges.

BY THE PANEL:

Pursuant to 28 U.S.C. § 2244(b)(3)(A), John Bailey has filed an application seeking an order authorizing the district court to consider a second or successive petition for a writ of habeas corpus. Such authorization may be granted only if:

(A) the applicant shows that the claim relies on a new rule of constitutional law, made retroactive to cases

~~\_\_\_\_\_~~ APP. A

on collateral review by the Supreme Court, that was previously unavailable; or

(B)(i) the factual predicate for the claim could not have been discovered previously through the exercise of due diligence; and

(ii) the facts underlying the claim, if proven and viewed in light of the evidence as a whole, would be sufficient to establish by clear and convincing evidence that, but for constitutional error, no reasonable factfinder would have found the applicant guilty of the underlying offense.

28 U.S.C. § 2244(b)(2). “The court of appeals may authorize the filing of a second or successive application only if it determines that the application makes a *prima facie* showing that the application satisfies the requirements of this subsection.” *Id.* § 2244(b)(3)(C); *see also Jordan v. Sec’y, Dep’t of Corr.*, 485 F.3d 1351, 1357–58 (11th Cir. 2007) (explaining that this Court’s determination that an applicant has made a *prima facie* showing that the statutory criteria have been met is simply a threshold determination).

Bailey is a former Florida prisoner who was convicted in 1992 of three counts of possession of a firearm by a felon and is currently on conditional supervised release for a separate offense.

As a brief factual background, in 1992, a jury convicted Bailey of four counts of possession of a firearm by a convicted felon. On direct appeal, the appellate court reversed one of Bailey’s

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convictions and remanded for entry of a judgment on three counts of felonious possession of a firearm, and ordered resentencing. Bailey was resentenced to 5 years' imprisonment as to Count 1, 10 years' imprisonment as to Count 2, and 5 years' imprisonment as to Count 4, to be served consecutively, for a total sentence of 20 years' imprisonment. Bailey's sentencing documents do not reflect that he was sentenced to any period of supervised release following his release from prison for these offenses.

In 1996, Bailey filed his original § 2254 petition, raising 21 claims, which the district court denied.

In his application, Bailey purports to raise four claims. First, he argues that he unconstitutionally received consecutive sentences because Florida law mandates that his sentences run concurrently. Second, he contends that he is "actually innocent of the sentences" because the district court "ruled them a single episode" in his original § 2254 petition. Third, Bailey avers that the Florida state courts unconstitutionally barred his *pro se* filings without reaching the merits of his claims. Lastly, he argues that the Florida Supreme Court improperly concluded that it did not have jurisdiction "in this manifest injustice case." Bailey concedes that none of his claims rely on a new rule of constitutional law or newly discovered evidence.

Here, it does not appear that Bailey is "in custody" for the purposes of § 2254 as it relates to these offenses because he is no longer incarcerated and was not sentenced to a period of supervised release for these offenses. *See* 28 U.S.C. § 2254(a) (providing

that, in order to bring a § 2254 petition, the petitioner must be “in custody”); see also Duvallon v. Fla., 691 F.2d 483, 485 (11th Cir. 1982) (explaining that, in the context of habeas proceedings, this requirement is met where the petitioner is on probation or parole). Moreover, even if he were still in custody for these offenses, Bailey’s claims do not meet the statutory criteria. He does not cite any new law, nor does he point to new evidence, and he seemingly concedes that they do not satisfy the statutory criteria. *See* 28 U.S.C. § 2244(b)(2)(A), (B).

Accordingly, because Bailey has failed to make a *prima facie* showing of the existence of either of the grounds set forth in § 2244(b)(2), his application for leave to file a second or successive petition is hereby DENIED.

In the  
United States Court of Appeals  
For the Eleventh Circuit

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No. 23-12188

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In re: JOHN BAILEY,

Petitioner.

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Application for Leave to File a Second or Successive  
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(A) the applicant shows that the claim relies on a new rule of constitutional law, made retroactive to cases

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on collateral review by the Supreme Court, that was previously unavailable; or

(B)(i) the factual predicate for the claim could not have been discovered previously through the exercise of due diligence; and

(ii) the facts underlying the claim, if proven and viewed in light of the evidence as a whole, would be sufficient to establish by clear and convincing evidence that, but for constitutional error, no reasonable factfinder would have found the applicant guilty of the underlying offense.

