

24-5464

IN THE SUPREME COURT OF THE UNITED STATES

Schiedenhelm, Jeromy S.,
(Petitioner),

vs.

Secretary, Fla. Dept. of Corr., et al,
(Respondents).

CASE NO. : 23A1053

11 Cir. No. : 22-11997-JJ

U.S. Dist. Ct. No. : S-20-cv-000168-CEM-PR

Fla. S. Ct. No. : SC18-1903

Fifth DCA No. : 5D19-0526

Fifth DCA No. : 5D17-3504

Fifth DCA No. : 5D15-0480

Trial Ct. No. : 2014-CF-000983

CCSO Agency No. : 2014-00122764

ON PETITION FOR WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS FOR THE 11TH CIRCUIT

FILED

JUL 11 2024

OFFICE OF THE CLERK
SUPREME COURT, U.S.

ORIGINAL

Respectfully,

[Signature]

Schiedenhelm, Jeromy S.

Mayo Annex

4784 W. HW 27

Mayo, FL 32066

QUESTIONS TO BE PRESENTED

QUESTION ONE: "IF TRIAL COUNSEL FAILS TO, AND REFUSES A DEFENDANT'S REPEATED DEMANDS TO FILE A MOTION TO SUPPRESS AND MAKE THE PROPER FOURTH AMENDMENT CLAIMS WHEN AN ALARMING AMOUNT OF FOURTH AMENDMENT ISSUES CLEARLY EXIST, IS THAT INEFFECTIVE ASSISTANCE UNDER STRICKLAND AND A VIOLATION OF U.S. CONST. AMEND.'S VI & XIV?"

QUESTION TWO: "IF TRIAL COUNSEL FAILS TO MOVE FOR JOA WHEN THE STATES EVIDENCE ON A KEY ELEMENT OF THE OFFENSE IS INSUFFICIENT TO PROVE GUILT, AND COUNSEL IS NOT AWARE OF NOR RESEARCHES, AND THEREFORE FAILS TO APPRISE THE TRIAL COURT OF A RELEVANT LAW THAT WOULD HAVE SUPPORTED A JOA ARGUMENT AS TO THE OFFENSE IN QUESTION, IS THAT INEFFECTIVE UNDER STRICKLAND AND A VIOLATION OF U.S. CONST. AMEND.'S VI & XIV?"

QUESTION THREE: "IF TRIAL COUNSEL MOVES FOR JOA ON AN OFFENSE, BUT FAILS TO ARGUE THAT THE STATES EVIDENCE ON A KEY ELEMENT OF THE OFFENSE WAS INSUFFICIENT TO PROVE GUILT, IS THAT INEFFECTIVE ASSISTANCE UNDER STRICKLAND AND A VIOLATION OF U.S. CONST. AMEND.'S VI & XIV?"

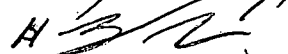
QUESTION FOUR: "IF TRIAL COUNSEL FAILS TO OBJECT TO 'PURE OPINION' TESTIMONY THAT CLEARLY INVADES THE PROVINCE OF THE JURY, IS THAT INEFFECTIVE UNDER STRICKLAND AND A VIOLATION OF U.S. CONST. AMEND.'S VI & XIV?"

CERTIFICATE OF INTERESTED PERSONS, AND
CORPORATE DISCLOSURE STATEMENT

Schiedenhelm, Jeromy S. vs. Secretary, Fla. Dept. of Corr., et al, No.:

The following persons have an interest in the outcome of this Appeal:

Berger, Wendy W., Former Judge, Fifth D.C.A., Florida;
Braddock, Charity R., Assistant Public Defender;
Burden, George D.E., Assistant Public Defender, Appellate Division;
Counhey, Bryan P., Assistant State Attorney;
Corrente, Carmen F., Assistant Attorney General;
Dozier, James, Assistant Regional Counsel;
Eishnauze, Eric J., Judge, Fifth DCA, Florida;
Evander, Kerry I., Judge, Fifth DCA, Florida;
Gladsen, Bill, Elected State Attorney, Fifth Judicial Circuit, Florida;
Gravel, Sean K., Assistant Public Defender, Appellate Division;
Graves, Mike, Elected Public Defender, Fifth Judicial Circuit, Florida;
Heidt, Wesley H., Former Assistant Attorney General;
Howard, Richard A., Circuit Court Judge, Fifth Judicial Circuit;
Labarga, Jorge, Florida Supreme Court Justice;
Luck, Robert J., Former Florida Supreme Court Justice;
Lambert, Brian D., Chief Judge, Fifth D.C.A. Florida;
Lowson, Alan, Florida Supreme Court Justice;
McGuigan, Rebecca R., State Attorney General, Criminal Appeals;
Metts, Julia A., Assistant State Attorney;
Metz, Matthew, Elected Public Defender, Seventh Judicial Circuit, Florida;
Moody, Ashley B., Elected Attorney General, Florida;
Pallas, Richard A., Assistant Attorney General, Criminal Appeals;
Polston, Ricky, Florida Supreme Court Justice;
Sawaya, Thomas D., Senior Judge, Fifth D.C.A., Florida;
Waatti, Luther M., Assistant Public Defender;
Wallis, Rand F., Judge, Fifth D.C.A., Florida;
Yerman, Mark, Circuit Court Judge, Fifth Judicial Circuit, Florida.

Respectfully,


Schiedenhelm, Jeromy S.

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PRELIMINARY STATEMENT (AND KEY)

For the purpose of this Petition, the *Petitioner*, "Schiedenhelm", will be referred to as "*Petitioner*" except when listing specific portions of the Record that refer to him as "Schiedenhelm; Mr. Schiedenhelm; Jeremy; or Mr. Jeremy". In those instances, *Petitioner* will list the specific portion of the Record, as is, to be followed immediately by "*Petitioner*" or "(i.e., *Petitioner*)."

