23-7373 ORIGINAL

No._____

IN THE

Supreme Court of the United States

GIOVANNI DEPALMA,
Petitioner,

vs.

STATE OF FLORIDA, et al.,
Respondent

ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH DISTRICT

PETITION FOR WRIT OF CERTIORARI

Giovanni DePalma
Appellant, pro se

(ORIGINAL COURT COPY)

QUESTION PRESENTED

Whether the Petitioner is foreclosed from presenting a lack of subject matter jurisdiction and double jeopardy claim through an EMERGENCY PETITION FOR PERMANENT INJUNCTION pursuant to 42 U.S.C. § 1981(a) under "full and equal benefit of all laws and proceedings", *Younger v. Harris*, 401 U.S. 37, 56, 19 S. Ct. 746 (1971) and, pursuant to the United States Constitution, Amendment I, "to petition the Government for a redress of grievances" when all venues have been exhausted.

PARTIES TO THE PROCEEDING

Giovanni DePalma (hereinafter "Mr. DePalma") is the Petitioner in the instant cause, and the State of Florida, et al., is the Respondent.

RELATED PROCEEDINGS

DePalma v. State, et al., No. 22-14292 (11th Cir.) (opinion issued on January 17, 2024 finding Per Curiam). Petition for Rehearing Denied (opinion issue on March 5, 2024. Mandate issued March 13, 2024).

DePalma v. State, et al., No. 8:22-cv-02745-CEH-CPT 22-14292 (M.D. Tampa, Florida) (opinion issued on February 21, 2023 finding Denied. Mandate issued April 9, 2024).

Giovanni DePalma v. Ricky D. Dixon, No. SC22-1510 (SC of Fla.) (opinion issued on November 14, 2022 finding Petitioner has submitted an "Emergency Petition for Permanent Injunction," which this Court has treated as a petition for writ of habeas corpus. The petition is hereby transferred to the Second District Court of Appeal for consideration in the context of Case Number 2D22-3229).

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases

Constitutional Provisions

Statutes

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Petitioner Giovanni DePalma respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Eleventh Circuit.

OPINIONS BELOW

The opinion of the Court of Appeals, Pet. App. 1, is unreported. The opinion of the United States District Court for the Middle District of Florida dismissing Mr DePalma's petition, Pet. App. 2, is reported.

JURISDICTION

The judgment of the Court of Appeals was entered on January 17, 2024. Pet. App. 1a. The petition for rehearing or rehearing en banc was denied on March 5, 2024. Pet. App. 1b. This Court has jurisdiction under 28 U.S.C. § 1254(1).

STATUTORY PROVISIONS AND CASE LAW INVOLVED

42 U.S.C. **§ 1981**(a); *State v. Anderson*, 537 S. 2d 1373 (Fla. 1989); *State v. Clements*, 903 So. 2d 919 (Fla. 2005); *Younger v. Harris*, 401 U.S. 37, 56, 19 S. Ct. 746 (1971).

STATEMENT

This cause arises from an EMERGENGY PETITION FOR PERMANENT INJUNCTION to enjoin the State of Florida from maintaining and unconstitutional conviction, where the District Court failed to meet its obligation to inquire into a valid claim of subject matter jurisdiction where it cannot [never] be waived and may be raised at any time in State of Federal Courts.

The USCA 11th Circuit (specifically held that **"Federal Courts are obligated to inquire into subject matter jurisdiction sua sponte whenever it may be lacking."** *University of South Alabama v. American Tobacco Co.*, 168 F. 3d 405, 410 (11th Cir. 1999).

The District Court failed to inquire into a valid claim, where the State filed a New Information on the morning of trial, after the **empaneled jury was sworn**, in which said Charging Document was not accepted or ruled upon by the trial Court, thus **never took effect** and additionally **violating double jeopardy** protections.

A. Legal Background

I express a belief, based on a reasoned judgment, that this cause was properly filed pursuant 42 U.S.C. § **1981**.

