

Date: 4/10/24

Initials: JR

SUPREME COURT OF THE UNITED STATES

No. 23-6864

IN RE Solomon Roberts - Petitioner

MOTION FOR LEAVE TO FILE

PETITION FOR REHEARING

Pursuant to Rule 44, Petitioner moves this Court for leave to file Petition for Rehearing to prevent [and/or] correct a Fundamental Miscarriage of Justice. See *Coleman v. Thompson*, 501 U.S. 722 at 750 (1991).

And in support thereof will affirmatively assert:

This Honorable Court's Jurisdiction Under 28 U.S.C. § 2241(c)(3) was properly conferred by allegations of Petitioner's Unconstitutional Restraint, which may not be defeated by anything that may occur in the state court. See *Habeas Corpus* § 5.

The Clerk's order entered 3/25/24 denying Florida indigent inmate the right to proceed *In Forma Pauperis* is a Manifest Injustice; where the order insinuates that the Clerk is directed not to accept any further petitions in non criminal matters from Petitioner unless the docketing fee required by Rule 38(c) is paid.

This contradicts an efficient intervening cause articulated in *Bounds v. Smith*, [430 U.S. 817 at 822] [*Habeas Corpus* § 109] that:

RECEIVED

APR 24 2024

OFFICE OF THE CLERK
SUPREME COURT, U.S.

"In order to prevent 'Effectively Foreclosed Access' Indigent Prisoners Must be Allowed to File Appeals and Habeas Corpus Petitions without Payment of Docket Fees. Id. at 822 and n.3

Petitioner contends that Habeas Corpus is not Civil for the purpose of PLRA And that the docketing Fees under the PLRA does not Apply to Habeas Corpus. As the Writ is a Collateral Criminal Proceeding.

Moreover, SUP. ct Rule 38(a) Refers to Petitions for Writ of Certiorari And in that Case where a Prisoner has no Funds to pay at the time of Filing by sufficient Proof; it would be in error to deny [Him or Her] to Proceed In Forma Pauperis.

Here, Sub Judice, the dismissal Amounts to "Invidious discrimination" because of My Poverty status, As a Florida inmate. See Griffin v. Illinois, 351 U.S. 12, 76 S.Ct 585 (1956)

Florida Courts have placed Unreasonable Restrictions on the exercise of My Constitutional Right to "Ingress" And "Egress" one of such restriction deriving from the obligation to give testimony And develop the Facts at an actual hearing.

There is clear discrimination Here because

Pickett v. Wise, 849 Fed. Appx 904, 905 (11th Cir. 2021)

Florida Statute Applies to All Persons within the boundaries and therefore subject to the Jurisdiction of Florida.

Petitioner have presented in this Court transcript of state Court Revocation Proceeding per [FRE 3.201(b)(2)] which embrace the Constitutional Provision that "Judicial Proceedings in each state 'must' be given [not] Partial but Full Faith And Credit. SEE DAVIS V. DAVIS, 305 U.S. 32 at 39 and n.1 (1938).

Here, the Clerk Appears to have overlooked that the state Court Judgment in which Petitioner is detained are shown to be absolutely void for want of jurisdiction in the Court that pronounced it. As the Revocation Court was without Authority to Revoke Juvenile Probation [18 U.S.C. § 5042] without Notice And a hearing with Counsel on the charge. See Barnhardt v. State, 288 So. 2d 490 (Fla. 1974). which is binding on Federal Courts. See Wainwright v. Goode, III 464 U.S. 78 at 84 n. 2 (1983). As Fla. Sup. Ct. have Final Authority to Interpret.... its state legislation.

It's reasonable to conclude that this Court clerk refused to employ its inquisitorial power to inspect the transcript And As a Result failed to consider the lawfulness of the Petitioner's Custody simpliciter in which a decision must be made, whether Petitioner is in custody in violation of the Constitution, laws or treaties of the United States. See Coleman, Supra, 501 U.S. at 730 n.7.