28 U.S.C. § 2244(b)(2). “The court of appeals may authorize the filing of a second or successive application only if it determines that the application makes a *prima facie* showing that the application satisfies the requirements of this subsection.” *Id.* § 2244(b)(3)(C); *see also Jordan v. Sec’y, Dep’t of Corr.*, 485 F.3d 1351, 1357–58 (11th Cir. 2007) (explaining that this Court’s determination that an applicant has made a *prima facie* showing that the statutory criteria have been met is simply a threshold determination).

Bailey is a former Florida prisoner who was convicted in 1992 of three counts of possession of a firearm by a felon and is currently on conditional supervised release for a separate offense.

As a brief factual background, in 1992, a jury convicted Bailey of four counts of possession of a firearm by a convicted felon. On direct appeal, the appellate court reversed one of Bailey’s



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convictions and remanded for entry of a judgment on three counts of felonious possession of a firearm, and ordered resentencing. Bailey was resentenced to 5 years' imprisonment as to Count 1, 10 years' imprisonment as to Count 2, and 5 years' imprisonment as to Count 4, to be served consecutively, for a total sentence of 20 years' imprisonment. Bailey's sentencing documents do not reflect that he was sentenced to any period of supervised release following his release from prison for these offenses.

In 1996, Bailey filed his original § 2254 petition, raising 21 claims, which the district court denied.

In 2021, Bailey sought to file another § 2254 petition in the district court, which the court dismissed for lack of jurisdiction as a second or successive application.

Earlier this year, Bailey filed another *pro se* application, purporting to raise four claims: (1) that he unconstitutionally received consecutive sentences because Florida law mandates that his sentences run concurrently; (2) that he was "actually innocent of the sentences" because the district court "ruled them a single episode" in his original § 2254 petition; (3) that the Florida state courts had unconstitutionally barred his *pro se* filings without reaching the merits of his claims; and (4) that the Florida Supreme Court improperly concluded that it did not have jurisdiction "in this manifest injustice case." We denied his application, finding that Bailey did not appear to be "in custody" for the purposes of § 2254 as it related to the offenses and that, moreover, even if he were in custody, his claims did not meet statutory criteria.

In his application, Bailey, proceeding *pro se*, purports to raise two claims. First, he argues that he is actually innocent of his sentences because there was never a ruling on the merits as required. Bailey asserts that the State of Florida violated its own laws, as well as federal laws, by imposing a sentence on him that treated him differently than others similarly situated to him and by imposing the sentence in his absence. He avers that the sentences should have been imposed with him in attendance and that, further, “they should have been concurrent” because they were based on a single episode. Bailey states that this claim relies on newly discovered evidence because “it is newly discovered each and every day” that he is over detained on his completed sentence. He also argues that such a claim is always timely and may be raised at any time.

Second, Bailey contends that his sentences are completed and that he is still on supervised release. He asserts that he was never sentenced to supervised release after his release from prison and seeks to incorporate his arguments from his first claim. He also avers that his sentences are completed because there was only one episode, and thus only one sentence, which was in violation of Florida law requiring a consecutive sentence. Bailey argues that this suggests that he was not treated as others similarly situated with him, in violation of state and federal law. He again states that this claim relies on newly discovered evidence because “a new cause of action arises each day” that he is overly detained.

Here, it does not appear that Bailey is “in custody” for the purposes of § 2254 as it relates to these offenses because he is no

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longer incarcerated and was not sentenced to a period of supervised release for these offenses. *See* 28 U.S.C. § 2254(a) (providing that, in order to bring a § 2254 petition, the petitioner must be “in custody”); *see also Duvallon v. Fla.*, 691 F.2d 483, 485 (11th Cir. 1982) (explaining that, in the context of habeas proceedings, this requirement is met where the petitioner is on probation or parole). Moreover, even if he were still in custody for these offenses, Bailey’s claims do not satisfy the statutory criteria. He does not cite any new law, nor does he point to new evidence, that would satisfy the statutory criteria. 28 U.S.C. § 2244(b)(2)(A), (B). To the extent that Bailey asserts that his over detention constitutes newly discovered evidence, he fails to explain how this establishes, by clear and convincing evidence, that no reasonable factfinder would have found him guilty of the underlying offense. *See* 28 U.S.C. § 2244(b)(2)(B).

Accordingly, because Bailey has failed to make a *prima facie* showing of the existence of either of the grounds set forth in § 2244(b)(2), his application for leave to file a second or successive petition is hereby DENIED.

