

23 No. 7435

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FOR MAILING BY

IN THE
SUPREME COURT OF THE UNITED STATES

ORIGINAL

WILLIAM GARRIDO,
Petitioner,

vs.

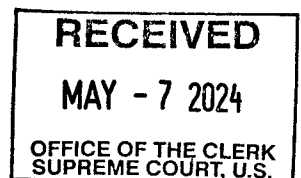
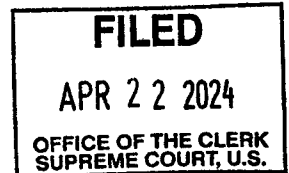
THE STATE OF FLORIDA
Respondent.

ON PETITION FOR WRIT OF CERTIORARI
TO THE THIRD DISTRICT COURT OF
APPEALS OF FLORIDA

PETITION FOR WRIT OF CERTIORARI

William Garrido
DC No: M10135
Tomoka Correctional Institution
3950 Tiger Bay Road
Daytona Beach, FL 32124

Date: April 22, 2024.



QUESTIONS PRESENTED

What authority does the trial court have to sentence beyond the selected mandatory minimum of 25 years under § 775.087 (2), (the 10-20-life Statute)?

LIST OF PARTIES

[X] 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 as follows:

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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,

☐ unpublished.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,

☐ unpublished.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,

☒ unpublished.

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

☐ reported at _____; or,

☐ has been designated for publication but is not yet reported; or,

☒ unpublished.

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 .

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 March 14, 2024. A copy of that decision appears at Appendix A.

☒ A timely petition for rehearing was thereafter denied on the following date: February 22, 2024, and a copy of the order denying rehearing appears at Appendix C.

☐ 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

The Fifth Amendment to the United States Constitution provides, in pertinent part, that "No person shall be... deprived of life, liberty, or property, without due process of law...".

STATEMENT OF THE CASE

1. On July 3, 2008, the Petitioner was charged to a single count of second degree murder, in violation of § 782.04, Fla. Stat. (Appendix D).
2. On July 3, 2008, (date of incident), Petitioner was working as a taxi driver, (license no.: 7058), for Central Cab, tel. (305) 532-5555.
3. Petitioner has a concealed weapon permit no.: W2220193 (Appendix E).
4. Petitioner had no prior conviction.¹
5. The Petitioner is a peaceful man. Fact: In his 16 years in prison he had no disciplinary report. (Appendix F).
6. Petitioner's only defense at trial was self-defense.
7. On May 5, 2015, the trial court sentenced Petitioner to 40 years with a mandatory term of 25 years.
8. On June 15, 2018, the postconviction court denied Petitioner's motion for postconviction relief pursuant to Rule 3.850, Fla. R. Crim. P.
9. On October 14, 2022, the Petitioner filed a motion to correct illegal sentence pursuant to Rule 3.800(a), Fla. R. Crim. P.
10. On January 12, 2023, the motion to correct illegal sentence was denied.
11. On January 31, 2023, the Petitioner filed a motion for rehearing pursuant to Rule 3.800, Fla. R. Crim. P.
12. On March 15, 2023, the Petitioner filed notice of appeal.
13. On April 19, 2023, the motion for rehearing was denied.
14. On June 16, 2023, the Petitioner filed Initial Brief of Appellant.
15. On August 16, 2023, the Third District Court of Appeals affirmed Petitioner's sentence, (not final until disposition of timely filed motion for rehearing).
16. On August 25, 2023, the Petitioner filed motion for rehearing.
17. On August 25, 2023, the Petitioner filed motion for written opinion.
18. On September 26, 2023, motion for written opinion was denied, (no opinion was provided).

¹ Under the Florida law a guilty plea for a felony for which adjudication was withheld does not qualify as a conviction. Clark v. United States, 184 So. 3d 1107, 1108 (2016).

19. On February 22, 2024, motion for rehearing was denied.

20. On April 22, 2024, the Petitioner filed petition for a writ of certiorari in the Supreme Court of the United States.

REASONS FOR GRANTING A WRIT OF CERTIORARI

THE TRIAL COURT DOES NOT HAVE STATUTORY AUTHORITY FOR THE ADDITIONAL TERM OF YEARS BEYOND THE SELECTED MANDATORY MINIMUM OF 25 YEARS UNDER THE 10-20-LIFE STATUTE.

ARGUMENT AND APPLICABLE LAW

On May 5, 2015, the trial court sentence Petitioner to 40 years with a 25-year mandatory minimum pursuant to 775.087(2)(a)3., Fla. Stat. (2015), the 10-20-Life statute.

Consequently, Petitioner's sentence is illegal because once the trial court orders a mandatory minimum sentence under the 10-20-Life statute, it exhaust its discretion and must have additional authority to impose any additional sentence. See *Hatten v. State*, 203 So. 3d 142 (Fla. 2016).

A sentence imposed pursuant to the 10-20-Life statute is a mandatory minimum sentence that is not eligible for gain-time or early release. See § 775.087(2)(b) Fla. Stat. (2015).

In other words, in Petitioner's case there is no statutory authority for the additional term of years beyond the selected mandatory minimum of 25 years under the 10-20-Life statute.

One short final note, the 5th Amendment due process clause requires Petitioner not to be sentenced on basis of misinformation.

The correct sentence is 25 years mandatory minimum term originally chosen by the trial court pursuant to § 775.087(2)(a)3., Fla. Stat. (2015) and excluding the additional 15 years that were originally imposed by the trial court in error.

CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that a Writ of Certiorari issue to review the Order of the Third District Court of Appeals of Florida.

Respectfully submitted,

Wm. Garrido

William Garrido

DC No.: M10135

Tomoka Correctional Institution

3950 Tiger Bay Road

Daytona Beach, Florida 32124-1098

Date: April 22, 2024