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NOV 27 2023

FOR MAILING

IN THE

SUPREME COURT OF THE UNITED STATES

ORIGINAL

PLEADRO J. SCOTT — PETITIONER
(Your Name)

VS.

MIAMI DADE COUNTY ET. AL — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

U. S. COURT OF APPEALS ELEVENTH CIRCUIT
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

PLEADRO J. SCOTT
(Your Name)

568 N.E. 255TH STREET
(Address)

CROSS CITY, FL 32628
(City, State, Zip Code)

N/A
(Phone Number)

RECEIVED

DEC - 5 2023

OFFICE OF THE CLERK
SUPREME COURT, U.S.

QUESTION(S) PRESENTED

IS IT A DENIAL OF DUE PROCESS FOR A COURT OF APPEALS TO FAIL TO TAKE JUDICIAL NOTICE OF ADJUDICATIVE FACTS AS REQUESTED BY A PARTY, WHILE ISSUING JUDGMENT BASED UPON AN INCOMPLETE RECORD AND FAILING TO APPLY THE LAW TO THE FACTS ON EACH OF THE ISSUES RAISED

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: MIAMI DADE COUNTY; CONSTANTINA WESTON; ROLANDO GOMEZ; JANÉ DOE; HAROLD JEFFERSON

RELATED CASES

AUGUST 21, 2013 INITIAL 42 § 1983 CIVIL COMPLAINT IN THE U.S. DISTRICT COURT SOUTHERN DISTRICT OF FLORIDA CASE NUMBER 1:13-CV-23013-DPG

INTERLOCUTORY APPEAL FILED BY DEFENDANTS WESTON AND GOMEZ IN THE U.S. COURT OF APPEALS ELEVENTH CIRCUIT FROM THE DENIAL OF SUMMARY JUDGMENT. CASE NUMBER 15-13610-CC

~~NOVEMBER 4, 2021~~

AUGUST 27, 2018 INTERLOCUTORY APPEAL FILED BY DEFENDANT WESTON AND GOMEZ IN THE U.S. COURT OF APPEALS ELEVENTH CIRCUIT CASE NUMBER 18-13619-JJ

NOVEMBER 4, 2021 APPEAL BY PETITIONER/APPELLANT FROM JURY TRIAL FILED IN THE ELEVENTH CIRCUIT COURT OF APPEALS UNDER CASE NUMBER 21-13869-CC WHICH IS THE SUBJECT OF THIS REQUEST FOR CERTIORARI

TABLE OF CONTENTS

OPINIONS BELOW.....	1
JURISDICTION.....	2
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	3
STATEMENT OF THE CASE	4
REASONS FOR GRANTING THE WRIT	5
CONCLUSION.....	12

INDEX TO APPENDICES

APPENDIX A	OPINION OF THE UNITED STATES COURT OF APPEALS AND
APPENDIX B	UNITED STATES COURT OF APPEALS DENIAL OF REQUEST FOR REHEARING
APPENDIX C	ELEVENTH CIRCUIT COURT OF APPEALS CLERK ACKNOWLEDGMENT OF RECEIPT AND STATUS OF MOTION FOR ADDITIONAL PARTS OF THE RECORD
APPENDIX D	DEFENDANT LIEUTENANT WESTON'S RESPONSE TO PLAINTIFF'S INTERROGATORIES
APPENDIX E	DEFENDANT LIEUTENANT WESTON'S SUPPLEMENTAL RESPONSE TO PLAINTIFF'S INTERROGATORIES
APPENDIX F	DEFENDANT CORPORAL GOMEZ'S RESPONSE TO PLAINTIFF'S INTERROGATORIES
APPENDIX G	DEFENDANT LIEUTENANT WESTON'S RESPONSE TO PLAINTIFF'S REQUEST FOR ADMISSIONS
APPENDIX H	CPL. GOMEZ'S RESPONSE TO PLAINTIFF'S REQUEST FOR ADMISSIONS
APPENDIX I	LT. WESTON'S RESPONSE TO PLAINTIFF'S REQUEST FOR ADMISSIONS