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA  
SECOND DISTRICT  
1700 N. TAMPA STREET, SUITE 300, TAMPA, FL 33602

January 13, 2023

CASE NO.: 2D23-0003  
L.T. No.: 91-19920-CFANO

JOHN BAILEY

v. STATE OF FLORIDA

Appellant / Petitioner(s),

Appellee / Respondent(s).

**BY ORDER OF THE COURT:**

Petitioner's petition for writ of habeas corpus is denied.

From 1992 to the present, John Bailey has initiated thirty-eight proceedings in this court regarding his criminal charges in Pinellas County circuit court case number 91-CF-19920. In appeal 2D92-4519, this court reversed and remanded for entry of a judgment on three counts of felonious possession of a firearm and for resentencing. *Bailey v. State*, 637 So. 2d 333, 335 (Fla. 2d DCA 1994).

In appeals 2D96-934, 2D01-3642, 2D01-5379, 2D02-2429, and 2D03-4376, this court affirmed orders denying Bailey's various postconviction motions. This court dismissed appeals 2D94-4500 and 2D06-3738. Bailey voluntarily dismissed appeals 2D95-4370 and 2D01-980. In appeal 2D00-4212, this court reversed and remanded for the trial court to reinstate the jail credit originally awarded in 1994. *Bailey v. State*, 777 So. 2d 995, 996 (Fla. 2d DCA 2000).

In cases 2D93-199, 2D94-2876, 2D08-4702, 2D08-5426, 2D09-87, 2D18-1926, 2D20-22, 2D20-3148, 2D21-815, 2D21-1243, 2D21-2233, 2D21-3222, 2D22-239, 2D22-874, 2D22-2259, 2D22-3306, and 2D22-3674 this court denied Bailey's petitions for writ of habeas corpus.

In cases 2D92-3704, 2D02-1598, and 2D02-2579, this court denied Bailey's petitions for writ of prohibition.

In cases 2D01-772, 2D04-3851, 2D06-3030, and 2D06-5720, this court denied or dismissed Bailey's petitions for writ of mandamus.

In case 2D04-3861, this court denied Bailey's petition for writ of certiorari.

In case 2D22-2368, this court dismissed Bailey's petition alleging ineffective assistance of appellate counsel as untimely. *When first filed back in 1999 I was timely sent*

In case 2D22-3699, this court dismissed Bailey's petition for belated appeal as untimely. *was timely sent ignored*

"[A]ny citizen, including a citizen attacking his or her conviction, abuses the right to pro se access by filing repetitious and frivolous pleadings, thereby diminishing the ability of the courts to devote their finite resources to the consideration of legitimate claims." *State v. Spencer*, 751 So. 2d 47, 48 (Fla. 1999). Bailey's frequent and


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meritless filings burden the limited resources of this court and interfere with the resolution of genuine disputes.

In view of his numerous meritless filings, Bailey shall show cause within twenty days of the date of this order why this court should not direct the clerk to reject pleadings in this court related to circuit court case number 91-CF-19920 unless the filing is related to a pending direct appeal or submitted by a licensed Florida attorney.

I HEREBY CERTIFY that the foregoing is a true copy of the original court order.

dc

  
\_\_\_\_\_  
Mary Elizabeth Kuenzel  
Clerk



Served:

ATTORNEY GENERAL, TAMPA  
KEN BURKE, CLERK

JOHN BAILEY

# Supreme Court of Florida

FRIDAY, MAY 19, 2023

John Bailey,  
Petitioner(s)

v.

State of Florida,  
Respondent(s)

**SC2023-0302**

Lower Tribunal No(s):

2D23-3;

521991CF019920AXXXNO

This cause having heretofore been submitted to the Court on jurisdictional briefs and portions of the record deemed necessary to reflect jurisdiction under Article V, Section 3(b), Florida Constitution, and the Court having determined that it should decline to accept jurisdiction, it is ordered that the petition for review is denied.

No motion for rehearing will be entertained by the Court. See Fla. R. App. P. 9.330(d)(2).

MUÑIZ, C.J., and CANADY, COURIEL, GROSSHANS, and FRANCIS, JJ., concur.

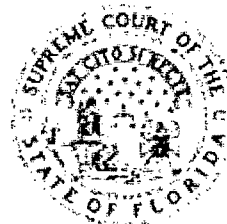
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Test:

SC2023-0302 5/19/2023

John A. Tomasino

Clerk, Supreme Court

SC2023-0302 5/19/2023



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UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION

JOHN A. BAILEY a/k/a  
JOHN AMIN,

Petitioner,

v.

