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IN THE

SUPREME COURT OF THE UNITED STATES

080164

James Harmon III
(Your Name)

PETITIONER

Provided to Suwannee
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VS.

Sec. Dept. of corrections et al,—RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

The United States court of Appeals, for the 11th circuit.

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

PETITION FOR WRIT OF CERTIORARI

James Harmon III
(Your Name)

~~XXXXXXXXXXXX~~
2024011203

4727 LANNIE ROAD

(Address)

Jacksonville, Florida. 32218

(City, State, Zip Code)

(~~Phone Number~~)

QUESTION(S) PRESENTED

Whether State courts 'Per Curiam Affirm', or, denial, of Petitioner's claim that sentences of Life without Parole violate ex post facto principles, as applied, to resentencing former Juvenile offender, contrary to or an unreasonable application of Federal constitutional Law?

Whether sentences of Life without parole, as applied, to former Juvenile offender, violate Eighth Amendment's prohibition on sentencing non homicide Juvenile offenders to Life without Parole cruel and unusual punishment?

Whether Life with Judicial Review, the functional equivalent of Life without Parole, as applied, to former Juvenile offender initially sentenced to parole eligible term-of-year sentence?

LIST OF PARTIES

[] All parties appear in the caption of the case on the cover page.

[4] 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:

1. Florida Supreme Court
2. Fourth Judicial Circuit Court
3. Melissa W. Nelson, State Attorney
4. Public Defenders Office, 2nd Judicial Circuit.
5. Public Defenders Office, 4th Judicial Circuit.
6. Sheila Ann Loizos, Asst State Attorney.
7. Steven B. Whittington, Circuit Judge.
8. U.S. Dist Court, **RELATED CASES** Middle District
Tax Div.

Harmon-v-state. NO. [#]1D18-111, [#]1D18-112; [#]1D18-113; [#]1D18-114; First District Court of Appeals, Judgment entered: August 30, 2019.

Harmon-v-Sec. Dept. of Corr. NO. 3:19-CV-01080-MMH-LLL. U.S. District Court, Middle District, Jacksonville Division, Florida. Judgment entered: September 20, 2022.

Harmon-v-Sec. Dept. of Corr. NO. 22-13565-C, United States Court of Appeals, Eleventh Circuit. Judgment entered: August 9, 2023.

Related cases - continued.

Harmal-v-State, Case No. # 16-1981-CF-000984-AXXX-MA,
16-1981-CF-000985-AXXX-MA, 16-1981-CF-000986-AXXX-MA,
16-1981-CF-000987-AXXX-MA; Fourth Judicial Circuit Court,
Division CR-E. Application-Review of sentences for Juvenile
offenders, re; Rule 3.802(a)(1); Florida Rules of Criminal Procedure,
Application-Review of sentences for Juvenile offenders was
filed by Petitioner on; 10-16-2023. No Judgment has
been entered, Application still pending.

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U.S. COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

**CERTIFICATE OF INTERESTED PERSONS
AND CORPORATE DISCLOSURE STATEMENT (CIP)**

9790168-2

James Harmon III vs. Sec. Dept of Cor. etc. Appeal No. 9790168-2

11th Cir. R. 26.1-1(a) requires the appellant or petitioner to file a Certificate of Interested Persons and Corporate Disclosure Statement (CIP) with this court within 14 days after the date the case or appeal is docketed in this court, and to include a CIP within every motion, petition, brief, answer, response, and reply filed. Also, all appellees, intervenors, respondents, and all other parties to the case or appeal must file a CIP within 28 days after the date the case or appeal is docketed in this court. **You may use this form to fulfill these requirements.** In alphabetical order, with one name per line, please list all

trial judges, attorneys, persons, associations of persons, firms, partnerships, or corporations that have an interest in the outcome of this case or appeal, including subsidiaries, conglomerates, affiliates, parent corporations, any publicly held corporation that owns 10% or more of the party's stock, and other identifiable legal entities related to a party. Petitioner; there is no parent or publicly held company owning 10% or more of the corporation's stock.

(please type or print legibly):

First District court of Appeals - Florida.

Florida supreme court

Fourth Judicial circuit courthouse.

Melissa W. Nelson, State Attorney.

Public Defenders office, 2nd Judicial circuit

Public Defenders office, 4th Judicial circuit

Sheila Ann Loizos, Asst State Attorney

Steven B. Whittington, Circuit Judge.

United States District court, middle District, Tax Div.

United States supreme court.

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Appendix F. Certificate of Appealability

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II. ~~Itemized~~ Index to Appendices vol. 1

III. ~~Itemized~~ Index to Appendices vol. 1. (corrected) (unredacted)

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JURISDICTION

☒ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was June 13, 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: August 9, 2023, and a copy of the order denying rehearing appears at Appendix I.

☐ 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 _____
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).

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 6 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 E 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 ~~2~~ 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 ~~2~~ to the petition and is

☐ reported at ~~_____~~; or,

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

☒ is unpublished.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

United States Constitution, Article 1, Section 10, Cl. 1,

*

United States Constitutional 8th Amendment.

28 U.S.C. section 2244 (2),

28 U.S.C. section 2253 (c)(1),

28 U.S.C. section 2254 (2),

STATEMENT OF THE CASE

Petitioner, at the time and during the commission of the criminal acts, Petitioner was seventeen years old in 1981.

Initially, Petitioner was sentenced to six consecutive one hundred year sentences. Petitioner could earn gain-time and receive proper consideration for parole eligibility.