CONTINUATION TO INDEX TO APPENDIX

APPENDIX J OPINION OF THE UNITED STATES DISTRICT
COURT SOUTHERN DISTRICT OF FLORIDA FROM
PRE-TRIAL RULINGS

APPENDIX K OPINION OF THE UNITED STATES DISTRICT
COURT SOUTHERN DISTRICT OF FLORIDA . . .
FROM JURY TRIAL

APPENDIX L COPY OF COURT DOCKET FROM U.S. DISTRICT
COURT SOUTHERN DISTRICT OF FLORIDA

APPENDIX M ANSWER BRIEF OF THE APPELLEES CORPORAL
ROLANDO GOMEZ AND LIEUTENANT CONSTANTINA
WESTON

APPENDIX N AMENDED COMPLAINT DOCKET ENTRY 85

THE MISSING PORTIONS OF THE DISTRICT COURT RECORDS
ARE UNAVAILABLE AND/OR WAS DESTROYED BY CORRECTIONS
OFFICIALS AS AN OBSTRUCTIVE TACTIC TO REFRAIN PETITIONERS'
ACCESS TO COURTS IN THIS PROCEEDING.

TABLE OF AUTHORITIES CITED

CASES PAGE

BEST CANVAS PRODS & SUPPLIES, INC. V PLOOF
TRUCK, 713 F.2d 618, 621 (11TH CIR. 1983).....6

FARMER V BRENNAN, 511 U.S. 825, 114 S.Ct. 1970,
128 L.Ed. 2d 811 (1994).....4,

HILL V FEDERAL TRADE COMM'N, 124 F.2d 104, 106,
34 F.T.C. 1800 (5TH CIR. 1941).....6

KOTTEAKOS V UNITED STATES, 328 U.S. 750, 764-65
66 S.Ct 1239, 1248 90 L.Ed 1357 (1946).....9

MORTON V RUIZ, 415 U.S. 199, 238, 94 S.Ct
1055 (1974).....4

PAPA AIR LLC V CAL MID PROPS LP, 2022 U.S.
DISTRICT. LEXIS 45648 (MARCH 14, 2022).....6

WILSON V SEITER, 501 U.S. AT 294 298 111
S.Ct 2321 (1991).....4,

STATUTES AND RULES

U.S. COURT OF APPEALS ELEVENTH CIRCUIT RULE 30-1(b)....9

U.S. COURT OF APPEALS ELEVENTH CIRCUIT RULE 28-5..6,9

28 U.S.C. § 2111.....9

5 U.S.C. § 552.....11

FEDERAL RULES OF EVIDENCE RULE 201.....6.

TABLE OF AUTHORITIES CITED

	PAGE #
U.S. SUPREM COURT RULE 10 (c)	2
U.S. SUPREM COURT RULE 13 (1)	2
FEDERAL RULES OF CIVIL PROCEDURE RULE 36 (b)	6, 8

OTHER

U.S. CONSTITUTIONAL 4TH AMENDMENT	3, 8, 9
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IN THE
SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

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

OPINIONS BELOW

☒ For cases from **federal courts**:

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

☒ reported at SCOTT V MEANE DASH CNTY 2023 U.S. APP. LEXIS 16204 JUNE 27, 2023; 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 K to the petition and is

☒ reported at 1:13-cv-23013-DPG; or,
[] has been designated for publication but is not yet reported; or,
[] is unpublished.

DOCKET ENTRIES OF TRIAL RECORD ARE DE 531 ; 532 533; 534; 535

[] For cases from **state courts**: N/A

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

[] reported at N/A; or,
[] has been designated for publication but is not yet reported; or,
[] is unpublished.

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

[] reported at N/A; 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 JULY 27, 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: AUGUST 29, 2023, and a copy of the order denying rehearing appears at Appendix B.

☐ 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).
U. S. SUPREME COURT RULE 10 (C) AND 13 (1)
AND 10 (a)

☐ For cases from **state courts**: N/A

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

☐ A timely petition for rehearing was thereafter denied on the following date: N/A, 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 N/A (date) on N/A (date) in Application No. A.

