

23-7262

No. _____

FILED

MAR 14 2024

OFFICE OF THE CLERK
SUPREME COURT U.S.

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

ERIC D. SWEET — PETITIONER
(Your Name)

vs.

RICKY DIXON, SECRETARY (FDOC) — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES APPEALS COURT 11th CIRCUIT
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

ERIC D. SWEET
(Your Name)

(INC) 110 Melaleuca Drive
(Address)

CRAWFORDVILLE, FL. 32327
(City, State, Zip Code)

(850) 410-1892
(Phone Number)

QUESTION(S) PRESENTED

One

- The Evidence presented in State Court proceeding wasn't Concrete to ~~(Sustain)~~, the Conviction.

Two

- The Florida First District Court of Appeals decision resulted in a decision that was base on an unreasonable determination of facts

Three

- Whether the Tolling ~~Situation~~ to File ("WRIT OF CERTIORARI"), is deem Timely for Mr. Sweet of filing timely the Post-Conviction of Collateral review was filed proper to the higher (SCUS), within the 90 days period.

Four

- On the tictics of Fundamental ERROR, The Claims Toll also preserve The Trial Court 14th Jud. Cir. (ERRORS), in Departure from the essential elements of the law, when it denied the defense Counsel Motion TO DISMISS (TRAN, Dec. 18, 2015). The defense counsel moved for judgment of acquittal filed March 4th 2016. This motion also Should have been granted.

Five

- The Lower Tribunals Adjudications resulted into Fundamental ERROR and Fundamental-Miscarriage of Justice.

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:

Mrs. Ashley Moody Secretary of Fla. Dept.
Attorney General of Corrections
and Assistant Mrs. PL-01 107 W. Calhoun St.
Anne Conley and Suite 1050
Mr. Ricky Dixon, Tallahassee, FL. 32399-1050 ::

RELATED CASES

- CELESTE V. STATE, 79 So. 3d 898 (Fla. 2012).
- CULLEN V. PINHOLSTER, 563 U.S. 170 (11th Cir. 2011) (USSC).
- FASON V. UNITED STATES, 650 Fed. Appx. 881 (6th Cir. 2016).
- GILL V. MECUSKER, 633 F.3d 1272, 1287 (11th Cir.) ::

TABLE OF CONTENTS

OPINIONS BELOW	1
JURISDICTION.....	
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	
STATEMENT OF THE CASE	
REASONS FOR GRANTING THE WRIT	
CONCLUSION.....	

INDEX TO APPENDICES

- APPENDIX A *Order of Dismissal; Filed. 12/26/2023.*
- APPENDIX B *"ORDER" From the U. S. Dist. Court. Filed, 5/3/2023.*
- APPENDIX C *UNITED STATES DISTRICT COURT CIVIL DOCKET SHEETS. Filed. 3/29/2023.*
- APPENDIX D *Respondent's First Motion For Extension of Time. Filed 8/1/2023*
- APPENDIX E *Appellant's motion docketed 9/19/2022, Rehearing denied.*
- APPENDIX F *First District of Appeal Court MANDATE Dated 9/15/2022*

TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

- Celeste v. State, 79 So. 3d 898 (Fla. 2012), II
- Cullen v. Pinholster, 563 U.S. 170 (U.S.S.C.), II
- Faison v. United States, 650 F.3d 881 (6th Cir. 2016), II
- Gill v. MECUSKER, 633 F.3d 1272, 1287 (11th Cir.), II

STATUTES AND RULES

- 28 U.S.C. 2244 (A) (d) (2):
- Rule 27 U.S.A.C.
- Rule 28 U.S.A.C.
- Rule 72 (b) (1) (2) (3) Fed. R. Civ. P.
- Rule 10 and 14 Supreme Court::
- 28 U.S.C. 1291
- 28 U.S.C. 2254:

OTHER

N/A

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 _____; 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 B 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**: N/A

The opinion of the highest state court to review the merits 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 First District court appears at Appendix E/F to the petition and is

☐ reported at _____; 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 12/26/2023.

☐ 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: _____, 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 ____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

☐ For cases from **state courts**:

N/A

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

☐ A timely petition for rehearing was thereafter denied 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 ____.

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Pursuant to Article I, Section 9 of the Florida Constitution and the 4th 5th 6th 14th Amendments to the United States Constitution.

- 28 U.S.C. 2244
- 28 U.S.C. 2254
- 28 U.S.C. 1291:

STATEMENT OF THE CASE

Petitioner, Eric D. Sweet initial Petition for Writ of Habeas Corpus, in the United States District Court on March 29, 2023. (DOC. NO. 1). With Memorandum in Support, Filed also on March 29, 2023. (DOC. NO. 2).

On the 1st of May 2023 The petition paid the \$5.00 fee, receipt NO. 300000124. (DOC. NO. 5). Show Cause order was directed to the respondent and the Attorney General of the State of Florida, ordering them to respond within (90) days. (DOC. 7). Said Attorney General filed its first motion of Extension of Time as the U.S. Dist. Ct. granted (DOC. 11). The petitioner Eric D. Sweet filed Motion For Judgment on the pleadings. (DOC. 12). As the Attorney General, filed Second motion for Extension of Time to answer the petition for Writ of Habeas Corpus. (DOC. 14).

The Attorney General filed Motion to Dismiss Petition for Writ of Habeas Corpus. (DOC. 16). As The U.S. Magistrate entered Report and Recommendation, in error asking to dismiss with prejudice as time-barrred, and ask the U.S. Dist. Ct. Judge to deny a Certificate of appealability. (DOC. 19).

ORDER Accepting Report and Recommendation. (DOC. 21). Notice of Appeal filed by petitioner Eric D. Sweet. When the Clerk of the U.S. Dist. Ct. Lied! When it voiced that the filing fees was not paid. See, (DOC. 5). That manifest fee receipt # NO. 300000124:

REASONS FOR GRANTING THE PETITION

What was Survey at Section page I. of this Writ of Cert. on the ties of fundamental errors, because the claims is tolling preserve if the reflections is from the face of the records, the U.S. District Court departure from the essential elements of the law, when it denied the defense Counsel motion TO DISMISS (TRAN. Dec. 18, 2015). The defense Counsel moved for judgment of acquittal filed March 4th 2016.

The motion also should have been granted.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Eric D. Sweet

Date: 3-12-24