42 U.S.C. § **1981(a)** memorializes as follows:

> **STATEMENT OF EQUAL RIGHTS**
> All persons within the jurisdiction of the United States shall have the same right in every State and Territory to make and enforce contracts, to sue, be parties, **give evidence, and to the full and equal benefit of all laws and proceedings for the security of persons and property** as is enjoyed by white citizens, and shall be subject to like punishment, pains, penalties, taxes, licenses, and exactions of every kind, and to no other.

Mr. DePalma filed his EMERGENCY PETITION FOR PERMANENT INJUNCTION (in the District Court) according to the specific criteria as outlined in 42 U.S.C. **§ 1981**(a), where through evidence, and to the **full and equal benefit of all laws and proceedings**, which were afforded by the Florida Supreme Court in *State v. Anderson*, 537 S. 2d 1373 (Fla. 1989), and, *State v. Clements*, 903 So. 2d 919 (Fla. 2005), in which the Florida Supreme Court held as follows:

> We hold that **once a trial commences, the State cannot amend the information without leave of court**, and the court cannot grant leave to amend the information during trial if doing so would "prejudice . . . the substantial rights of the defendant." *Anderson*, 537 So.2d at 1375. Because the trial court in this case concluded that the mid-trial filing of the second amended information would prejudice the defendant, **that information never took effect**.

And, as the United States Supreme Court held in *Younger v. Harris*, 401 U.S. 37, 56, 19 S. Ct. 746 (1971):

> The Court confines itself to deciding the policy considerations that in **our federal system must prevail when federal courts are asked to interfere with pending state prosecutions**. Within this area, we hold that a federal court must not, save in exceptional and extremely limited circumstances, **intervene by way of either injunction** or declaration in an existing state criminal prosecution, circumstances exist only when there is a threat of **irreparable injury** "both great and immediate." A threat of this nature might be shown if the state criminal statute in question were patently and **flagrantly unconstitutional on its face**, ante, at 53-54, 27 L Ed 2d at 680, 681, cf Evers v. Dwyer, 358 US 202, 3 L Ed 2d 222, 79 S Ct 178, or if there has been bad faith and harassment-**official lawlessness**-in a statute's enforcement, ante, at 47-49, 27 L Ed at 677, 678. In such circumstances the reasons of policy for deferring to state adjudication are outweighed by the injury flowing from the very bringing of the state

> proceedings, by the perversion of the very process that is supposed to provide vindication, and by **the need for speedy and effective action to protect federal rights**. Cf. Georgia v. Rachel, 384 US 780, 16 L Ed 2d 925, 86 S Ct 1783.

B. Factual and Procedural History

On July 14,2008, the arrest warrant was issued.

On July 20, 2008, the Petitioner, Giovanni DePalma (hereinafter "Mr. DePalma") voluntarily surrendered for arrest to the Hillsborough County Sheriffs Office.

On August 12, 2008, the State filed the original Information charging three(3) counts:

- Count One: Lewd and lascivious battery.
- Count Two: Lewd and lascivious molestation.
- Count Three: Lewd and lascivious molestation.

occurring "...between the **25th day** of March, 2008 and the 20th day of April, 2008..." with the following name caption:

STATE OF FLORIDA

v.

JAIME DEPALMA
AKA: GIOVANNI DEPALMA

On March 29, 2010, **prior and during** Voir Dire, the State filed **two(2)** Amended Informations.

The **first** Amended Information was filed **prior** to Voir Dire with the aforementioned name caption charging the similar three(3) counts as the original Information, occurring however, "...between the **4th day** of March, 2008 and the 20th day of April, 2008..." thus **expanding**

the offense date by **twenty-one(21) days**. The Defense was never provided a copy of said **first** amendment.

The **second** Amended Information **filed on the same day** (March 29, 2010), **during** Voir Dire charged the exact three(3) counts and offense date as the **first** amendment, but however, was **filed without leave of court, while the Court stood in recess and in the absence of the trial judge**, with the original name caption crossed-out, and, the changed name and date set in **handwritten** form:

(assimilated)

STATE OF FLORIDA

v.