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

STATEMENT OF THE CASE

THIS CASE IS BASED ON AN ATTACK AND/OR ASSAULT ON PETITIONER MR. PLEADRO J. SCOTT PERSONAL SECURITY AND BODILY LIBERTY BY ANOTHER INMATE ANTERELL DEAN IN A HOLDING CELL ON MAY 15, 2013. THE ISSUE AT TRIAL WAS WHETHER ROLANDO GOMEZ AND CONSTANTINA WESTON - TWO (MDCR) MIAMI DADE CORRECTIONS AND REHABILITATION DEPARTMENT SUPERVISORY OFFICERS IMPLEMENTED A CUSTOM OR POLICY OF FAILING TO FOLLOW AND ENFORCE THE WRITTEN POLICY WITH KNOWLEDGE OF A SUBSTANTIAL RISK OF HARM TO PETITIONER MR. SCOTT AND/OR A CLASS OF INMATES WAS THE CHAIN OF CAUSATION TO THE INTRUSION ON PETITIONERS PERSONAL SECURITY AND BODILY LIBERTY WITHIN THE MEANING OF *FARMER V BRENNAN*, 511 U.S. 825, 114 S. CT 1970, 128 L. ED 2d 811 (1994) AND THE DENIAL OF MR. SCOTT'S ONLY OUT OF CELL ACTIVITY/RECREATION WITHIN THE MEANING OF *WILSON V SEITER*, 501 U.S. AT 294 298 111 S. CT. 2321 (1991); AND FAILING TO FOLLOW THEIR OWN PROCEDURES WITHIN THE MEANING OF *MORTON V RUIZ*, 415 U.S. 199, 235, 94 S. CT 1055 (1974) (WHERE THE RIGHTS OF INDIVIDUALS ARE AFFECTED IT IS INCUMBENT UPON AGENCIES TO FOLLOW THEIR OWN PROCEDURES)

REASONS FOR GRANTING THE WRIT

ON APPEAL APPELLANT ARGUED AND REFERENCED DEFENDANTS WESTONS AND GOMEZ EXCLUDED DISCOVERY ADMISSIONS IN THE INITIAL APPELLANT BRIEF AT PAGE 20 CITING TO P-1 THROUGH P-5 AND TRIAL TRANSCRIPT PAGES DE 532 AT 158-159 REGARDING THE OBJECTION AND/OR REQUEST TO TAKE JUDICIAL NOTICE. (P-1 THROUGH P-5 HAS BEEN ATTACHED IN THIS PETITION AS APPENDIX D, E, F, G, H, AND I AND MAY ALSO BE LOCATED ON THE DISTRICT COURT DOCKET AT 296 AS EXHIBITS A; A-1; B; C; D; ETC.) AND ELABORATED MORE ON THE ISSUE IN THE REPLY BRIEF. AND SEPARATELY FILED A MOTION REQUESTING FOR ADDITIONAL PARTS OF THE RECORD (APPENDIX C IS A COPY OF THE U.S. COURT OF APPEALS ELEVENTH CIRCUIT CLERK OF COURTS ACKNOWLEDGMENT OF CASE STATUS AND RECEIPT OF THE REFERENCED PLEADING) THE COURT OF APPEALS HAS NEVER RULED ON THIS PLEADING AS ENTITLED ABOVE BUT INCLUDED IN ITS OPINION ATTACHED AS APPENDIX A AT PAGE 2 "...SCOTT'S MOTION TO COMPEL THE CREATION OF THE RECORD ON APPEAL IS DENIED..." WITHOUT EXPLANATION. HOWEVER THE DISCOVERY ADMISSIONS AND INTERROGATORIES RESPONSE ATTACHED TO THE APPENDIX AND THE JURY INSTRUCTION ETC. WAS NEVER MADE A PART OF THE RECORD ON APPEAL AND/OR EVEN CONSIDERED BY THE COURT OF APPEALS

