

IN THE
SUPREME COURT OF THE UNITED STATES

APPEAL CASE NO. 23-10205

D.C. CASE NO. 8:21-CV-02714-CEH-JSS

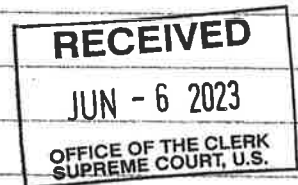
"CORRECTED COPY"

MOTION FOR EXTENSION OF TIME

COMES NOW THE PETITIONER CARMEN A. ZAMMIELLO,
PRO-SE, PURSUANT TO THE SUPREME COURT RULES OF
PROCEDURE APPLICABLE TO "MOTIONS FOR EXTENSION
OF TIME" AS SET OUT BY RULES 13.1 AND 13.5 COLLECTIVELY
AND RESPECTIVELY MOVES COURT TO ISSUE AN ORDER
"EXTENDING THE TIME TO FILE MY PETITION FOR
WRIT OF CERTIORARI FOR (60) DAYS AFTER JUNE
5th 2023, FOR GOOD CAUSE SHOWN BELOW, THE
PETITIONER STATES THE FOLLOWING:

1. JURISDICTION

THE JURISDICTION OF THIS COURT IS INVOKED UNDER
HOHN-V-UNITED STATES, SUPRA, Id. 524 U.S. 236 (1998),
WHERE BOTH THE DISTRICT COURT AND THE COURT OF
APPEALS IMPROPERLY DENIED MY REQUEST FOR CERTI-
FICATE OF APPEALABILITY (COA) BY CRAFTING AND
IMPOSING THEIR OWN PROCEDURAL RULES THAT EX-
CEEDS THE PROPER LIMITS OF THE JUDICIAL ROLE,
"BECAUSE THE CUMULATIVE CONSTITUTIONAL ERRORS AND
VIOLATIONS AT MY 2005 TRIAL DEPRIVED THE JURY
OF CRITICAL EVIDENCE THAT WOULD HAVE ESTABLISHED
MY INNOCENCE UNDER SCHLUP-V-DELO, SUPRA, Id.



513 U.S. 298 (1995) (CITING MURRAY - V - CARRIER)),
ENTITLING ME TO HABEAS CORPUS RELIEF BUT BOTH
FEDERAL COURTS, WITHOUT CONDUCTING AN EVID-
ENTIARY HEARING HAS DECLINED TO REACH THE
MERITS OF MY CLAIMS AND THUS, DENIED AND
REFUSED TO ISSUE A (COA)." see e.g. RULE 11
GOVERNING SEC. 2254 CASES, "THE DISTRICT
COURT MUST ISSUE OR DENY A CERTIFICATE OF
APPEALABILITY WHEN IT ISSUES A FINAL ORDER
ADVERSE TO THE APPLICANT. . ."; SLACK - V -
MCDANIEL, SUPRA, Id. 529 U.S. 473 (2000) (SAME)
(SAME) (HOLDING THAT: "[W]HEN THE DISTRICT
COURT DENIES A HABEAS PETITION ON PROCEDURAL
GROUNDS WITHOUT REACHING THE PRISONER'S
UNDERLYING CONSTITUTIONAL CLAIMS, 'A COA
SHOULD ISSUE' WHEN THE PRISONER SHOWS, AT
LEAST, THAT... JURISTS OF REASON WOULD FIND
IT DEBATABLE WHETHER THE DISTRICT COURT WAS
CORRECT IN ITS PROCEDURAL RULING"), Id. 529 AT
484. AND MURRAY - V - CARRIER, SUPRA, Id. 477 U.S.
478 (1986) (FACTUALLY THE SAME) (CONCLUDING THAT:
"[W]HERE A CONSTITUTIONAL VIOLATION HAS
RESULTED IN THE CONVICTION OF ONE WHO IS
'ACTUALLY INNOCENT', PROCEDURAL DEFAULT WILL
NOT BAR REVIEW OF CLAIMS").