3/29/10 Giovanni DePalma

~~JAIME DEPALMA~~

AKA: ~~GIOVANNI DEPALMA~~

Jaime DePalma

The Voir Dire record **does not reflect** that the filed **second** Amended Information **was accepted, or that the Court made a ruling on leave to file**, thus said Information **never took effect**.

On March 30, 2010, the **morning of trial, after the empaneled jury was sworn**, the State **filed ore tenus** a **third** amendment in the form of a **new** Information; the **trial record**, also, **does not reflect** that the **new** Information was **accepted or that the Court granted leave to file**, thus additionally, the **new** Information **never took effect**, divesting the Court of **subject matter jurisdiction**.

On March 31,2010, Mr. DePalma was pronounced guilty as follows:

- Count One: Guilty of lesser battery.
- Count Two and Three: Guilty as charged.

REASONS FOR GRANTING THE PETITION

The District Court failed to meet its obligation to inquire into a valid claim of subject matter jurisdiction where it cannot [ever] be waived and may be raised at any time in State of Federal Courts.

Moreover, the District Court failed to inquire into a valid claim, where the State filed a New Information on the morning of trial, **after the empaneled jury was sworn**, in which said Charging Document was **not accepted** or **ruled upon** by the trial Court, thus **never took effect** and violating **double jeopardy** protections.

The District Court, chose to overlook a **valid claim** of lack of **"subject matter jurisdiction"** and forego its **obligation** as held by the USCA 11th Circuit, where **"Federal Courts are obligated to inquire into subject matter jurisdiction sua sponte whenever it may be lacking."** *University of South Alabama v. American Tobacco Co.*, 168 F. 3d 405, 410 (11th Cir. 1999).

I. Subject Matter Jurisdiction

In the instant cause, the State **filed three(3)** amended Informations.

The **first** amendment was filed On March 29, 2010, **prior** to the commencement of Voir Dire, in which the charging dates were **expanded by twenty-one(21) days** from:

"...between the **25th day** of March, 2008 and the 20th day of April, 2008..."
to
"...between the **4th day** of March 2008 and the 20th day of April, 2008..."

The Defense was not aware of said amendment, and, no copy was provided.

The **second** Amended Information **filed on the same day** (March 29, 2010), **during** Voir Dire, charged the exact three(3) counts and offense date as the **first** amendment, but however, was **filed without leave of court, while the Court stood in recess, and, in the absence of the trial judge**, with the original name caption crossed-out, and, the changed name and date set in **handwritten** form:

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STATE OF FLORIDA

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3/29/10 Giovanni DePalma

~~JAIME DEPALMA~~
AKA: ~~GIOVANNI DEPALMA~~
Jaime DePalma

The record **does not reflect** that the **second** filed Amended Information **was accepted, or that the Court made a ruling on leave to file**, thus said information **never took effect**.

The **Voir Dior record**, also plainly reflects the **filing** of said **second** Amended Information:

> MR. KUHN: Regard to the Information **we have it as Jamie Depalma. It needs to be reversed Giovanni, a.k.a., Jamie** so I'll go ahead and just--

*** The Court nor the Defense was aware of said amendment, and, no copy was provided.***

The **third** Amended Information in the form of a **new** Information was **filed ore tenus** on the **next day (March 30, 2010), the morning of trial**, during a bench hearing where the **Court and the Defense** were **[absolutely] oblivious** to the State's filing:

> MR. KUHN: One more pretrial matter, if we could just **address the Information**. State had amended yesterday prior to voir dire regarding correcting of the time frame. Apparently after we made that amendment, there was a--it was pointed out his legal name was Giovanni Depalma, not Jamie, aka Jamie Depalma. So that's a **new information** with **leave of court we'd like to file**. I don't believe the defendant has an objection with just the corrected name. **I want to keep it clean**.

