

23-7769

No. _____

FILED
APR 05 2024
OFFICE OF THE CLERK
SUPREME COURT U.S.

IN THE

SUPREME COURT OF THE UNITED STATES

ORIGINAL

In Re JOHNNY L. SMITH Jr. PETITIONER
(Your Name)

ON PETITION FOR A WRIT OF HABEAS CORPUS

PETITION FOR WRIT OF HABEAS CORPUS

JOHNNY L. SMITH Jr.
(Your Name)

3189 COLONEL GREG MALLORY Rd.
(Address)

CRESTVIEW, FL. 32539
(City, State, Zip Code)

N/A
(Phone Number)

QUESTION(S) PRESENTED

- 1) WHY DOES A DEFENDANT/PETITIONER RECEIVE DENIAL AFTER DENIAL "THAT ARE JUSTIFIED ON PROCEDURAL GROUNDS" WHEN ITS CLEAR AND EVIDENT THAT RELIEF IS WARRANTED?
- 2) IF THE JUDGE, PROSECUTOR AND DEFENSE ATTORNEY ARE ALL BAR CERTIFIED, HOW IS IT THAT EVERY ONE IGNORED A RULE OF COURT- SEE FLA. R. CRIM. P. 3.151 (a) AND (c).

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:

THE EIGHTEENTH JUDICIAL CIRCUIT IN AND FOR
BREVARD COUNTY

THE SEVENTH DISTRICT COURT OF APPEALS

FLORIDA DEPT. OF CORRECTIONS

RELATED CASES

JAMES V. STATE - 5TH DISTRICT CASE NO. 5D23-221

L.T. CASE NO: 16-2021-C7-008102-AXXX-MA FEB. 23, 2024

BROWN V. STATE, 251 So.3d 973, 975 (7La. 1st DCA 2018)

DIXON V. STATE, 486 So. 2d 67, 69 (7La. 4th DCA 1986)

STATE V. VARNUM, 991 So. 2d 918, 920 (7La. 4th DCA 2008)

PAUL V. STATE, 385 So. 2d 1371, 1372 (7La. 1980)

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ADMINISTRATIVE JUDGE TO FILE EMERGENCY PETITION FOR WRIT OF HABEAS CORPUS

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ORDER TO SHOW CAUSE

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TABLE OF AUTHORITIES CITED

CASES

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- 1) JAMES V. STATE 5th DISTRICT CASE NO: 5D23-221
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- 2) BROWN V. STATE, 251 So. 3d 973, 975 (Fla. 1st DCA 2018)
- 3) DIXON V. STATE, 486 So. 2d 67, 69 (Fla. 4th DCA 1986)
- 4) STATE V. VARNUM, 991 So. 2d 918, 920 (Fla. 4th DCA 2008)
5. PAUL V. STATE, 385 So. 2d 1371, 1372 (Fla. 1980)

STATUTES AND RULES

- 1). FL. R. CRIM. P. 3.151 (a), (c)

OTHER

IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF HABEAS CORPUS

Petitioner respectfully prays that a writ of habeas corpus issue.

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 _____ 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.

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 11-20-23
5-2-24.
A copy of that decision appears at Appendix _____.

☐ A timely petition for rehearing was thereafter denied on the following date: BETWEEN JAN 5 & MARCH 24, and a copy of the order denying rehearing appears at Appendix N/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 ____.

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

- 1) ARTICLE VI, SECTION 5 (b) OF THE FLORIDA CONSTITUTION
- 2) AMENDMENT V OF THE UNITED STATES CONSTITUTION
- 3) AMENDMENT FOURTEEN OF THE UNITED STATES CONSTITUTION
- 4) FL. R. CRIM. P. 3.151(a), (c)