WHEREFORE, the Clerk's dismissal is a refusal to Accord Equal Justice Under the Law. See Smith v. Bennett, 365 U.S. 708 at 710 n.5 (1961). Martin v. Dist. Ct. of Appeal 506 U.S. 1 (1992) is Misplaced And don't Apply in this Case

The Purpose of FRE § 102 Appears to have been overlooked or disregarded As this Habeas Proceeding have not been Administered Fairly, nor promoted the development of Evidence law, to the ends of Ascertaining the truth And Securing a Just determination As well As Circumvent 28 U.S.C. § 2243 Which Allows a Supreme Court Justice to determine the Facts of its Inferior Court that is So Fundamentally lawless, As to be repugnant to the Federal Constitution. See Fay v. Noia, 372 U.S. 391 at 423 n.16

Petitioner Invokes 28 U.S.C. § 1331 Federal Question Jurisdiction because this case involves a Violation of the Eighth Amendment And a plausible demonstration of Factual Innocence. Thus, a Supreme Court Justice (not Clerk) has Subject Matter Jurisdiction to determine whether Petitioner's Cause of Action was properly raised As suggested, by way of Habeas Corpus petition under 28 U.S.C. § 2241 (c)(3). Fay v. Noia, 372 U.S. at 409.

An evidentiary hearing is necessary because of the Appropriate Showing. Harris v. Nelson, 394 U.S. 286 at 291n.6 (1969) It must not be Allowed to Founder in "Procedural Morass". [9 L. Ed 2d 1246]

There is no higher duty of this Court under the Federal Constitutional System, than the careful processing And Adjudication of Petitions For writ of Habeas Corpus, For it is in such proceeding that a person in custody Charges that [an] evil purpose has resulted in the Petitioner's Unlawful Confinement And that He is in fact deprive of His Freedom Contrary to Law
Id at 292 n.7

The Function of the writ; its historic and great use regardless of its particular form, is to produce the body of a person before a court for whatever purpose may be essential to the proper disposition of the cause *Id.* citing *Price v. Johnston*, 334 U.S. 266 at 283 n.5 (1948)

Petitioner has certainly produced evidence under 28 U.S.C. § 1738 which do not demonstrate mere disorder, nor mere irregularities; but a clear, absolute demonstration where the processes of justice are actually subverted under judicial examination. It is a manifest injustice for a clerk to use procedure to prevent review by a Supreme Court Justice which can very well be defined as misprision of felony or treason.

Petitioner contends that "Abusive" or "Successive" claims meets the exception for fundamental miscarriage of justice may have his federal constitutional claims considered on the merit if he makes the proper showing of actual innocence. See *McQuiggin v. Perkins*, 135 S.Ct. 1030 at 1030-1032 (2013) (citing *Herrera v. Collins*, 506 U.S. 390 at 404 n.8 (1993)).

I'm entitled to Federal Habeas Corpus Relief based on the proper showing as in *Arnold v. Dittman*, 901 F.3d 830, 842 (7th Cir. 2018); *State v. Herrera*, 866 So.2d 151 (Fla. 4th Dist. 2004). Sub Judice the exception is applicable where any constitutional claim is supplemented with a colorable showing of factual innocence. *Id.* citing *Kuhlmann*, *Supra*, at 454, 106 S.Ct. 2616

In light of the preponderance of evidence developed in state court Revocation Proceeding Court Appointed Counsel And Asst. Prosecutor developed sufficient facts that clearly reflects that Petitioner's conviction is factually incorrect.

Thus, the clerk's dismissal in this context violates the Equal Protection Clause incorporated in the Fifth Amendment Due Process law component. Where the Petitioner is denied Habeas Corpus Relief Accorded to others similarly situated based on the proper showing. See City of Cleburne, Tex. v. Cleburne Living Center, 473 U.S. 432 at 439 n.3 (1985).

Moreover, that the Prosecutorial Misconduct subverted the truth seeking function of the Judiciary to the extent that Petitioner was denied the Constitutional Guarantee to a Fair Trial And Competent Attorney whose conduct so undermined the proper functioning of the Adversarial Process that the state judicial proceeding cannot be relied on as having produced a just result. See Strickland, Supra 446 U.S. 668 at 686 n.8.