The **Court and the Defense**, during a bench hearing, **prior to the commencement of trial**, were [completely] **oblivious** to said ore tenus filing of the **new** Information.

*** The Court nor the Defense was aware of said filing, and, no copy was provided.***

The trial record **does not reflect** that the **new** Information was **accepted** or **ruled upon** or that the trial **Court granted leave to file**, thus additionally, the **new Information never took effect**, divesting the Court of **subject matter jurisdiction**.

Florida's concept of subject-matter jurisdiction is far different from the focus of standing. Jurisdiction is concerned not with the dispute or the parties to it, but with the court's power to adjudicate the controversy presented, and whether the court has been properly asked to adjudicate it. As Florida courts have made clear, subject matter jurisdiction comprises two essential aspects. First,

a trial court must have "***power*** to adjudicate the class of cases to which such case belongs." Lovett v. Lovett, 93 Fla. 611, 631, 112 So. 768, 776 (1927) (emphasis added); Paulucci v. General Dynamics Corp., 842 So. 2d 797, 801 n.3 (Fla. 2003); Garcia v. Stewart, 906 So. 2d 1117, 1122 (Fla. 4th DCA 2005). Second, a court's jurisdiction must be "lawfully invoked by the filing of a proper pleading." Garcia, 906 So. 2d at 1122 (emphasis added); Florida Power & Light v. Canal Auth., 423 So. 2d 421, 423 (Fla. 5th DCA 1982).

The Court in Lovett made clear that the first aspect regarding the court's power over the class of cases, is "power conferred on the court by the sovereign ...to deal with the general abstract question." 93 Fla. at 629-30, 112 So. at 775. Lovett also explained the second aspect – lawful invocation of the court's jurisdiction – as a requirement to file a pleading or other document to actually commence the case. 93 Fla. at 630; 112 So. at 775.

Bohlinger v. Higginbotham, 70 So.2d 911 (Fla. 1954) (The trial court's lack of subject matter jurisdiction may be raised at any time).

Subject matter jurisdiction has never been established on the record. The jurisdictional question can be raised at any time and can never be time-barred. DeClaire v. Yohanan, 453 So. 2d 375 (Fla. 1984).

In resolving a facial challenge to subject matter jurisdiction, a court takes the allegations in the complaint as true and looks to see if the plaintiff has alleged a basis for jurisdiction. McElmurray v. Consol. Gov't of Augusta-Richmond County, 501 F.3d 1244, 1251 (11th Cir. 2007); Al-Saleh, 2012 WL 13012775, at *1.

A court must have jurisdiction to enter a valid, enforceable judgment on a claim. Where jurisdiction is lacking, litigants, through various procedural

mechanisms, may retroactively challenge the validity of a judgment.

II. Double Jeopardy

On March 30, 2010, the **morning of trial, after the empaneled jury was sworn**, the State **filed ore tenus** a **third** amendment in the form of a **new Information**; the trial record, also, **does not reflect** that the **new** Information was **accepted or that the Court granted leave to file**.

On March 31, 2010, Mr. DePalma was found **guilty** on a **new** Information that never took effect, which was filed after the empaneled jury was sworn.

Mr. DePalma, a pro se litigant, challenged his unconstitutional conviction through an EMERGENCY PETITION FOR PERMANENT INJUNCTION, and the District Court for the purpose of DISMISSING Mr. DePalma's said petition treated his cause as a Habeas Corpus § 2254.

In the instant cause, the State **filed three(3)** amended Informations.

The **first** amendment was filed On March 29, 2010, **prior** to the commencement of Voir Dire, in which the charging dates were **expanded by twenty-one(21) days** from:

"...between the **25th day** of March, 2008 and the 20th day of April, 2008..."
to
"...between the **4th day** of March 2008 and the 20th day of April, 2008..."

The Defense was not aware of said amendment, and, no copy was provided.