2. REASONS FOR GRANTING THE IN-
STANT MOTION FOR EXTENSION OF TIME

(a) THAT THIS CASE ARISES OUT OF THE FALSE ARREST/

FALSE IMPRISONMENT AND CONTINUOUS ILLEGAL DETENTION OF THE PETITIONER FOR A NONEXISTENT POLICE-SPONSORED BURGLARY, WITHOUT REASONABLE SUSPICION, PROBABLE CAUSE, A VALID COMPLAINT OR WARRANT AND WITHOUT DUE PROCESS OR EQUAL PROTECTION OF THE LAW, IN VIOLATION OF THE CONSTITUTION, LAWS, OR TREATIES OF THE UNITED STATES AND FLORIDA, BECAUSE UNDER THIS HONORABLE COURT PRECEDENTS AS HOLDING THAT: "A CLAIM FOR FALSE IMPRISONMENT IS A 'CONTINUING VIOLATION' AND THUS, NOT BARRED BY STATUTE OF LIMITATIONS AND TO BE SURE, WHERE A CONSTITUTIONAL VIOLATION HAS RESULTED IN THE CONVICTION OF ONE WHO IS 'ACTUALLY INNOCENT, PROCEDURAL DEFAULT WILL NOT BAR REVIEW OF CLAIMS. ." [See EX. "A" AT PP. 1-4 AND COMPARE TO EX "B" AT PP. 1-3 AND THAN TO EX "C" AT PP. 1-5 COLLECTIVELY]. e.g. CF. MCQUIGGIN - V - PERKINS, SUPRA, Id. 569 U.S. 383 (2013) (SAME) (HOLDING THAT: "[A] CLAIM OF ACTUAL INNOCENCE, IF PROVEN, PROVIDES AN EQUITABLE EXCEPTION TO THE ONE-YEAR STATUTE OF LIMITATIONS"). SLACK - V - MCDANIEL, SUPRA, Id. AT Pg. 2, (2000) (SAME). MURRAY - V - CARRIER, SUPRA, Id. AT Pg. 2, (1986) (SAME) AND DONALDSON - V - O'CONNOR, SUPRA, Id. 493 F.2d. 507 (5th CIR. 1974), VACATED ON OTHER GROUNDS, 422 U.S. 563 (1975) (FACTUALLY THE SAME) (CONCLUDING THAT: "[A] CLAIM FOR FALSE IMPRISONMENT WAS 'CONTINUING VIOLATION' AND THUS, NOT BARRED BY STATUTE OF LIMITATIONS").

SUBSEQUENTLY, AT PETITIONER'S TRIAL IN AUG. 2005, IN ORDER TO COMPENSATE FOR THE LACK OF EVIDENCE OF MOTIVE AND FOR THE FALSE ARREST/FALSE IMPRISONMENT, THE CASE FILE RECORDS VEHEMENTLY ESTABLISHES THAT THE GOVERNMENT KNOWINGLY PERMITTED THE INTRODUCTION OF FALSE TESTIMONY AND WITHHELD REQUESTED EXCULPATORY - IMPEACHING EVIDENCE (OF C. STEPHANIE BANKS) TO OBTAIN THE TAINTED CONVICTION OF THE PETITIONER, WHO IS ACTUALLY INNOCENT OF THE ALLEGED POLICE SPONSORED - OPERATED FALSE BURGLARY CHARGE,

THEREBY DELIBERATELY DECEIVING THE COURT AND JURORS BY THE PRESENTATION OF KNOWN FALSE EVIDENCE AND THUS CONTRIBUTED TO THE DEPRIVATION OF DUE PROCESS, IN VIOLATION OF BRADY-V-MARYLAND (1963) AND GIGLIO-V-U.S. (1972), COLLECTIVELY, AND TO BE SURE, THIS

HONORABLE COURT HOLDINGS HAVE LONG "ESTABLISHED THAT A CONVICTION OBTAINED THROUGH USE OF FALSE EVIDENCE, KNOWN TO BE SUCH BY REPRESENTATIVES OF THE STATE, MUST FALL UNDER THE 14th AMENDMENT AND REVERSAL IS VIRTUALLY AUTOMATIC BECAUSE THE PROSECUTOR IS AN OFFICER OF THE COURT WHOSE DUTY IS TO PRESENT A FORCEFUL AND TRUTHFUL CASE TO THE JURY, NOT TO WIN AT ANY COST. ." [see EX "D" AT PP. 1-4 AND COMPARE TO EX "E" AT PP. 1-4 AND THAN TO EX "F" AT PP

1-5 AND EX "G" AT PP. 1-12 COLLECTIVELY J. e.g. CF. DEMARCO - V - U.S., SUPRA, Id. 928 F.2d 1074 (11th CIR 1991)(SAME)(CITING NAPUE - V - ILL (1959) AND U.S. - V - AGURS (1976), COLLECTIVELY)) AND DRAKE - V - PORTUONDO, SUPRA, Id. 553 F.3d 230 (2nd CIR. 2009)(FACTUALLY THE SAME)(CITING NAPUE - V - ILL. AND U.S. - V - AGURS, COLLECTIVELY)).