If this Court fails to consider the merits in this cause it would work and result in a fundamental miscarriage of justice. See Coleman, Supra, 501 U.S. at 750, 111 S. Ct. at 2565. State Courts As well As Federal Courts Are Entrusted with Providing a Forum For the Vindication of Federal Rights Violated by state And local officials Acting Under color of state law. Haywood v. Drown, 556 U.S. 729 at 735 n.6 (2009); See Also Chamman v. Huston Welfare Rights Org. 441 U.S. 600 at 612 n.5 (1979).

Petitioner's contention is in this court's McQuiggin holding Justice Ginsburg expressly articulated that:

"[We] think that in An extraordinary case, where a Constitutional Violation has Probably resulted in the conviction of one who is Actual Innocent, a Federal court May grant the writ even in the Absence of a Showing of Cause for the procedural default" Id. at 1031 n.5

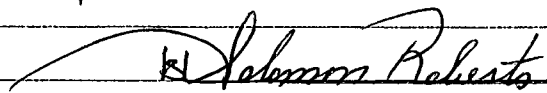
While this Court have Applied the Miscarriage of Justice Exception to overcome Various Procedural default in the Endeavor of Correcting And Resolving Fundamentally Unjust Incarcerations. eg n. [6]

This Honorable Court Clerk Unreasonably Place Procedure hurdles before Petitioner intended to Preclude Review by a Supreme Court Justice without regard for the Habeas Corpus Jurisprudence of this Court. And thus, Amounts to invidious discrimination; Specifically due to the Use of Procedural Morass.

Presented in Good Faith And not For Malice

Under Penalty of Perjury I, declare 28 U.S.C. § 1746(2) that the foregoing is true And Correct.

Executed this 10th Day of April 2024

 Solomon Roberts

Solomon Roberts #066691

Rm. West Unit

P.O. Box 628

Lake Butler, Fla 32054

No. 23-6864

Reception & Medical Center

Date: 4/10/24

Initials: SR

IN THE

SUPREME COURT OF THE UNITED STATES

Solomon Roberts — PETITIONER
(Your Name)

VS.

Florida — RESPONDENT(S)

MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS*

The petitioner asks leave to file the attached petition for a writ of certiorari without prepayment of costs and to proceed *in forma pauperis*.

Please check the appropriate boxes:

☐ Petitioner has previously been granted leave to proceed *in forma pauperis* in the following court(s):

☐ Petitioner has **not** previously been granted leave to proceed *in forma pauperis* in any other court.

☒ Petitioner's affidavit or declaration in support of this motion is attached hereto.

☐ Petitioner's affidavit or declaration is **not** attached because the court below appointed counsel in the current proceeding, and:

☐ The appointment was made under the following provision of law: _____

_____, or

☐ a copy of the order of appointment is appended.

Solomon Roberts
(Signature)

**AFFIDAVIT OR DECLARATION
IN SUPPORT OF MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS***

I, Solomon Roberts, am the petitioner in the above-entitled case. In support of my motion to proceed *in forma pauperis*, I state that because of my poverty I am unable to pay the costs of this case or to give security therefor; and I believe I am entitled to redress.

1. For both you and your spouse estimate the average amount of money received from each of the following sources during the past 12 months. Adjust any amount that was received weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate. Use gross amounts, that is, amounts before any deductions for taxes or otherwise.