Case No. 96-1351-CIV-T-25E

CHARLES MASK,  
ROBERT A. BUTTERWORTH, and  
MICHAEL W. MOORE,

Respondents.

ORDER

This cause is before the Court on Petitioner's pro se amended 28 U.S.C. § 2254 petition for writ of habeas corpus. (Doc. No. 7) Petitioner challenges a judgment of conviction entered on September 30, 1992, by the Sixth Judicial Circuit Court in Pinellas County, Florida.

STATEMENT OF THE CASE

On September 9, 1992, Petitioner was charged with four counts of felonious possession of a firearm. (See Ex. 8, pp. 102-04.) Ultimately, on September 30, 1992, a jury found Petitioner guilty on all four counts and the trial court entered judgment

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was denied. Petitioner has not demonstrated a reasonable probability that a motion by counsel would have achieved a different result.

Ground 3

Petitioner faults counsel for not knowing the legal definition of a "firearm." Petitioner claims that if counsel had known and explained to him that the state had a lesser burden of proof than was thought, Petitioner would have accepted a plea. The Court finds that Petitioner's claim is without merit for the reasons advanced by the State in its response to Petitioner's motion for post-conviction relief. (See Ex. A, Vol. II, pp. 237 - 39.)

Ground 4

Petitioner argues that counsel did not use the utmost care in deposing state witnesses and as a result, alerted the state to additional incriminating evidence and caused the state to file two more counts against Petitioner. Petitioner's claim is without merits for the reasons advanced by Respondents. (See Doc. No. 13, pp. 18 - 19.)

Ground 5

Petitioner faults counsel for not moving the trial court to sever the four counts in the amended information. Petitioner's claim is without merit. It was not improper for the Court to keep the counts together for trial, as the charges were based upon a continuous series of events. Thus, counsel was not deficient in failing to make a motion to sever.




the reasons advanced by Respondents. (See Doc. No. 13, pp. 43 - 50.)

Accordingly, it is ordered:

That the amended petition for writ of habeas corpus is **DENIED**. The Clerk is directed to enter judgment for Respondents, to terminate all pending motions, and to close this case.

DONE AND ORDERED at Tampa, Florida this 28 day of April, 1999.

  
HENRY LEE ADAMS, JR.  
UNITED STATES DISTRICT JUDGE

SA/db

STATE OF FLORIDA  
FLORIDA COMMISSION ON  
OFFENDER REVIEW



COMMITTED NAME: John Bailey  
TRUE NAME: John Henry Bailey  
RACE/SEX: Black/Male  
ETHNICITY: N: Not Hispanic or Latino  
DOB: [REDACTED]  
DC#: 598365  
SS#: [REDACTED]  
SMT: [REDACTED]  
Other: DOB's - [REDACTED]  
HGT: 5'06"  
WGT: 150 lbs.  
EYES: Brown  
HAIR: Black  
CURRENT LOCATION: St. Petersburg, FL  
LAST KNOWN ADDRESS: 513 Kirkwood Terrace North  
St. Petersburg, FL

WARRANT  
FOR RETAKING CONDITIONAL RELEASEE

TO ANY OFFICER authorized to serve criminal process and all peace officers of this State:

Having reasonable cause to believe that John Bailey aka John Henry Bailey, a prisoner of the State of Florida, was released from the Department of Corrections, for the offense(s) of Traffic In Stolen Property, Habitual Offender; Possession Firearm by Felon - Habitual Offender, 3 Counts, and now in the legal custody of the Florida Commission on Offender Review, has violated the terms and conditions of his/her Conditional Release or has lapsed into criminal ways by:

Violated Condition 2(c) which states, "You shall secure the permission of your Conditional Release Supervisor before you post bail or accept pre-trial release, if you are arrested for a felony," and this he failed to do, in that on October 31, 2015, he did post bond after being arrested on October 30, 2015, in Pinellas County, Florida, for Possession/Sale of Hydrocodone.

Violated Condition 4(b) by using or possessing narcotics, drugs or marijuana, unless prescribed by a physician, in that on or about October 30, 2015, he did use and/or possess Hydrocodone not prescribed by a physician, as evidenced by his arrest for Possession/Sale of Hydrocodone in Case #CRC15-12176CFANO in Pinellas County, Florida.

--- Continued on Back ---

Now, therefore, pursuant to the provisions of Chapter 947, Florida Statutes, I hereby order that said prisoner be retaken and detained for a violation hearing as provided in said Section, and I hereby authorize and require you to so retake him/her and for so doing, this shall be your sufficient warrant.