APPELLANT DOES NOT KNOW WHY THE COURT OF APPEALS REFUSED TO TAKE JUDICIAL NOTICE WITHIN THE MEANING OF FEDERAL RULES OF EVIDENCE RULE 201 OF THE REFERENCED DISCOVERY ADMISSIONS ATTACHED AS APPENDIX D, E, F, G, H, AND I WITHIN THE MEANING OF U.S. COURT OF APPEALS ELEVENTH CIRCUIT LOCAL RULE 28-5 THAT ARE CONTEXT SPECIFIC AND ~~FOUNDER~~ HAVE LONG BEEN DETERMINED "... FACTS JUDICIALLY ADMITTED ARE FACTS ESTABLISHED NOT ONLY BEYOND THE NEED OF EVIDENCE TO PROVE THEM BUT BEYOND THE POWER OF EVIDENCE TO CONTROVERT THEM..." SEE, PAPA AIR, LLC V CAL MED PRODS, LP 2022 U.S. DIST. LEXIS 45648 (MARCH 14, 2023) CITING BEST CANVAS PRODS & SUPPLIES, INC V PLOOF TRUCK LINES INC, 713 F.2d 618, 621 (11TH CIR. 1983) QUOTING HELL V FEDERAL TRADE COMM'N, 124 F.2d 104, 106, 34 F.T.C. 1800 (5TH CIR. 1941) SEE, ALSO FEDERAL RULES OF CIVIL PROCEDURES RULE 36 (b) PROVIDING: "... A MATTER ADMITTED UNDER THIS RULE IS CONCLUDESEVLY ESTABLISHED

WHILE ISSUING JUDGMENT BASED SOLELY UPON THE THE APPELLEES REPLY BRIEF AND A INCOMPLETE RECORD ON THE ISSUES RAISED INCLUDING BUT NOT LIMITED TO APPENDIX A AT PAGE 15 ASSERTING: "SCOTT NEVER RAISED A SEPARATE DUE PROCESS CLAIM REGARDING THE DENIAL OF OUTDOOR RECREATION, AND, THEREFORE, THE DISTRICT COURT DID NOT ERR BY NOT GIVING THE

JURY AN INSTRUCTION ON SUCH DENIAL..." WITHOUT ANY CONSIDERATION TO DEFENDANT LIEUTENANT WESTON'S RESPONSE TO PLAINTIFF'S REQUEST FOR ADMISSIONS AT 17 APPACHED AS APPENDIX G "ADMITTING" THAT INMATES IN MIAMI Dade CORRECTIONS AND REHABILITATION DEPARTMENT, METRO WEST DETENTION CENTER SPECIAL MANAGEMENT UNIT SOUTH ARE LOCKED INTO THEIR CELLS FOR TWENTYFOUR HOURS A DAY WITH EXCEPTION OF SHOWER, RECREATION AND MEDICAL VISITS ON SLEEPER DAYS ETC..." AND PETITIONERS TRAL TESTIMONEY AT DOCKET ENTRY 532 AT PAGE 148 - 149 ON DISTRICT COURT DOCKET 148 - 149 ASSERTING "THAT AS A RESULT OF WESTON AND GOMEZ FAILING TO FOLLOW OR ENFORCE STANDARD POLICY THEIR SUBORDINATES CONTINUED TO TRY TO PLACE APPELLANT IN THE RECREATION WITH OTHER INMATES THAT ULTIMATELY CAUSED APPELLANT TO FORGOE HIS OUTDOOR RECREATION TIME WHILE BEING LOCKED IN A CELL FOR 23 HOURS A DAY."

IN ADDITION THE COURT OF APPEALS ASSERTED: "... SCOTT DOES NOT DISCUSS OR IDENTIFY ANY OF THE DISCOVERY RESPONSES THAT WERE ALLEGEDLY ERRONEOUSLY EXCLUDED, AND THEREFORE HE HAS ABANDON THE ISSUE. SEE APPENDIX A AT PAGE 12 OF THE COURTS OF OPINION WHICH IS REFUTED BY THE RECORD ~~THE~~ IN THE APPELLANT BRIEF AT PAGE 20 CITING TO INTERROGATOIRES AND ADMESSEANS P-1 THROUGH P-5 AND THE APPELLEES ANSWER BRIEF AT PAGE 39 STATING WHEN SCOTT FORMALLY MOVED TO ADMIT ALL OF HIS DISCOVERY RESPONSES AS TRIAL EXHIBITS

Also the court of appeals concluded that petitioner did not allege sufficient facts to show that the defendants who were employed by MDDC, had any final policymaking authority" with respect to Miami Dade County. See, Appendix A Court of Appeals opinion at page 20 where finding to notice the discovery admissions attached as Appendix D and E Defendant Lieutenant Weston's response to Plaintiff's interrogatories at Interrogatory Number 1 and Defendant Lieutenant Weston's supplemental response to Plaintiff's interrogatories at Interrogatory Number 1 "... at times, I was also the acting administrative lieutenant or the captain if these individuals were not available."