In, 2016, Petitioner filed in the circuit court, Fourth Judicial circuit, Duval county, Florida. Motions to correct illegal sentence, pursuant to: Florida Rules of Criminal Procedure, Rule 3.800(4). (Appendix # 2), Petitioner alleged therein he was entitled to be resentenced in accordance with the decision announced by this court in: Graham -v- Florida, 560 U.S. 48 (2010), Henry -v- State, 175 So.3d 675 (Fla. 2015).

In, 2016, Petitioner filed in the circuit court, Fourth Judicial circuit court, Duval county, Florida, a motion pursuant to: Florida Rules of Criminal Procedure, Rule 3.850(b)(2), motion for Post conviction Relief. Petitioner alleged therein that his sentences were illegal pursuant to: Miller -v- Alabama, 567 U.S. 460 (2012) (Appendix # 1).

ON, 2-15-17, the trial court of the Fourth Judicial Circuit vacated the original sentences of six consecutive one hundred years. Appendix (Vol. I at. p. 3. 2 of 6)

ON, 10-6-2017, in accordance with State Law, the circuit court conducted an "Individualized Sentencing Hearing." (Appendix # 16). Florida statute, section 921.1401 (1)..

ON, 12-6-2017, the circuit court, Fourth Judicial circuit, entered new judgments and sentences. (Appendix # 17 & 18)

ON, 12-6-2017, at transcript of: "Resentencing Hearing." Petitioner, appearing Pro-se, and in the court of First instance, objected to the sentences of Life 45 being in violation of 'ex post facto,' (Appendix # 17 & 18) !!). and the Eighth Amendment cruel and unusual Punishment.

ON, December 12, 2017, Petitioner, proceeding Pro-se, filed: Florida Rules of Criminal Procedure, 'rule 3.800(b);' 'motion to correct sentencing errors.' (Appendix # 21), specifically, the motion, 3.800(b), served to alert the sentencing authority of the sentencing error and notify the trial court of Petitioner's position and decision to appeal the sentences of Life 45 being in violation of ex post facto principles and cruel and unusual Punishment in violation of the Eighth Amendment's United States constitution's ban on sentencing Juvenile offenders to Life without Parole for non-homicide offenses. (Appendix # 25)

On, December 21, 2017, the circuit court entered an order denying Petitioner's Pro-se. "motion to correct sentencing errors." (Appendix # 22)

On, January 3, 2018, a Notice of Appeal was filed to the First District Court of Appeals. The Appeals were consolidated: Case No. # 1D18-0111, Case No. # 1D18-0112, Case No. # 1D18-0113, Case No. # 1D18-0114; Three Questions were presented for review:

- (1.) The trial court erred in finding that the primary purpose of sentencing is to punish a juvenile offender.
- (2.) The court erred in imposing a life sentence.
- (3.) The trial court erred in denying Mr. Hammal's Pro-se. motion to correct sentencing errors.

On, August 30, 2019, the First District Court of Appeals 'Per curiam' Affirmed, the decision of the circuit court. (Appendix # 26), motion for written opinion and Rehearing, filed on; September 10, 2019. (Appendix # 27) Date of order denying motion for written opinion and Rehearing: February 17, 2020. (Appendix # 28)

REASONS FOR GRANTING THE PETITION

As reasons for granting the Petition, Petitioner States the following: A state court has decided ... an important Federal question in a way that conflicts with relevant decisions of this court, i.e., Graham-v-Florida, 560 U.S. 48 (2010). Held: The Eighth Amendment bars life without Parole for Juvenile non homicide offenders. Griffith-v-Kentucky, 479 U.S. 314, 328 (1987); Held: courts must give retroactive effect to new substantive rules of constitutional Law. Also: Montgomery-v-Louisiana, 136 S.Ct. 718 (2016)., Held: Miller-v-Alabama, 567 U.S. 460 (2012), Miller's, prohibition on mandatory life without Parole for Juvenile offenders announced a new substantive rule that, under the constitution, is retroactive in cases on state collateral review. See: Montgomery-v-Louisiana, Supra.

Petitioner, a former Juvenile offender, was initially sentenced to a Prison Sentence of: Six consecutive one Hundred Year Sentences.

Petitioner motioned the court through a adequate and available Post collateral Procedures, i.e., Fla. R. Crim. Proc. rule 3.800(a), and, rule 3.850(b)(2), that his sentences of six consecutive one hundred years, were illegal and a 'de facto' life sentence.

The trial court granted the Petitioner the relief he requested, i.e., that the sentences of six consecutive one Hundred Years be vacated and, that the court conduct an "Individualized Sentencing hearing." in accordance with: Graham-v-Florida, 560

CONCLUSION

The petition for a writ of certiorari should be granted.

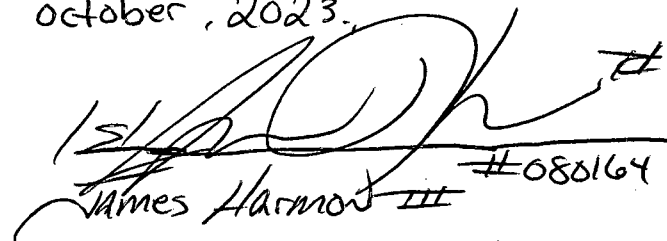
Respectfully submitted,

 # 080164

Date: 10-26-2023

Declaration

I, Hereby declare the above proceedings are in compliance with; 28 U.S.C. § 1746, that said Proceedings are filed in good faith on this 26th, day of October, 2023.

 # 080164
James Harnot III