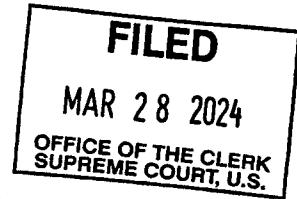


ORIGINAL

No. _____

23-7154

IN THE
SUPREME COURT OF THE UNITED STATES



Robert Mark Greene — PETITIONER
(Your Name)

vs.

FLORIDA — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

NONE

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Robert Mark Greene / F.D.O.C. # 130847
(Your Name)

Cross City Correctional Institution, 568 Northeast
(Address) 255th street,

Cross City, Florida 32628.
(City, State, Zip Code)

?
(Phone Number)

QUESTION(S) PRESENTED

Question One:

WHETHER FLORIDA'S SUSPENSION OF THE PRIVILEGE OF THE WRIT OF HABEAS CORPUS VIOLATES ARTICLE I, SECTION 9, OF THE UNITED STATES CONSTITUTION?

Question Two:

WHETHER FLORIDA'S SUSPENSION OF THE PRIVILEGE OF THE WRIT OF HABEAS CORPUS NOT IN CASES OF REBELLION OR INVASION IN THE INTREST OR REQUIREMENT OF PUBLIC SAFETY, A GREAT PUBLIC INTREST?

Question Three:

WHETHER FLORIDA'S SUSPENSION OF THE PRIVILEGE OF THE WRIT OF HABEAS CORPUS NOT IN CASES OF REBELLION OR INVASION, BUT IN CASE LAWS, ADOPTED TO ABRIDGE THAT PRIVILEGE, A VIOLATION OF AMENDMENT FOURTEEN, SECTION ONE, TO THE UNITED STATES CONSTITUTION THAT EXPLICITLY PROHIBITS SUCH LAWS?

Question Four:

WHETHER FLORIDA'S PRESUMING SPEEDY TRIAL VIOLATION CLAIMS RAISED IN A PETITION FOR WRIT OF HABEAS CORPUS TO HAVE BEEN WAIVED BY INACTION TO RAISE THE CLAIM ON DIRECT APPEAL A WAIVER FORBIDDEN BY THE SUPREME COURT OF THE UNITED STATES?

Question Five:

WHETHER FLORIDA'S SUSPENSION OF THE PRIVILEGE OF THE WRIT OF HABEAS CORPUS FROM PETITIONERS SEEKING REMEDY FOR ILLEGAL IMPRISONMENT FROM CONSTITUTIONAL SPEEDY TRIAL VIOLATIONS DENYING EQUAL PROTECTION OF LAWS ENACTED AND ADOPTED TO ENFORCE THE RIGHT TO A SPEEDY TRIAL, IN VIOLATION OF THE EQUAL PROTECTION OF LAW CLAUSE OF AMENDMENT 14, SECTION 1, TO THE UNITED STATES CONSTITUTION?

Question Six:

IF ANY OF THE ABOVE QUESTIONS ARE ANSWERED "YES", SHOULDN'T THIS SUPREME COURT ORDER FLORIDA TO GRANT THE WRIT EXHIBIT A DENYS TO DO?

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:

RELATED CASES

Trial Court, as captioned on the face of Exhibit A, which is from the Fifth Judicial Circuit Court, In and for Marion County, Florida, Case no. 42-2006-CF-15-AX.

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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 _____ to the petition and is

reported at _____; 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 _____ to the petition and is

reported at _____; or,
 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 A to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

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

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

1.

6/15

JURISDICTION

[] For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was _____.

[] 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: _____, 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 _____ (date) on _____ (date) in Application No. ___A_____.
S

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 1/12/2024.
A copy of that decision appears at Appendix A.

[✓] A timely petition for rehearing was thereafter denied on the following date: N/A, See 1/12/2024, Exhibit A, 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_____.
S

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Article I, Section 9, United States Constitution : "(sic) The privilege of the writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the Public Safety may require it."

Amendment 14, Section 1, United States Constitution : "(sic) All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States ; nor shall any state deprive any person of life, liberty, or property, without due process of law ; nor deny to any person within its jurisdiction the equal protection of the laws."

STATEMENT OF THE CASE

The instant cause exists as inspired by Vachon v. New Hampshire, 414 US 478, 478, headnote 1 (19-81) that "... the Court, at its option, may notice plain error ... the Supreme Court's discretion extends to review of Trial Court's error", and Exhibit A explicitly captions Trial Court 4a-2006-CF-15-AX as being Lower Tribunal.

Exhibit A cites SC 19-1966 as law of the case that also, like Exhibit A, uses Topps v. State, 865 So. 2d 1253 (Fla. 2004) as authority, insinuating there to exist a decision on the merits of Petitioner's Speedy Trial Violation Claim. In reality, there exists No decision on the merits. The petition Exhibit A denies explicitly, in the Basis for Jurisdiction Section advised the Court of this fact.

Basis for Jurisdiction id. included Article I, Section 9, of the United States Constitution and Webb v. Webb, 451 US 493, 499, n.6, 68 L.Ed. 2d 392, 398, 101 S.Ct. 1889, — (1981).