(b) THAT THE UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT AND THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF FLORIDA HAS ARBITRARY ENTERED DECISIONS IN CONFLICT WITH AND CONTRARY TO, THE DECISIONS AND HOLDINGS OF THIS COURT AND OTHER UNITED STATES COURT OF APPEALS ON THE SAME IMPORTANT QUESTION(S) OF LAW AND HAS SO FAR DEPARTED FROM THE ACCEPTED AND USUAL COURSE OF JUDICIAL PROCEEDINGS, "BY CRAFTING AND IMPOSING THEIR OWN PROCEDURAL RULES THAT EXCEEDS THE PROPER LIMITS OF THE JUDICIAL ROLE AND VEHEMENTLY CALLS FOR AN EXERCISE OF THIS COURT'S SUPERVISORY POWER BECAUSE UNDER JONES - V - BOCK, SUPRA, Id. (2007)(SAME); SLACK - V - MCDANIEL, SUPRA, Id. AT Pg 2, (2000) (SAME); WILLIAMS - V - TAYLOR, SUPRA, Id. (2000) (SAME); SCHLUP - V - DELO, SUPRA, Id. (1995)(SAME) (CITING MURRAY - V - CARRIER)); FREST - V - CAIN, SUPRA, Id. (1997)(SAME) AND GRAY - V - NETHERLAND, SUPRA, Id. (1996)(FACTUALLY THE SAME), THE ELEVENTH CIRCUIT AND THE MIDDLE DISTRICT COURT RULES ARE CONTRARY TO, AND THUS,

NOT REQUIRED BY THE PLRA; RULE 11 OF THE RULES GOVERNING SEC. 2254 CASES AND 28 U.S.C. Sec. 2254(d), AND IS PREJUDICIAL TO THE EFFECTIVE AND EXPEDITIOUS ADMINISTRATION OF THE BUSINESS OF THE COURTS, IN THE ABOVE-STYLED ACTION. . . [SEE EX "A" AT PP 1-4; EX "B" AT PP 1-3 AND COMPARE TO EX "C" AT PP 1-5 AND THAN TO EX "D" AT PP 1-4. EX "E" AT PP 1-4; EX "F" AT PP 1-5 AND EX "G" AT PP 1-12, COLLECTIVELY I. e.g. RULE 11 GOVERNING SEC. 2254 CASES (SAME). SLACK - V - MCDANIEL, SUPRA, Id. AT Pg. 2, (2000) (SAME); JONES - V - BOCK, SUPRA, Id. (2007) (SAME); SCHLUP - V - DELO, SUPRA, Id. AT Pg. 5, (1995) (SAME) (CITING MURRAY - V - CARRIER, (1986)). WILLIAMS - V - TAYLOR, SUPRA, Id. (2000) (SAME); TREST - V - CAIN, SUPRA, Id. (1997) (SAME) (REITERATING THAT: "[W]HEN REVIEWING DISTRICT COURT'S HABEAS DECISIONS, COURT OF APPEALS IS NOT REQUIRED TO RAISE ISSUE OF PROCEDURAL DEFAULT ON ITS OWN") AND GRAY - V - NETHERLAND, SUPRA, Id. (1996) (FACTUALLY THE SAME) (CONCLUDING THAT: "[I]T IS THE OBLIGATION OF THE STATE TO RAISE PROCEDURAL DEFAULT ISSUE")

ITTHUS, IN THE CASE AT BAR, BECAUSE THE STATE DID NOT RAISE ANY PROCEDURAL DEFAULT ISSUE;

"THE PERVASIVE UNFAIR AND PREJUDICIAL RULINGS AND FACTUAL FINDINGS MADE BY BOTH THE ELEVENTH CIRCUIT COURT OF APPEALS AND THE MIDDLE DISTRICT

COURT IN DENYING MY HABEAS PETITION AND REFUSING TO ISSUE A COA, ARE CLEARLY ERRONEOUS,

WHERE, AS HERE, THE COURT FILE RECORDS VEHEMENTLY SUGGEST THAT BOTH COURTS 'FAILED TO SYNTHESIZE THE EVIDENCE IN A MANNER THAT ACCOUNTS FOR CONFLICTING EVIDENCE; INCORRECTLY ASSESSED THE PROBATIVE VALUE OF VARIOUS PIECES OF EVIDENCE; FOLLOWED IMPROPER PROCEDURES IN MAKING THEIR DETERMINATIONS AND FAILED TO WEIGH ALL THE RELEVANT EVIDENCE BEFORE MAKING THEIR FINDINGS OF FACT THAT ARE CLEARLY ERRONEOUS',