**STATEMENT OF THE CASE
& RULE 20.4(A) STATEMENT**

- 1) DEFENDANT WAS CHARGED IN A FOUR COUNT INFORMATION COUNT (1) ARMED BURGLARY OF DWELLING WITH (FIREARM) COUNT (2) POSSESSION OF FIREARM BY CONVICTED FELON - COUNT (3) RESISTING OFFICER WITHOUT VIOLENCE - COUNT (4) LESS THAN 20 GRAMS OF CANNIBUS
 - 2) PETITIONER DID FILE A PETITION FOR WRIT OF HABEAS CORPUS, 2254 IN THE MIDDLE DISTRICT, ORLANDO DIVISION SEE (CASE NO: 6:18-CV-835-DRL-18EJK).
 - 3) PETITIONER HAS EXHAUSTED ALL REMEDIES, STATE AND FEDERAL AND HAS FILED NUMEROUS POST CONVICTION RELIEF MOTIONS TO NO AVAIL-
 - 4) PETITIONER NOW FILES TO THIS HONORABLE COURT TO CORRECT THE MANIFEST INJUSTICE THAT HAS OCCURRED.
 - 5) PETITIONER URGES THAT NO REMEDY OTHER THAN HABEAS CORPUS CAN CURE THE MANIFEST INJUSTICE AND DENIAL OF DUE PROCESS IN L.T. CASE NO: 05-2011-L7-048657-AXXX-XX
- RULE 20.4(A) STATEMENT
- 6) SINCE 2019 PETITIONER HAS BEEN BARRED FROM FILING MOTIONS TO THE 7TH DCA
 - 7) SINCE FIRST ARGUING THE AMENDMENT V VIOLATION OF DOUBLE JEOPARDY IN 2015, THAT CLAIM HAS NEVER BEEN RULED ON ITS MERITS
 - 8) PETITIONER HAS NOW SUFFERED DISBARMENT FROM FUTURE FILINGS IN THE CIRCUIT COURT FOR RAISING THE RULE VIOLATION EVEN THOUGH THIS IS THE FIRST TIME THE CLAIM HAS BEEN ARGUED

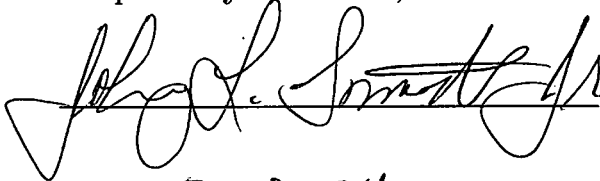
REASONS FOR GRANTING THE PETITION

- 1) PETITIONER WAS ADULTED OF COUNT (1) ARMED BURGLARY OF DWELLING WITH A FIREARM ON MAY, 11, 2012.
- 2) ON FEB 21, 2013 THE STATE WAS ALLOWED (AFTER DENIAL OF MOTION TO DISMISS) TO PROCEED TO A SECOND AND CONSECUTIVE TRIAL ~~FOR~~ FOR COUNT (2) POSSESSION OF FIREARM BY CONVICTED FELON.
- 3) PER FL. R. CRIM. P. 3.151 (c) PETITIONER WAS ENTITLED TO DISMISSAL OF COUNT (2) AFTER BEING ADULTED OF COUNT (1)
- 4) PER AMENDMENT V OF THE UNITED STATES CONSTITUTION, PETITIONER HAS THE RIGHT TO BE FREE OF DOUBLE JEOPARDY
- 5) THIS COURT HAS JURISDICTION TO CORRECT A MANIFEST INJUSTICE ESPECIALLY SO WHERE DUE PROCESS HAS BEEN DENIED.

CONCLUSION

The petition for a writ of habeas corpus should be granted.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "John D. Smith Jr.", written over a horizontal line.

Date: 5-30-24

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

JOHNNY L. SMITH Jr. — PETITIONER
(Your Name)

STATE OF FLORIDA $\frac{1}{2}$ VS.
WARDEN DONALD LEVINS — RESPONDENT(S)

PROOF OF SERVICE

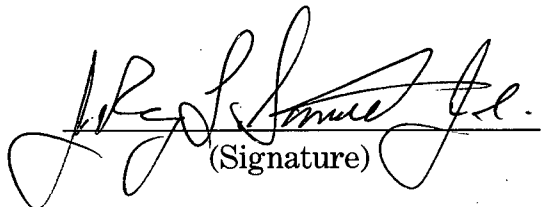
I, JOHNNY L. SMITH Jr., do swear or declare that on this date, MAY 30, 2024, as required by Supreme Court Rule 29 I have served the enclosed MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS* and PETITION FOR A WRIT OF HABEAS CORPUS on each party to the above proceeding or that party's counsel, and on every other person required to be served, by depositing an envelope containing the above documents in the United States mail properly addressed to each of them and with first-class postage prepaid, or by delivery to a third-party commercial carrier for delivery within 3 calendar days.

The names and addresses of those served are as follows:

STATE OF FLORIDA 2725 JUDGE FRANK JAMIESON WAY, BLDG. D, VIERA
FLA. 32940, FLORIDA DEPT. OF CORRECTIONS 501 S. CALHOUN ST. TALLAHASSEE
FLA. 32399-2500 WARDEN OF OKALOOSA C.I. MR. DONALD LEVINS

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

Executed on 5-30, 2024


(Signature)