Although FRCP Rule 36(b) allow a party to withdraw or amend such deemed admissions, no such motion has been made in the instant case, without such a motion, the deemed admissions in its computed form Appendix B, H, and I must stand. It's an abuse of discretion for the court to sua sponte withdraw admissions without proper motion.

U.S. COURT OF APPEALS ELEVENTH CIRCUIT LOCAL RULE
30-1(d) PROVIDES: "A INCARCERATED PROSE PARTY IS
NOT REQUIRED TO FILE AN APPENDIX REQUESTS THE
SAME PROTECTION PROVIDED BY 28 U.S.C. § 2111 AND
KOTTEAKOS V UNITED STATES, 328 U.S. 750, 764-65
66 S. CT 1239, 1248 90 L. ED 1557 (1946) (EXPANDING:
"... IN DETERMINING WHETHER AN ERROR IS TO BE
REGARDED AS TECHNICAL AND HARMLESS THE PROCEEDING
SHOULD BE EXAMINED IN THEIR ENTIRETY, ...") U.S.
COURT OF APPEALS ELEVENTH CIRCUIT LOCAL RULE 28-5
REASONS THAT A REFERENCE TO A DOCUMENT IS ALL
THAT IS REQUIRED IF A DOCUMENT IS UNAVAILABLE,
IF A REVIEWING COURT UNDER 28 U.S.C. § 2111 MAY
ONLY ISSUE JUDGMENT AFTER EXAMINING THE RECORD
THAN JUDGMENT ISSUED WITHOUT ANY CONSIDERATION
OF SPECIFICALLY REQUESTED EXHIBITS AND/OR
ABSENT SPECIFICALLY REQUESTED EXHIBITS ACTUALLY
REQUESTED BY A PARTY AND REFERENCE IN IT'S
PLEADINGS AFFENDS OUR PROCESS UNDER THE UNITED
STATES CONSTITUTION FOURTEENTH AMENDMENT

IT IS THE DUTY OF A REVIEWING COURT TO CONSIDER
THE TRIAL RECORD AS A WHOLE " WHEN CONDUCTING A
HARMLESS-ERROR ANALYSIS. SURELY A JUDGE CANNOT IN
THE MIST OF READING A RECORD, DECLARE HIMSELF TO
BE IN GRAVE DOUBT, STOP REVIEWING AND ISSUE THE
WRIT BECAUSE FURTHER REVIEW MAY ALWAYS DESTURB
THE JUDGE'S CURRENT VIEW OF THE ERROR, THE JUDGE

CANNOT STOP UNTIL HE FINISHES REVIEWING THE
RELEVANT PORTIONS OF THE RECORD SEE, O'NEAL V
MIRANINCH, 115 S.Ct 992, 130 LEd2D 947, 513 U.S 432
(SEPARATE OPINION, JUSTICE THOMAS WITH WHOM THE CHIEF JUSTICE
AND JUSTICE SCALIA JOIN DISSENTING)

PETITIONER HAS DEMANDED THAT THE DEFENDANTS ADMISSIONS
AND INTERROGATORY RESPONSES LOCATED AND ATTACHED AS
APPENDIX D, E, F, G, H, AND I BE CONSIDERED AND
ACCEPTED AS PROOF OF THE ISSUES PRESENTED AT
EVERY STAGE OF THE PROCEEDING DISTRICT COURT DOCKET
ENTRY 450 AT ~~EXHIBIT~~ 1-5 AND DISTRICT COURT DOCKET
ENTRY 296 AT PAGE DOCKET ENTRY DE 303