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> MR. KUHN: One more pretrial matter, if we could just **address the Information**. State had amended yesterday prior to voir dire regarding correcting of the time frame. Apparently after we made that amendment, there was a--it was pointed out his legal name was Giovanni Depalma, not Jamie, aka Jamie Depalma. So that's a **new information** with **leave of court we'd like to file**. I don't believe the defendant has an objection with just the corrected name. **I want to keep it clean**.

The **Court and the Defense**, during a bench hearing, **prior to the commencement of trial**, were [completely] **oblivious** to said ore tenus filing of the **new** Information.

*** The Court nor the Defense was aware of said filing, and, no copy was provided.***

Moreover, on March 30, 2010, the **morning of trial,** after the **empaneled jury was sworn**, the State **filed ore tenus** a **third** amendment in the form of a **new Information**, thus **violating** Mr. DePalma's **double jeopardy** protection.

The trial record, also, **does not reflect** that the **new** Information was **accepted** or that the Court **granted leave to file**.

On March 31, 2010, Mr. DePalma was found **guilty** on a **new** Information that **never took effect**.

The Double Jeopardy Clause of the Fifth Amendment to the United States Constitution directs that "[n]o person shall be . . . subject for the same offence to be twice put in jeopardy of life or limb." This provision was ratified and incorporated into the text of the United

States Constitution along with the rest of the Bill of Rights on December 15, 1791. But it has been recognized that the protections preserved by the Double Jeopardy Clause have far older roots in the common law of England, the Judeo-Christian legal tradition, and even the law of the Greco-Roman period. Benton v. Maryland, 395 U.S. 784, 795 (1969); David S. Rudstein, A Brief History of the Fifth Amendment Guarantee Against Double Jeopardy, 14 Wm. & Mary Bill Rts. J. 193, 196-221 (2005). Protections against being twice put in jeopardy of criminal punishment made their way into the codified laws of some of the British colonies and several of the early state constitutions, which served as a model for the Double Jeopardy Clause of the United States Constitution. Rudstein at 221-26. The right is now regarded as fundamental, and the Double Jeopardy Clause has been incorporated through the Fourteenth Amendment to the United States Constitution 11 and rendered applicable against the states. Benton at 795-96. The constitutional provision finds several applications:

> The Double Jeopardy Clause "protects against a second prosecution for the same offense after acquittal. It protects against a second prosecution for the same offense after conviction. And it protects against multiple punishments for the same offense."

Brown v. Ohio, 432 U.S. 161, 165 (1977) (quoting North Carolina v. Pearce, 395 U.S. 711, 717 (1969)).
This Court has explained the longstanding conceptual underpinning of the protections preserved by the Double Jeopardy Clause:

> The underlying idea, one that is deeply ingrained in at least the Anglo-American system of jurisprudence, is that the State with all its resources and power should not be allowed to make repeated attempts to convict an individual for an alleged offense, thereby

> subjecting him to embarrassment, expense and ordeal and compelling him to live in a continuing state of anxiety and insecurity, as well as enhancing the possibility that even though innocent he may be found guilty.

Green v. United States, 355 U.S. 184, 187-88 (1957). The rule "represents a constitutional policy of finality for the defendant's benefit." United States v. Jorn, 400 U.S. 470, 479 (1971). The "heavy personal strain which a criminal trial represents for the individual defendant" has justified defining "jeopardy" with significant breadth: "These considerations have led this Court to conclude that a defendant is placed in jeopardy in a criminal proceeding once the defendant is put to trial before the trier of the facts, whether the trier be a jury or a judge." Id. 12

To the end of securing the finality of a prosecution, "courts have found it useful to define a point in criminal proceedings at which the constitutional purposes and policies are implicated by resort to the concept of 'attachment of jeopardy.' " Serfass v. United States, 420 U.S. 377, 388 (1975) (quoting Jorn at 480). This Court has decided that for "a jury trial, jeopardy attaches when a jury is empaneled and sworn," and for "a nonjury trial, jeopardy attaches when the court begins to hear evidence." Id. This rule "prevents a prosecutor or judge from subjecting a defendant to a second prosecution by discontinuing the trial when it appears that the jury might not convict." Green at 188.