Dated at Tallahassee, Florida, November 3, 2015.

Commissioner

CP/KM

\*\*\*As a Conditional Release violator, this subject is not bondable under any circumstances pursuant to Chapter 947, Florida Statutes\*\*\*

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Violated Condition 7 which states, "You shall obey all laws, ordinances and statutory conditions of Conditional Release," in that on or about October 30, 2015, in Pinellas County, Florida, he did unlawfully possess/constructively possess a controlled substance to wit: Hydrocodone.

Violated Condition 7 which states, "You shall obey all laws, ordinances and statutory conditions of Conditional Release," in that on or about October 30, 2015, in Pinellas County, Florida, he did unlawfully sell, deliver, or possess with intent to sell or deliver a controlled substance, to wit; Hydrocodone.

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WARRANT

VIOLATION OF

CONDITIONAL RELEASE

Received this warrant on the \_\_\_\_\_ day of \_\_\_\_\_, A.D. 20\_\_\_\_\_,  
and executed same on the \_\_\_\_\_ day of \_\_\_\_\_, A.D. 20\_\_\_\_\_,  
by arresting the within named defendant,  
\_\_\_\_\_ and  
having \_\_\_\_\_ before  
the court.

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Allegation #8: The releasee pled guilty to the allegation. Attorney Showers spoke on behalf of the releasee and stated that there are currently post-conviction motions.

**CONCLUDING STATEMENTS OF THE RELEASEE OR THE RELEASEE'S REPRESENTATIVE:**

The releasee stated that his history shows no drugs and at 73 years old, a drug man would have a history of drugs. He has a Post-Trial Motion and hopes to get relief. He has been in jail or on community control and the "box" for almost two years. He has lost thousands of dollars and is still losing money since he still has time to do on the new sentence. He believes his time is up on Conditional Release and would like the Commission to consider giving him another chance to be on supervision.

Attorney Showers stated that the releasee is not a drug dealer. The violations are not egregious in nature and asked that the Commission to allow the releasee to complete his supervision under the original conditions he had before. The releasee is 73 years old and the Commission understands his physical condition. He stated that the post-conviction motion is pending, but he asked that the Commission to review the releasee's actual term date as the releasee is questioning that date, because the releasee believes the Commission used the wrong paperwork to determine his term date.

**FINDINGS AND EVIDENCE RELIED UPON:**

Allegations	Findings
<b>1st Allegation:</b> Violated Condition 2(c) which states, "You shall secure the permission of your Conditional Release Supervisor before you post bail or accept pre-trial release, if you are arrested for a felony," and this he failed to do, in that on October 31, 2015, he did post bond after being arrested on October 30, 2015, in Pinellas County, Florida, for Possession/Sale of Hydrocodone.	<input checked="" type="checkbox"/> Guilty <input type="checkbox"/> Not Guilty <input checked="" type="checkbox"/> Willful <input checked="" type="checkbox"/> Substantial Based on the plea of guilty by the releasee in that on 10/31/2015, he did post bond after being arrested on 10/30/2015 in Pinellas County, Florida, for Possession/Sale of Hydrocodone.
<b>2nd Allegation:</b> Violated Condition 4(b) by using or possessing narcotics, drugs or marijuana, unless prescribed by a physician, in that on or about October 30, 2015, he did use and/or possess Hydrocodone not prescribed by a physician, as evidenced by his arrest for Possession/Sale of Hydrocodone in Case #CRC15-12176CFANO in Pinellas County, Florida.	<input type="checkbox"/> Guilty <input checked="" type="checkbox"/> Not Guilty <input type="checkbox"/> Willful <input type="checkbox"/> Substantial Based on testimony of CPSO Holcomb in that on 10/30/2015, the releasee was arrested for the sale and possession of Hydrocodone that occurred on 07/07/2015, and the Pinellas County Case #15-12176-CF Felony Information and Criminal Arrest Affidavit reflecting the releasee sold and possessed Hydrocodone on 07/07/2015, and not on or about 10/30/2015 as indicated in the violation.
<b>3rd Allegation:</b> Violated Condition 7 which states, "You shall obey all laws, ordinances and statutory conditions of Conditional Release," in that on or about October 30, 2015, in Pinellas County, Florida, he did unlawfully possess/constructively possess a controlled substance to wit: Hydrocodone.	<input type="checkbox"/> Guilty <input checked="" type="checkbox"/> Not Guilty <input type="checkbox"/> Willful <input type="checkbox"/> Substantial Based on testimony of CPSO Holcomb in that on 10/30/2015, the releasee was arrested for the sale and possession of Hydrocodone that occurred on 07/07/2015, and the Pinellas County Case #15-12176-CF Felony Information and Criminal Arrest Affidavit reflecting the releasee was in possession of Hydrocodone on 07/07/2015, and not on or about 10/30/2015 as indicated on the violation.