Income source	Average monthly amount during the past 12 months		Amount expected next month	
	You	Spouse	You	Spouse
Employment	\$ 0	\$ N/A	\$ 0	\$ N/A
Self-employment	\$ 0	\$ /	\$ 0	\$ /
Income from real property (such as rental income)	\$ 0	\$ /	\$ 0	\$ /
Interest and dividends	\$ 0	\$ /	\$ 0	\$ /
Gifts	\$ 0	\$ /	\$ 0	\$ /
Alimony	\$ 0	\$ /	\$ 0	\$ /
Child Support	\$ 0	\$ /	\$ 0	\$ /
Retirement (such as social security, pensions, annuities, insurance)	\$ 0	\$ N/A	\$ 0	\$ N/A
Disability (such as social security, insurance payments)	\$ 0	\$ N/A	\$ 0	\$ N/A
Unemployment payments	\$ 0	\$ /	\$ 0	\$ /
Public-assistance (such as welfare)	\$ 0	\$ /	\$ 0	\$ /
Other (specify):	\$ 0	\$ /	\$ 0	\$ /
Total monthly income:	\$ 0	\$ N/A	\$ 0	\$ N/A

2. List your employment history for the past two years, most recent first. (Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of Employment	Gross monthly pay
N/A	N/A	N/A	\$ N/A
			\$
			\$

3. List your spouse's employment history for the past two years, most recent employer first. (Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of Employment	Gross monthly pay
N/A	N/A	N/A	\$ N/A
			\$
			\$

4. How much cash do you and your spouse have? \$ _____
Below, state any money you or your spouse have in bank accounts or in any other financial institution.

Type of account (e.g., checking or savings)	Amount you have	Amount your spouse has
N/A	\$ N/A	\$ N/A
	\$	\$
	\$	\$

5. List the assets, and their values, which you own or your spouse owns. Do not list clothing and ordinary household furnishings.

☐ Home
Value 0

☐ Other real estate
Value 0

☐ Motor Vehicle #1
Year, make & model 0
Value 0

☐ Motor Vehicle #2
Year, make & model 0
Value 0

☐ Other assets
Description 0
Value

6. State every person, business, or organization owing you or your spouse money, and the amount owed.

Person owing you or your spouse money

N/A

Amount owed to you

\$ 0
\$ 0
\$ 0

Amount owed to your spouse

\$ N/A
\$ N/A
\$ N/A

7. State the persons who rely on you or your spouse for support. For minor children, list initials instead of names (e.g. "J.S." instead of "John Smith").

Name

N/A

Relationship

N/A

Age

N/A

8. Estimate the average monthly expenses of you and your family. Show separately the amounts paid by your spouse. Adjust any payments that are made weekly, biweekly, quarterly, or annually to show the monthly rate.

You

Your spouse

Rent or home-mortgage payment
(include lot rented for mobile home)

\$ 0

\$ N/A

Are real estate taxes included? ☐ Yes ☐ No

Is property insurance included? ☐ Yes ☐ No

Utilities (electricity, heating fuel,
water, sewer, and telephone)

\$ 0

\$ N/A

Home maintenance (repairs and upkeep)

\$ 0

\$

Food

\$ 0

\$

Clothing

\$ 0

\$

Laundry and dry-cleaning

\$ 0

\$

Medical and dental expenses

\$ 0

\$ N/A

	You	Your spouse
Transportation (not including motor vehicle payments)	\$ <u>0</u>	\$ <u>N/A</u>
Recreation, entertainment, newspapers, magazines, etc.	\$ <u>0</u>	\$ <u>1</u>
Insurance (not deducted from wages or included in mortgage payments)		
Homeowner's or renter's	\$ <u>0</u>	\$ <u>N/A</u>
Life	\$ <u>0</u>	\$ <u> </u>
Health	\$ <u>0</u>	\$ <u> </u>
Motor Vehicle	\$ <u>0</u>	\$ <u> </u>
Other: _____	\$ <u>0</u>	\$ <u>N/A</u>
Taxes (not deducted from wages or included in mortgage payments)		
(specify): _____	\$ <u>0</u>	\$ <u>N/A</u>
Installment payments		
Motor Vehicle	\$ <u>0</u>	\$ <u>N/A</u>
Credit card(s)	\$ <u>0</u>	\$ <u> </u>
Department store(s)	\$ <u>0</u>	\$ <u> </u>
Other: _____	\$ <u>0</u>	\$ <u> </u>
Alimony, maintenance, and support paid to others	\$ <u>0</u>	\$ <u> </u>
Regular expenses for operation of business, profession, or farm (attach detailed statement)	\$ <u>0</u>	\$ <u>N/A</u>
Other (specify): _____	\$ <u>0</u>	\$ <u>N/A</u>
Total monthly expenses:	\$ <u>0</u>	\$ <u>N/A</u>

9. Do you expect any major changes to your monthly income or expenses or in your assets or liabilities during the next 12 months?