III. The Question Presented Is Exceptionally Important and Squarely Presented

At bar, Mr. DePalma filed a valid claim before the District Court and properly appealed to the USCA 11th Circuit his EMERGENCY PETITION FOR PERMANENT INJUNCTION pursuant to 42 U.S.C. § **1981**, to **give evidence, and to the full and equal benefit**

of all laws and proceedings as afforded to all persons residing in the United States.

In the instant cause, the Court should not overlook a valid claim of lack of **subject matter jurisdiction**, where Mr. DePalma is exercising his right under the *United States Constitution, **Amend. I,*** **to redress his grievance** before the government.

Mr. DePalma, a pro se litigant, should be afforded **full and equal benefit of all laws and proceedings** pursuant to 42 U.S.C. **§ 1981(a)**.

Moreover, Mr. DePalma's EMERGENCY PETITITON FOR PERMANENT INJUNCTION, should have been properly reviewed to where a pro se plaintiffs pleadings are held to **"less stringent standards"** than those drafted by attorneys. *White v. White*, 886 F. 2d 721, 722-23 (4th Cir. 1989). Nonetheless, the Court is not required to accept a pro se plaintiffs' contentions as true. *Denton v. Hernandez*, 504 U.S. 25, 32, 112 S. Ct. 1728, 118 L. Ed. (1992). Instead, the Court is permitted to "pierce the veil of the complaint's factual allegations and dismiss those claims whose factual allegations are clearly baseless." *Neitzke v. Williams*, 490 U.S. 319, 327, 109 S. Ct. 1827, 104 L. Ed. 2d 338 (1989). Such baseless claims include those that describe "fantastic or delusional scenarios. Id. At 328. Provided that plaintiffs' claims are not clearly baseless, **the Court must weigh the factual allegations in plaintiffs favor** in its frivolity analysis, *Denton*, 504 U.S. at 32. The Court must read the complaint carefully to determine if a plaintiff has alleged specific facts sufficient to support claims asserted. *White*, 886 F. 2d at 724.

The Court failed to meet its **obligation** to inquire into a valid claim of **subject matter jurisdiction** where it cannot be waived and may be raised at any time in State or Federal Courts.

IV. The Decision Below Is Wrong

The Second Circuit's decision is manifestly incorrect.

As aforementioned, Mr. DePalma filed a valid claim through an EMERGENCY PETITION FOR PERMANENT INJUNCTION pursuant to *Younger v. Harris*, 401 U.S. 37, 56, 19 S. Ct. 746 (1971):

> The Court confines itself to deciding the policy considerations that in **our federal system must prevail when federal courts are asked to interfere with pending state prosecutions**. Within this area, we hold that a federal court must not, save in exceptional and extremely limited circumstances, **intervene by way of either injunction** or declaration in an existing state criminal prosecution, circumstances exist only when there is a threat of **irreparable injury** "both great and immediate." A threat of this nature might be shown if the state criminal statute in question were patently and **flagrantly unconstitutional on its face**, ante, at 53-54, 27 L Ed 2d at 680, 681, cf Evers v. Dwyer, 358 US 202, 3 L Ed 2d 222, 79 S Ct 178, or if there has been bad faith and harassment-**official lawlessness**-in a statute's enforcement, ante, at 47-49, 27 L Ed at 677, 678. In such circumstances the reasons of policy for deferring to state adjudication are outweighed by the injury flowing from the very bringing of the state proceedings, by the perversion of the very process that is supposed to provide vindication, and by **the need for speedy and effective action to protect federal rights**. Cf. Georgia v. Rachel, 384 US 780, 16 L Ed 2d 925, 86 S Ct 1783.

In the instant cause, the Court should not overlook a valid claim of lack of **subject matter jurisdiction**, where Mr. DePalma is exercising his right under the *United States Constitution, **Amend. I***, **to redress his grievance** before the government.