<p><b>4th Allegation:</b> Violated Condition 7 which states, "You shall obey all laws, ordinances and statutory conditions of Conditional Release," in that on or about October 30, 2015, in Pinellas County, Florida, he did unlawfully sell, deliver, or possess with intent to sell or deliver a controlled substance, to wit; Hydrocodone.</p>	<p> <input type="checkbox"/> Guilty  <input type="checkbox"/> Willful  <input type="checkbox"/> Substantial  <input checked="" type="checkbox"/> Not Guilty         </p> <p>Based on testimony of CPSO Holcomb in that on 10/30/2015, the releasee was arrested for the sale and possession of Hydrocodone that occurred on 07/07/2015, and the Pinellas County Case #15-12176-CF Felony Information and Criminal Arrest Affidavit reflecting the offense of the sale and possession of Hydrocodone by the releasee occurring on 07/07/2015 and not on or about 10/30/2015, as indicated on the violation.</p>
<p><b>5th Allegation:</b> Violated Condition 3 which states, "You shall remain restricted to your residence during the term of your Release on Recognizance unless medically necessary," and this he failed to do on August 5, 2017, as evidenced by his 3M Electronic Monitoring points.</p>	<p> <input checked="" type="checkbox"/> Guilty  <input checked="" type="checkbox"/> Willful  <input checked="" type="checkbox"/> Substantial  <input type="checkbox"/> Not Guilty         </p> <p>Based on the plea of guilty by the releasee in that on 08/05/2017, he left his residence when it was not medically necessary.</p>
<p><b>6th Allegation:</b> Violated Condition 2 of the Conditional Release order granting Release on Recognizance which states, "You shall submit to Electronic Monitoring during the term of your Release on Recognizance," and this he failed to do by violating Electronic Monitoring Rule# 11 which states, "When outside your residence, you must carry the tracking device with you at all times," and this he failed to do on January 11 2018 from 11:18 a.m. to 11:45 a.m. resulting in a Bracelet Gone alert.</p>	<p> <input checked="" type="checkbox"/> Guilty  <input checked="" type="checkbox"/> Willful  <input checked="" type="checkbox"/> Substantial  <input type="checkbox"/> Not Guilty         </p> <p>Based on the plea of guilty by the releasee in that on 01/11/2018 from 11:18 a.m. to 11:45 a.m., he did not carry the tracking device resulting in a Bracelet Gone alert.</p>
<p><b>7th Allegation:</b> Violated Condition 3 of the Conditional Release Order Granting Release on Recognizance which states, "You shall remain restricted to your residence during the term of your Release on Recognizance unless medically necessary," in that on January 12, 2018, at approximately 10:54 p.m., he was not confined to his residence.</p>	<p> <input checked="" type="checkbox"/> Guilty  <input checked="" type="checkbox"/> Willful  <input checked="" type="checkbox"/> Substantial  <input type="checkbox"/> Not Guilty         </p> <p>Based on the plea of guilty by the releasee in that on 01/12/2018 at approximately 10:54 p.m., he was not confined to his residence.</p>
<p><b>8th Allegation:</b> Violated Condition 7 by failing to obey all laws, ordinances or statutory conditions of Conditional Release as evidenced by the March 14, 2018 conviction for the offense of Sale of Hydrocodone, in Case #15-12176-CF, in the Circuit Court for Pinellas County, Florida, said offense occurring during the term of Conditional Release.</p>	<p> <input checked="" type="checkbox"/> Guilty  <input checked="" type="checkbox"/> Willful  <input checked="" type="checkbox"/> Substantial  <input type="checkbox"/> Not Guilty         </p> <p>Based on the releasee's plea of guilty and the Pinellas County Case #15-12176-CF Judgement and Sentence reflecting the releasee's conviction for the offense of Sale of Hydrocodone.</p>

**ADDITIONAL INFORMATION AND/OR MITIGATION:**

This supervisor entered into the record, General Surety Appearance Bond paperwork PSC5 #245633 and PSC25 #047410 dated 10/30/2015, Pinellas County Case Number 15-12176-CF, two Criminal Arrest Affidavits, Felony Information, Judgement, Sentence, and the Nolle Prosequi for Count II, Possession of Hydrocodone.