This is not an appeal of Exhibit A. Exhibit A accrues Florida's suspension of the writ.

Exhibit A, just like every Court in Florida is using Judge-made law to bar Speedy Trial Violation Claims not raised on direct appeal. Examples include:

On August 4, 2011, Trial Court (4a-2006-CF-15-AX *supra*) denied Petitioner's Initial Collateral Motion under Florida Rule of Criminal Procedure, Rule 3.850, Ground 5, ordering: "(sic) In this ground, Defendant claims his speedy trial rights were violated. The speedy trial argument could and should have been raised on direct appeal and, consequently, is improperly raised pursuant to Rule 3.850, Gardner v. State, 550 So. 2d 176, 176 (Fla. 1st DCA 1989). This claim is procedurally barred." (underline added).

The District Court of Appeal affirmed that bar id., without opinion (aka "res judicata"), making it the law of future cases (aka "collateral estoppel") estopping / barring over ten petitions, petitions for writs of habeas corpus; leading up to the instant Exhibit A bar.

Trial Court even sanctioned Petitioner on 10/13/2021, barring him from filing future prose filings, in response to repetitive petitions for writs of habeas corpus, all barred / estopped by Florida's Judge-made "Gardner Law" *supra* barring merit review, in Speedy Trial Violation cases.

Further, the petition Exhibit A denies invoked binding precedent Negrón v. State, 306 So. 2d 104 (Fla. 1974) and Butterworth v. Fluellen, 389 So. 2d 968, 969-70 (Fla. 1980) [collateral proceeding law] safeguarding the Constitutional Speedy Trial Right (as opposed to "Procedural Right" mechanisms) that discharged Ms. Negrón, from prison, due to the state's delay of trial less than 8 (eight)-times it delayed the instant Petitioner's trial.

Moreover, Exhibit A changes Petitioner's captioning Respondent as "STATE OF FLORIDA" to the Secretary of Department of Corrections, *sua sponte*, against Petitioner's will.

REASONS FOR GRANTING THE PETITION

The Due Process Clause dictates a separation of powers to suspend the privilege to the Writ of Habeas Corpus, from every law not required by Public Safety, and only in cases of rebellion or Invasion, by imposing Article I, Section 9, of the United States Constitution upon the states. But Florida encroaches upon Public Safety's power to suspend said "privilege" id. by making and enforcing Gardner v. State, 550 So. 2d 176 (Fla. 1st DCA 1989), keeping Public Un-Safe from Fundamental Constitutional speedy trial violations that otherwise be remedied by the Writ of Habeas Corpus.

"From the sound premis that people incarcerated in flagrant violation of their constitutional rights have a remedy, Herman v. Cloudy, 350 US 116, the Supreme Court of the United States had long held that Habeas Corpus provides a remedy for jurisdictional and constitutional errors, without limit of time". United States v. Smith, 331 US 469, 475, —.

Petitioner affirmatively avers that in violation of the Due Process Clause dictating the 6th Amendment, and Florida's Law effectuating the right, Merely Shepardizing the Gardner Law supra shows many cases where prosecution continues in violation of the "Right", that are void and without jurisdiction of the accused, and in repugnance to the 14th Amendment. And then presumed to be waived from inaction to raise it on direct appeal. The instant Petitioner is one of those victims.

"Excess of jurisdiction as distinguished from entire absence of jurisdiction means that the act, although within the general power of the judge, is not authorized, and therefore void, with respect to the particular case are wanting, and hence the judicial power is not in fact lawfully invoked." Mc Glasker v. Calton, 397 F. Supp. 525, 530 (11th Cir. 1975).

Further, "In light of the policies underlying the right to a speedy trial, dismissal of the indictment must remain, as noted in Barker v. Wingo, the only possible remedy for the deprivation of this Constitutional Right". Strunk v. United States, 412 US 434; creating an immunity from prosecution.

Moreover, "The 6th Amendment guarantees a criminal defendant a speedy trial. The Due Process Clause of the 14th Amendment dictates that the states effectuates this Constitutional Guarantee". Klopfer v. North Carolina, 386 US 213, 226, 18 L.Ed. 2d 1, 87 S.Ct. 988 (1967); and Florida did! See Negrón v. State supra; up until 1989 with the adoption of the Gardner Law supra that effectuates a waiver of any speedy trial violation not raised in time for direct appeal. "[S]uch an approach, by presuming a waiver of a fundamental right from inaction, is inconsistent with this Court's pronouncements on waiver of constitutional rights". See Barker v. Wingo, 407 US 514, 525, n.15-16, — (1972), quoting Johnson v. Zerbst, 304 US 458, 464, — (1938).

Not only does Exhibit A accrue Florida's suspension of the Great Writ of Habeas Corpus in the instant case but it denies elaboration on the merits of Petitioner's petition of: (1) entitlement to the Equal Protection of State Laws; and (2) Due Process of Federal Laws that provides all states must adhere to the Constitution of the United States.

That is, Exhibit A breaks the Law to keep Petitioner illegally imprisoned.

Because Exhibit A passes upon Federal Questions to be barred, those same questions sub judice are ripe for certiorari by the United States Supreme Court.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

R. McElveen

Date: March 28, 2024