UNFORTUNATELY THE JURY AND/OR THE COURT OF
NEVER REVIEWED AND/OR CONSIDERED THEM. A PROCESS
FOR A REVIEWING COURT TO REVIEW AN ISSUE RAISED
WAS ESTABLISHED BY THIS COURT AND THE FEDERAL
LEGISLATURE WHICH THE COURT OF APPEALS APPLIES
ARBITRARILY. THERE IS NO DUE PROCESS PROTECTION
AS REQUIRED BY THE UNITED STATES CONSTITUTION
FOURTEENTH AMENDMENT, COMBINED WITH THE PROCESS
AFFORDED BY FEDERAL RULES OF EVIDENCE RULE 201(C)(2)
PROVIDING: A COURT MUST TAKE JUDICIAL NOTICE WHEN
A PARTY REQUESTS IT, AND THE COURT MAY TAKE
JUDICIAL NOTICE AT ANY STAGE OF THE PROCEEDING
FEDERAL RULES OF EVIDENCE RULE 201(D) THE
REFERENCE LANGUAGE IS PRESUMED TO APPLY AT
ALL STAGES OF THE PROCEEDING INCLUDING BUT
NOT LIMITED TO THE APPEALS IN THIS CASE

THE REMEDY SOUGHT BY PETITIONER IS AN ELABORATION OF ~~THE~~ ABOVE CITED RIGHTS AND/OR THE RIGHTS CONFERED BY 5 U.S.C. § 552 WHICH PROVIDES: "THAT EACH AGENCY COVERED BY THE ACT SHALL MAINTAIN ALL RECORDS WHICH ARE USED BY THE AGENCY IN MAKING ANY DETERMINATION ABOUT ANY INDIVIDUAL WITH SUCH ACCURACY, RELEVANCE TIMELINESS AND COMPLETENESS AS IS NECESSARY TO ASSURE FAIRNESS AS TO THE INDIVIDUALS IN THE DETERMINATION..."

WHICH IS PRESUMED TO APPLY AS LONG AS INFORMATION CONTAINED IN AGENCY'S FILES IS CAPABLE OF BEING VERIFIED, THEN, UNDER THE PRIVACY ACT, AGENCY MUST TAKE REASONABLE STEPS TO MAINTAIN ACCURACY OF INFORMATION TO ASSURE FAIRNESS TO INDIVIDUALS, AND IF AGENCY WILLFULLY OR INTENTIONALLY FAILED TO MAINTAIN IT'S RECORDS IN THAT WAY AND CONSEQUENTLY MAKES DETERMINATIONS ADVERSE TO INDIVIDUAL; IT WILL BE LIABLE TO THAT INDIVIDUAL FOR MONEY DAMAGES.

THE COMPLAINT ATTACHED AS APPENDIX N SET FORTH FACTS TO SUPPORT A CLAIM UNDER THE PRIVACY ACT AND IS FURTHER SUPPORTED BY THE EVIDENCE INTRODUCED IN THE JURY TRIAL. THE COURT OF APPEALS DETERMINATION IN APPENDIX A AT PAGE 19-20 AFFIRMING THE DISMISSAL OF MIAMI DADE COUNTY HAS SO FAR DEPARTED FROM THE ACCEPTED AND USUAL COURSE OF JUDICIAL PROCEEDINGS

A REVIEW OF THE RECORD ESTABLISHES THAT THAT THE COURT OF APPEALS DID NOT PROVIDE A FULL CONSIDERATION AND RESOLUTION OF THE MATTER AND DIDN'T GIVE FULL CONSIDERATION TO THE SUBSTANTIAL EVIDENCE PETITIONER PUT FORTH IN SUPPORT OF THE PRIMA FACIE CASE

CONCLUSION

CERTIORARI REVIEW IS NECESSARY TO DETERMIN WHETHER PETITIONER WAS AFFORDED THE PROPER PROCESS THROUGH PROCEDURAL COMPLIANCE WITH STATUTORY REQUIREMENTS ON ALL ISSUES RAISED IN THE APPELLANT BRIEF

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Date: NOVEMBER 27 2023