AND TO BE SURE, UNDER THIS COURTS PRECEDENTS AS HOLDING, "IT IS THE OBLIGATION OF THE STATE TO RAISE PROCEDURAL DEFAULT ISSUES AND WHEN REVIEWING THE DISTRICT COURT'S HABEAS DECISIONS, THE ELEVENTH CIRCUIT COURT OF APPEALS IS NOT REQUIRED TO RAISE PROCEDURAL DEFAULT ISSUES ON ITS OWN. . ." [see EX "B" AT PP. 1-3 AND COMPARE TO EX "C" AT DOCS. # 3, 14, 26-29 AND 33-35, COLLECTIVELY]; e.g. RULE 11 GOVERNING SECTION 2254 CASES (SAME). ANDERSON -V- CITY OF BESSEMER, SUPRA, Id. (1985) (SAME); MURRAY -V- CARRIER, SUPRA, Id. (1986) (SAME); SLACK -V- MCDANIEL, SUPRA, Id. (2000) (SAME); SCHLUP -V- DELO, SUPRA, Id. (1995) (SAME) (CITING MURRAY -CARRIER)). TREST -V- CAIN, SUPRA, Id. (1997) (SAME). WILLIAMS -V- TAYLOR, SUPRA, Id. (2000) (SAME) AND GRAY -V- NETHERLAND, SUPRA, Id. (1996) (FACTUALLY THE SAME).

3. CONCLUSION

WHEREFORE, FOR ALL THE COMPELLING FOREGOING REASONS, THE PETITIONER HUMBLY PRAYS THIS HONORABLE COURT GRANTS AN EXTENSION OF TIME IN THIS ACTION, "EXTENDING THE TIME FOR (60) DAYS AFTER JUNE 5th 2023, TO FILE MY PETITION FOR WRIT OF CERTIORARI AND TO APPOINT COUNSEL TO HELP ME PROPERLY PREPARE THE PETITION OR ANY OTHER SUCH RELIEF AS JUSTICE SO REQUIRES. . ." [SEE ALL ATTACHED EXHIBITS (A - G) COLLECTIVELY]; e.g. SUPREME COURT RULES 13.1 AND 13.5 COLLECTIVELY.

IT IS SO PRAYED,

MAY 10th 2023,

DATE

/s/ Carmen A. Zammiello
PETITIONER PRO-se, #083535

PROOF OF SERVICE

I CARMEN A. ZAMMIELLO, DO SWEAR OR DECLARE THAT ON THIS 24 DAY OF MAY 2023, AS REQUIRED BY SUPREME RULE 29, I HAVE SERVED THE FOREGOING "MOTION FOR EXTENSION OF TIME TOGETHER WITH ATTACHED EXHIBITS (A - G)" ON EACH PARTY TO THE ABOVE PROCEEDING OR THAT PARTY'S COUNSEL BY PLACING THE ABOVE DOCUMENTS IN THE HANDS OF PRISON OFFICIALS AT OKEECHOBEE C.I. FOR MAILING VIA U.S. MAIL TO: ASHLEY MOODY, AG, OPPOSING COUNSEL, OFFICE OF ATTY. GENERAL, THE

CAPITOL, PL-01, TALLAHASSEE, FL, 32399; SOLICITOR
GENERAL OF THE UNITED STATES, RM. 5614, DEPT. OF
JUSTICE, 950 PENNSYLVANIA AVE, N. W., WASHINGTON
D.C., 20530 AND CLERK'S OFFICE, U.S. SUPREME COURT,
1 FIRST ST. N.W., WASHINGTON DC, 20543, FOR
PROCESSING WITHIN (3) CALENDAR DAYS.

I DECLARE UNDER PENALTY OF PERJURY THAT
THE FOREGOING IS TRUE AND CORRECT.

EXECUTED ON THIS 24 DAY OF MAY 2023.

25th

/s/ Carmen A. Zammie

PETITIONER, PRO-se, #083535

OKEECHOBEE CORR. INST.

3420 NE 168th ST

OKEECHOBEE, FL, 34972

PROVIDED TO OKEECHOBEE
CORRECTIONAL INSTITUTION
ON 5-25-23 FOR MAILING
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RECEIVED ON: TUES. JUNE 13th 2023
[EX "H"]

SUPREME COURT OF THE UNITED STATES
OFFICE OF THE CLERK
WASHINGTON, DC 20543-0001

June 7, 2023

Carmen A. Zammiello
083535
3420 NE 168th St.
Okeechobee, FL 34972

RE: Zammiello v. Dixon
USCA11 No. 23-10205

Dear Mr. Zammiello:

The application for an extension of time within which to file a petition for a writ of certiorari in the above-entitled case was postmarked May 25, 2023 and received June 6, 2023. The application is returned for the following reason(s):

The application does not set forth with specificity the reasons why the granting of an extension of time is thought justified. Rule 13.5: SEE PP. 5 - 7, COLLECTIVELY

(A copy of the corrected application must be served on opposing counsel. SEE Pg. 10)

Please be advised that this Court does not appoint counsel for the purpose of filing a petition.

Sincerely,
Scott S. Harris, Clerk
By:


Jacob Levitan
(202) 479-3392

Enclosures