## COMPLAINT/ARREST AFFIDAVIT - CIRCUIT/COUNTY COURT - PINELLAS COUNTY, FLORIDA

OBTS #	REPORT # 598365		DOCKET # 1747116	
Person ID		SSN#		
Charge Description <input checked="" type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor <input type="checkbox"/> Warrant <input type="checkbox"/> Traffic <input type="checkbox"/> Ordinance		Traffic Citation # (if any)		
Charge WARRANT ARREST - POSSESSION OF FIREARM BY FELON		Court Case #		
Defendant's Name (Last, First, Middle) BAILEY, JOHN H		DOB 08/24/1944	Sex M	Race B
Alias 07/04/1944 ALIAS DOB	DL #	State	Scars/Marks/Tattoos/Physical Features	
Local Address (Street, City, State, Zip Code)		Telephone	Place of Birth	Citizenship USA
Permanent Address (Street, City, State, Zip Code)		Telephone	Employed by / School	
Weapon Seized Type <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		Indication of Drug Influence Y <input type="checkbox"/> N <input checked="" type="checkbox"/> UNK <input type="checkbox"/>	Indication of Mental Health Issues Y <input type="checkbox"/> N <input checked="" type="checkbox"/> UNK <input type="checkbox"/>	Indication of Alcohol Influence Y <input type="checkbox"/> N <input checked="" type="checkbox"/> UNK <input type="checkbox"/>
Co-Defendant's Name (Last, First, Middle)		DOB	Sex	Race
				In Custody <input type="checkbox"/> <input type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor
Co-Defendant's Name (Last, First, Middle)		DOB	Sex	Race
				In Custody <input type="checkbox"/> <input type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor

The undersigned swears that he/she has reasonable grounds to believe that the above named defendant on the 26 day of JANUARY, 2018  
at approximately 12:24 PM, at 525 MIRROR LAKE DR N, 33701, in Pinellas County (

FLORIDA COMMISSION ON OFFENDER REVIEW WARRANT

ARREST ON WARRANT/CAPIAS # 598365

BOND: NO BOND

ISSUE DATE: 01/25/2018

Contrary to Florida Statute/Ordinance 947.22

ARREST DATE: 1/26/2018 Time 12:24 PM

Aggravating/Mitigating Factors ON CONDITIONAL RELEASE

Booking Officer: POWERS, M 54040 Amount of Bond NONE Bond Out Date  Time  ☐ a.

Victim Notified of Advisory? Yes No Injuries to Victim? Yes No Medical Treatment to Victim? ☐ Yes ☐ No

The Court reviewed this complaint and finds there: ☐ is probable cause ☐ is not probable cause to detain defendant ☐ Bond Action, if any:

The probable cause determination is passed for: ☐ 24 Hrs ☐ 24 Hrs on showing of extraordinary circumstances Received by Booking: 1/26/2018 3:05:56 PM

Pursuant to F.S. 92.525 and under penalty of perjury, I declare that I have read the foregoing document and that the facts in it are true.

PAROLE AND PROBATION  
Declarant Signature Agency

PROBATION OFFICER RYAN WILCOX 01021 03134318

Printed Name Declarant ID#

REQUEST FOR INVESTIGATIVE COSTS, F.S. 938.27(1)  
DATE OFFICER HOURS X PAY RATE OR COS

OTHER - Describe

Continuation sheet ☐ Yes ☐ No

TOTAL \$ 0.00

Defendant

US Supreme Court

Rabin, Patricia

vs

Elizabeta or Elizabeth Kerec et al.

Appellants

Memorandum of Law

(1) Immune Sanitary is on point / on all fours for planning a firearm

by action in possession of case of hand carrying episode / crime

U.S. v. Sanders, 97 F.3d 856 (6th Cir 1996)

(2) Dupree State, 705 So.2d 91 (Fla. 4th DCA 1998) is on point as to use of hand

single trial 4 offenses must be treated as single episode.

(3) Hill v. State, 66 So.2d 1384 (Fla. 1st DCA 1953), unlawful / illegal carrying

(4) Concurrent habeas.

(5) State, 630 So.2d 521 (1993) unlawful / illegal carrying habeas

Consecutive

sentences. I believe the U.S. Supreme Court agreed with the

U.S. decision.

(6) It is well-settled Supreme Court law that a defendant must be

charged with an offense or a conviction cannot stand on its feet.

