

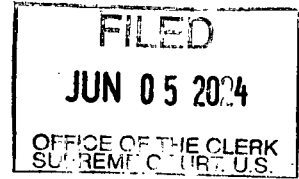
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24-5061

ORIGINAL



IN THE

SUPREME COURT OF THE UNITED STATES

JOSHUA I. MARTINEZ — PETITIONER
(Your Name)

vs.

STATE OF FLORIDA — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

THE SECOND DISTRICT COURT OF APPEAL, STATE OF FLORIDA
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

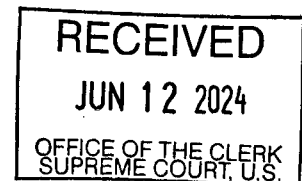
PETITION FOR WRIT OF CERTIORARI

JOSHUA I. MARTINEZ
(Your Name)

MAYO CORRECTIONAL INSTITUTION
8784 U.S. Hwy. 27 W.
(Address)

Mayo, Fla 32066-3458
(City, State, Zip Code)

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QUESTION(S) PRESENTED

IS THE ISSUE OF WHETHER OR NOT THE HOLY BIBLE
ADMISSABLE AS A BODY OF REFERENCE IN FLORIDA COURT
ROOMS DURING ARGUMENT A QUESTION OF GREAT PUBLIC
IMPORTANCE?

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:

RELATED CASES

JOSHUA I. MARTINEZ, v. STATE OF FLORIDA,
appellant, appellee
(2023-824) Jan. 31st, 2024.
STATE OF FLORIDA, v. JOSHUA I. MARTINEZ,
plaintiff, defendant
(2022-CF 000367 CFAXMA) Apr. 17th, 2023.

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APPENDIX B	Apr. 17 th , 2023, Trial Court Adjudication (case no. 2022-CF000367CFAXMA)
APPENDIX C	Mar. 8 th , 2024 Order Denying Review (case no. SC 2024-0345)
APPENDIX D	Feb. 27 th , 2024, Order Denying Rehearing (case no. 2023-824)
APPENDIX E	pg. 065-066, THE RECORD ON APPEAL, Trial Transcript, case no. 2022-CF000367CFAXMA (Apr. 17 th , 2023)
APPENDIX F	

TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

Texas v. Johnson, 419 U.S. 597, 105 L.Ed. 2d

5

342 (1989).
Van Orden v. Perry, 545 U.S. 677, 162 L.Ed.

485

2d 607, 125 S.Ct. 2854 (dec. June 27th, 2005).

Virginia v. Black, 538 U.S. 343, 123 S.Ct. 1836, 5
155 L.Ed. 2d 535 (dec. Apr. 7th, 2003).

Woodbury v. State, 320 So. 3d 631 (Fla. Cir.)

5

STATUTES AND RULES

§ 806.10(1), Fla. Stat. "Preventing or Obstructing
Extinguishment of Fire"

4

§ 806.13(5), Fla. Stat. "Criminal Mischief"

4

OTHER

pg. 065-066, The RECORD ON APPEAL, Trial Trans 485
-script, case no. 2022- CF000367 CFAXMA
(Apr. 17th, 2023).

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,
☐ 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 Second District Appellate 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 Jan 31st, 2024
A copy of that decision appears at Appendix A.

☒ A timely petition for rehearing was thereafter denied on the following date: Feb. 27th, 2024, and a copy of the order denying rehearing appears at Appendix D.

☐ 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

First Amendment's Establishment of Religion Clause
Amend. I, U.S. Const.

2 U.S.C. § 171 (3)-(4) & (6)-(7), Library of
Congress' Center for the Book

STATEMENT OF THE CASE

On Apr. 17th, 2023, jury trial was had in De Soto County Courthouse, the Hon. Guy Flowers, Circuit Judge, presiding, in the Twelfth Judicial Circuit for De Soto County, Florida. Petitioner had been duly adjudicated "guilty" for the crimes of § 806.10(1), Fla. Stat., "Preventing or Obstructing Extinguishment of Fire," and § 806.13(5), Fla. Stat., "Criminal Mischief," by a six-panel jury. Petitioner, while representing himself, had stated in opening argument, "In the Bible..." to which the State Attorney, Mr. Moran, objected. The Hon. Judge Flowers sustained the objection without explanation, (see, Appendix B, Decision of the Trial Court, Apr. 17th, 2023, case no. 2022-CF000367CFAXMA). Also, see, pg. 065-066, Record On Appeal, Trial Transcript. Petitioner filed direct appeal and provided his argument for why his conviction should be over-turned in Ground Two as to the Bible not being allowed as a source of reference in the court-room. The Second District Court of Appeal affirmed the conviction January 31st, 2024, (see, Appendix A, Decision of the Appellate Court, Jan. 31st, 2024, case no. 2023-0824). No opinion was published. Petitioner also sought certification because he thought there was a decision in conflict, Van Orden v. Perry, 545 U.S. 677, 162 L.Ed. 2d 607, 125 S.Ct. 2854 (dec. June 29th, 2005). He asked for certification because he believes that the question as to the Bible being allowed as a source of reference during opening argument is of great public importance. Mandate was issued in this case March 18th, 2024.

REASONS FOR GRANTING THE PETITION

THE ISSUE OF WHETHER OR NOT THE HOLY BIBLE SHOULD BE ADMISSABLE AS A BODY OF REFERENCE IN FLORIDA COURT ROOMS DURING ARGUMENT IS A QUESTION OF GREAT PUBLIC IMPORTANCE.

In 2003, the United States upheld a Virginia statute banning the burning of the Christian cross with intent to intimidate, Virginia v. Black, 538 U.S. 343, 123 S.Ct. 1536, 155 L.Ed.2d 535 (dec. Apr. 7th, 2003). And, despite the defendant's conviction in Texas v. Johnson, 491 U.S. 397, 105 L.Ed. 2d 342 (1989), being over-turned, involving the burning of the American Flag during a Republican rally, the State's asserted interest in preserving the American Flag as a symbol of National Unity had not changed.

But, sadly, the State of Florida's asserted interest in preserving the Holy Bible has dwindled and waned. Arguably, one of the most prominent examples of this lessening zeal is recorded in Woodbury v. State, 520 So.3d 631, wherein Woodbury, pro se defendant, during Voir Dire, asked a prospective juror, "[...] am I to understand that you can look past the Bible and obey Florida law [...] even though the Florida law has trumped your Bible law [...]?"

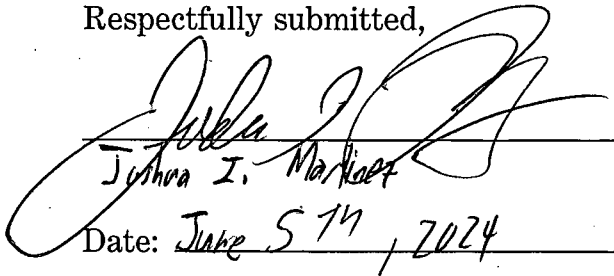
In Van Orden v. Perry, 125 S.Ct. 2854 (2005), Scalia, J., concurring, expressed the view that (1) there was nothing unconstitutional in a state's favoring religion generally, (2) honoring God through public prayer and acknowledgment, or (3) venerating the Ten Commandments in a non-proselytizing manner.

Petitioner prays that the Honorable Supreme Court of the United States will grant his petition because not allowing the Bible to be referenced during opening argument is wrong (pgs. 065-066, Record on Appeal Apr. 17th, 2023 Trial Transcript, case no. 2022-CF000 367 CFAXMA), (App. Ex. "E").

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,


Joshua I. Markoe
Date: June 5th, 2024