☐ Yes

☒ No

If yes, describe on an attached sheet.

10. Have you paid – or will you be paying – an attorney any money for services in connection with this case, including the completion of this form? ☐ Yes ☒ No

If yes, how much? 0

If yes, state the attorney's name, address, and telephone number:

11. Have you paid—or will you be paying—anyone other than an attorney (such as a paralegal or a typist) any money for services in connection with this case, including the completion of this form?

☐ Yes

☒ No

If yes, how much? 0

If yes, state the person's name, address, and telephone number:

12. Provide any other information that will help explain why you cannot pay the costs of this case.

Indigent prisoner that earn gain time Not Wages

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: April 10, 2024


(Signature)

IBSR140 (74)

FLORIDA DEPARTMENT OF CORRECTIONS
TRUST FUND ACCOUNT STATEMENT
FACILITY: 209 - R.M.C. - MAIN UNIT
FOR: 03/01/2024 - 04/01/2024

04/01/24
10:11:36
PAGE 115

ACCT NAME: ROBERTS, SOLOMON D.
BED: F2131S
PO BOX:

ACCT#: 066691
TYPE: INMATE TRUST

BEGINNING BALANCE 03/01/24 \$0.00

POSTED DATE	NBR	TYPE	REFERENCE NUMBER	FAC	REMITTER/PAYEE	+/-	AMOUNT	BALANCE
03/04/24	273	LEGAL POSTAGE W	2024020901	000		-	\$0.00	\$0.00
		LIEN CREATED	- 03/04/2024	2024020901				
03/04/24	273	LEGAL POSTAGE W	2024020902	000		-	\$0.00	\$0.00
		LIEN CREATED	- 03/04/2024	2024020902				
03/04/24	273	LEGAL POSTAGE W	2024022201	000		-	\$0.00	\$0.00
		LIEN CREATED	- 03/04/2024	2024022201				

ENDING BALANCE 04/01/24 \$0.00

LIEN DATE	TYPE OF LIEN	LIEN FACL	AMOUNT OF LIEN	AMOUNT STILL OWED
SUMMARY	STATE PRISON LITIGATION		\$825.00	\$825.00
SUMMARY	PROCESSING FEE		\$0.05	\$0.03
SUMMARY	LEGAL POSTAGE		\$808.03	\$242.32
SUMMARY	LEGAL COPIES		\$58.33	\$7.50
SUMMARY	MEDICAL CO-PAYMENT		\$99.00	\$5.00
SUMMARY	FEDERAL PRISON LITIGATION		\$1,660.00	\$532.64
03/04/24	LEGAL POSTAGE	000	\$0.64	\$0.64
03/04/24	LEGAL POSTAGE	000	\$2.11	\$2.11
03/04/24	LEGAL POSTAGE	000	\$2.35	\$2.35

IBSR140 (74)

FLORIDA DEPARTMENT OF CORRECTIONS
TRUST FUND ACCOUNT STATEMENT
FOR: 07/30/2023 - 01/30/2024

01/30/24
16:47:58
PAGE 1

ACCT NAME: ROBERTS, SOLOMON D.
BED: F2131S
PO BOX:

ACCT#: 066691
TYPE: INMATE TRUST

BEGINNING BALANCE 07/30/23 \$0.00

POSTED DATE	NBR	TYPE	REFERENCE NUMBER	FAC	REMITTER/PAYEE	+/-	AMOUNT	BALANCE
08/11/23	135	LEGAL POSTAGE W	2023080901	000		-	\$0.00	\$0.00
		LIEN CREATED	- 08/11/2023	2023080901				
08/11/23	135	LEGAL POSTAGE W	2023080902	000		-	\$0.00	\$0.00
		LIEN CREATED	- 08/11/2023	2023080902				
08/11/23	135	LEGAL POSTAGE W	2023081101	000		-	\$0.00	\$0.00
		LIEN CREATED	- 08/11/2023	2023081101				
08/11/23	135	LEGAL POSTAGE W	2023081102	000		-	\$0.00	\$0.00
		LIEN CREATED	- 08/11/2023	2023081102				
08/25/23	137	LEGAL POSTAGE W	2023082401	000		-	\$0.00	\$0.00
		LIEN CREATED	- 08/25/2023	2023082401				
10/06/23	129	LEGAL POSTAGE W	2023100401	000		-	\$0.00	\$0.00
		LIEN CREATED	- 10/06/2023	2023100401				
10/06/23	129	LEGAL POSTAGE W	2023100402	000		-	\$0.00	\$0.00
		LIEN CREATED	- 10/06/2023	2023100402				
11/06/23	195	LEGAL POSTAGE W	2023110201	000		-	\$0.00	\$0.00
		LIEN CREATED	- 11/06/2023	2023110201				
11/06/23	195	LEGAL POSTAGE W	2023110202	000		-	\$0.00	\$0.00
		LIEN CREATED	- 11/06/2023	2023110202				
01/22/24	181	LEGAL POSTAGE W	2023122801	000		-	\$0.00	\$0.00
		LIEN CREATED	- 01/22/2024	2023122801				
01/22/24	181	LEGAL POSTAGE W	2023121201	000		-	\$0.00	\$0.00
		LIEN CREATED	- 01/22/2024	2023121201				
01/22/24	181	LEGAL POSTAGE W	2023121801	000		-	\$0.00	\$0.00
		LIEN CREATED	- 01/22/2024	2023121801				

ENDING BALANCE 01/30/24 \$0.00

LIEN DATE	TYPE OF LIEN	LIEN FACL	AMOUNT OF LIEN	AMOUNT STILL OWED
SUMMARY	FEDERAL PRISON LITIGATION		\$1,660.00	\$532.64
SUMMARY	PROCESSING FEE		\$0.05	\$0.03
SUMMARY	LEGAL POSTAGE		\$798.52	\$232.81
SUMMARY	LEGAL COPIES		\$58.33	\$7.50
SUMMARY	MEDICAL CO-PAYMENT		\$99.00	\$5.00
SUMMARY	STATE PRISON LITIGATION		\$825.00	\$825.00
08/11/23	LEGAL POSTAGE	000	\$0.84	\$0.84
08/11/23	LEGAL POSTAGE	000	\$0.84	\$0.84

IBSR140 (74)

FLORIDA DEPARTMENT OF CORRECTIONS
TRUST FUND ACCOUNT STATEMENT
FOR: 07/30/2023 - 01/30/2024

01/30/24 .
16:47:58
PAGE 2 .

ACCT NAME: ROBERTS, SOLOMON D.
BED: F2131S
PO BOX:

ACCT#: 066691
TYPE: INMATE TRUST

LIEN DATE	TYPE OF LIEN	LIEN FACL	AMOUNT OF LIEN	AMOUNT STILL OWED
08/11/23	LEGAL POSTAGE	000	\$0.84	\$0.84
08/11/23	LEGAL POSTAGE	000	\$0.84	\$0.84
08/25/23	LEGAL POSTAGE	000	\$0.60	\$0.60
10/06/23	LEGAL POSTAGE	000	\$0.63	\$0.63
10/06/23	LEGAL POSTAGE	000	\$0.63	\$0.63
11/06/23	LEGAL POSTAGE	000	\$1.20	\$1.20
11/06/23	LEGAL POSTAGE	000	\$1.20	\$1.20
01/22/24	LEGAL POSTAGE	000	\$0.63	\$0.63
01/22/24	LEGAL POSTAGE	000	\$0.63	\$0.63
01/22/24	LEGAL POSTAGE	000	\$0.63	\$0.63