De Jure v. Oregon, 57 S.Ct. 855 (1937) (1937)

1083

~~I~~ I was found not guilty of the charge new law CRS violation

~~it~~ of sales of drug "on or about" was sufficient see see

Fed § 386 attached hereto as App. A and see Harris App. S.

(6) Harris App. S. Allegation<sup>8</sup> is uncharged offense<sup>at B</sup> and there was only one

~~charge~~ charge. Merged 4 and 8 is the same only ~~one~~ one offense of

sale. And see App. A.

(7) The CRS charge must be by warrant ~~and~~ <sup>one</sup> ~~at B~~ <sup>at B</sup> Affidavit.

see Smartman v State, 901 So.2d 228 (Fla. DCA 2005) There is no

~~second~~ second charge of sale at Allegation 2 of App. S. and no warrant

or Affidavit in regards making it a second new law violation of sale.

(8) ~~And~~ And see App. A. Thornhill v. Alabama, 310 U.S. 88, 60 S.Ct. 736 (1940).

(9) Figueria v State, 84 So.3d 1150 (Fla. DCA 2012) uncharged offense.

(10) It is well settled Supreme Court holds that all crimes including parole,

probation, CRS ~~can~~ crimes be charged by <sup>an</sup> ~~warrant~~ <sup>and</sup> Affidavit.

McCarron v State, 185 So.3d 666 (Fla. DCA 2016),

Burke v State, 651 So.2d 723, 724 (Fla. DCA 1995). Bearden v. Georgia,

466 U.S. 660 (1983) charges ~~must~~ be properly made



charging  
In Georgia ~~there is~~ <sup>is</sup> by petition in Florida it is by warrant ~~there is~~ <sup>affidavit</sup>.  
If not done properly there is no charge.

(10) Jones v. State, Florida Parole Commission, 48 So 3d 704 (Fla. 2010)

~~As stated~~ a "new" cause of action arises each time a defendant  
is ~~overly~~ <sup>overly</sup> detained."

(11) See App. B and C for further argument and claim/orders  
of 11th Cir. of 06/08/2023 and 07/07/2023, Contrary to the 11th

Circuit orders I am on CPS Supervision for 91-18020. App D. FLOR  
Sentence Structure, ORAT

I Declare ~~and~~ under penalty of perjury that the above is true.

John Bailey  
John Bailey

Certificate of Service

I hereby certify ~~that~~ that a copy of true above has been ~~provided~~  
provided to Clerk of ~~the~~ <sup>US</sup> Supreme Court and

701 Main, DC 20543 - and to Prob of Fla, 2507 E. Exchange Road,

St. 200, Tampa, FL ~~33607~~ <sup>33609</sup> 33609, by Regular U.S.

Mail, this <sup>30</sup> day of ~~August~~ <sup>October</sup>, 2023. / ~~September 7, 2023~~

and 09/22/2023 October 30, 2023.

John Bailey

3 of 3

John Bailey John Bailey  
John Bailey

1. ..There was no fatal variance between the proof at trial and the indictment's **charge** that registrant " **on** or **about** Mar. 28, 1968" knowingly failed to report his changed military status in **violation** of the Military Selective Service Act, since the specific **date** was not of the essence of the offense and was within the statute of limitations, and since the registrant was not misled and could prepare his defense for any **date** after that **alleged** in the indictment until the **date** of the indictment....

...Information **charging violation** of this section by failing to report for civilian work was not dismissable on motion on ground of **alleged violation** of right to assistance of counsel based on fact that defendant did not have or waive assistance of counsel during period from **date** of his registration to **date** of final determination of his draft classification....

...Indictment **alleging** that **on** or **about** specified **date** defendant did knowingly, willfully, unlawfully and feloniously fail, neglect and refuse to report for and remain in employment with state university medical center for 24 consecutive months or until such time as **released** or transferred by proper authority as ordered fully informed defendant, **charged** with failing to obey a lawful order of Selective Service Board, of specific act for which criminal liability was sought to be imposed and was not subject to attack on ground of want of specificity....

...An indictment for **violation** of the Selective Service Act **charging** that defendant being required to present himself for and submit to registration on a specified **date** willfully and knowingly failed to register with the Local Board on that **date** or thereafter was sufficient to **charge** an offense....

**Regulations** [View all 44](#)

## § 3811. Offenses and penalties

50 USCA § 3811 Effective: December 1, 2015 United States Code Annotated Title 50. War and National Defense

*App. A.*