Furthermore, the District Court failed to inquire into a valid claim, where the State on March 30, 2010 (the morning of trial) filed a **new** Information on the **morning of trial**, after the **empaneled jury was sworn**, in which said Charging Document was not accepted or ruled upon by the trial Court, thus never took effect, thus **double jeopardy attached**. C*rist v. Bretz*, 437 U.S. 28, 98 S. Ct. 2156, 57 L. Ed. 2d 24 (1978); *Bizzell v. State*, 71 So. 2d 735 (Fla. 1954).

The several liberal filed amendments by the State affected the future of the instant case, where every filed Information vitiated the previously filed amendments as if they had been dismissed, and thus, the abandonment of every previously filed Information left the State without a charge pending against Mr. DePalma. *State v. Anderson*, 537 So. 2d 1373 (Fla. 1989); *State v. Belton*, 468 So. 2d 495 (Fla. 5th DCA1985); *Wilcox v. State*, 248 So. 2d 692 (Fla. 4th DCA1971); *State v. Clements*, 903 So. 2d 919 (Fla. 2005).

Mr. DePalma's due process of law and double jeopardy immunity was violated against the protections as guaranteed by the *U.S. Const. Amend. I, V, VIII & XIV.*

[I]t is settled law that trial begins when the selection of a jury to try a case commences." *State v. Melendez*, 244 So. 2d 137, 139 (Fla. 1971). The selection of a jury to try a case is the beginning of trial." *State v. Singletary*, 549 So. 2d 996, 998 (Fla. 1989).

The **new** Information **filed ore tenus**, on the **morning of trial, without leave of court** had more serious consequences for the State because it was **filed after the empaneled jury was sworn**:

> MR. KUHN: One more pretrial matter, if we could just address the **Information**. State had amended yesterday prior to voir dire regarding correcting of the time frame.

> Apparently after we made that amendment, there was a--it was pointed out his legal name was Giovanni Depalma, not Jamie, aka Jamie Depalma. So that's a **new information** with **leave of court we'd like to file**. I don't believe the defendant has an objection with just the corrected name. **I want to keep it clean**.

Upon the State **filing ore tenus** said **new** Information, on the **morning of trial**, with the exact name caption, charges, and date as the **abandoned second** Amended Information, caused **double jeopardy to attach**, thus triggering Mr. DePalma's protection under the *U.S. Const. Amend. V*, where no person shall **"be twice put in jeopardy of life and limb,"** and as a result Mr. DePalma suffers irreparable injury.

Mr. DePalma's right of Due Process and protection against double jeopardy were violated upon the filing of the **second** Amended Information and the **new** Information, and he cannot again be tried for any of the charges contained in the aforementioned Informations. *U.S. Const. Amends. V & XIV*; *Fla. Const. Art. I, § 9 & 17.*

Mr. DePalma, in the U.S. District Court filed an EMERGENCY PETITION FOR PERMANENT INJUNCTION to enjoin the State of Florida from maintaining an unconstitutional conviction pursuant 42 U.S.C. **§ 1981**.

The District Court erred when it treated said petition as a Habeas Corpus pursuant to § 2254 and **overlooked** a **valid claim** of lack of **subject matter jurisdiction**, thus foregoing its Federal Court **obligation to inquire into subject matter jurisdiction** sua sponte whenever it may be lacking.

Moreover, the District Court **overlooked** a **double jeopardy** violation, which is apparent on the face of the record.

From start to finish, the District Circuit misapplied basic principles of statutory construction and overlooked well standing State and Federal case law, and, egregious United States Constitutional violation.

This Court's immediate intervention is warranted to prevent an apparent miscarriage of justice.

CONCLUSION

The petition for a writ of certiorari should be granted.

Executed on this 29th day of April, 2024.

Respectfully submitted,

/s/ Giovanni DePalma
Giovanni DePalma
c/o Frank Verity
4901 Melrow Court
Tampa, FL 33624