In this Petition there includes a voluminous Appendix of Exhibits to wit (4) Volumes. During *Petitioner's* demonstration of the Case and Facts, he will, in Chronological order, separate each phase by Volume Number, and then reference the specific Exhibit therein as follows: "Appx. Vol. 1, Ex. (A). In the instance a specific page or transcript number is referred to, *Petitioner*, to avoid unnecessary repetitiveness, will simply put the page or transcript number by itself as follows: "(at 3); (pg. 3); (T. 3); or (T.T. 3)" only when referring to the Exhibit in question, and following the referenced Exhibit as follows: "Appx. Vol. 1, Ex. (A), Original Report", then the specific listing "(at 3)".

To indicate Points or Points of Law, *Petitioner* will simply put: "•", and then the "Point" or "Point of Law".

To indicate any Fact; Special Note; and/or Critical Fact, *Petitioner* will simply put: "*", and then the "Fact(s)"; "Special Note"; and/or "Critical Fact(s)";

When referencing Law(s); Statute(s); Supreme Court Precedent; and/or Legal Authorities, *Petitioner* will simply put: "*", and then that which he is referencing to.

The *Petitioner* has put together all Exhibits as this case Manifested to the best of his ability with the documents; Court Orders; Opinions; and otherwise specific portions of the Record as relates to the Federal questions presented herein this Petition, pursuant to Rule 14.1, with those portions thereof in which he still has. The *Petitioner* is a *pro-se* litigant and prays that this Honorable Court afford him a Fair Due Process review and disposition of his Certiorari and in the instance any mistake was made, he asks to be allowed the opportunity to Amend and Correct it to meet this Court's requirements.

TABLE OF CITATIONS

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§ 843.01, F.S.

§ 784.078(3), F.S.

§ 784.03(1)(a) & 784.07(2), F.S.

§ 951.22(1), F.S.

§ 918.13, F.S.

§ 90.702, F.S.

Fla. Bar Rules & Procedure's § 4.1.1 - Maintaining Competence

OPINIONS BELOW

Petitioner prays that a writ of Certiorari issue to review the Judgment(s) below...

Federal Courts:

- U.S. Court of Appeals, 11th Circuit; Case No.: 22-11997-JJ: (Appx. Vol. 4, Ex. (H)), "Opinion";
- U.S. Dist. Ct., Middle Dist. of Fla., Ocala Division; Case No.: 5:20-cv-000168-CEM-PRL: (Appx. Vol. 4, Ex. (B)), "Opinion" (Note: The Attached Copy is missing, pg's 2, 5, 7, 16 & 17, *Petitioner* has lost throughout time. Please Note that these pages are important);

State Courts:

- Fifth DCA, Fla.; Case No.: 5D19-0526; Published citing: *Schiedenhelm v. State*, 286 So. 3d 278 (Fla. 5th DCA 2019); (*pro* Court Order NOT Attached), "*per curiam affirmed*, NO Opinion";
- Fla. Supreme Ct.; Case No.: SC18-1903: (Appx. Vol. 3, Ex. (R)), "Declined without an Opinion";
- Fifth DCA, Fla.; Case No.: 5D17-3504; Published citing: *Schiedenhelm v. State*, 255 So. 3d 431 (Fla. 5th DCA 2018): (Appx. Vol. 3, Ex. (H)), "*per curiam affirmed*, NO Opinion"; Reversed ruling on Ground 6, Remanded For 2nd Evidentiary Hearing: (Appx. Vol. 3, Ex. (L)) "Evid. Hear. Transcripts, Orally Pronounced Legal Findings: T. 52-54"); See Also: Court Order Following 2nd Evid. Hear.: (Appx. Vol. 3, Ex. (M), "Court Order") (On Appeal From 3:850; Case No.: 2014-CF-983);
- Fifth Judicial Circuit Ct., Citrus County Fla.; Case No.: 2014-CF-000983: "Order on 3:850 Motion For Post Conviction Relief (Appx. Vol. 3, Ex. (B), Court Order)"; Reserved Grounds 1, 5, & 8 For First Evidentiary Hearing: (Appx. Vol. 3, Ex. (C), "First Evid. Hear. Transcripts, Orally Pronounced Legal Findings: T-50-52"); See Also: Court Order Following First Evid. Hear.: (Appx. Vol. 3, Ex. (D));
- Fifth DCA, Fla.; Case No.: 5D15-0480; Published citing: *Schiedenhelm v. State*, 197 So. 3d 57 (Fla. 5th DCA 2016): (Appx. Vol. 2, Ex. (K), "*per curiam affirmed*, NO Opinion"); See Also: Court Order Denying Motion to Relinquish Jurisdiction on Direct Appeal: (Appx. Vol. 2, Ex. (G), "Court Order Attached to Initial *Anders* Brief")
- Fifth Judicial Circuit Ct., Citrus County Fla.; Case No.: 2014-CF-000983: (Appx. Vol. 2, Ex. (C), Trial Transcripts, Oral Pronouncement of Judgment and Sentence: T.T. 228-229; of JOA: T.T. 147-149; and on Motion in Limine: T.T. 7-12); See Also: Pre-Trial Record and Original CCSO Agency Case No.: 2014-00122764: (Appx. Vol. 1, Ex's (A-O)).

STATEMENT OF JURISDICTION

This cause is being brought before this Honorable Court pursuant to 28 U.S.C. § 1257(a), and as a matter of Due Process and Equal Protection of Law, under United States Constitutional Amendments V, VI, & XIV, this Honorable Court has jurisdiction to review this case and facts, and all proceedings leading thereto in order to correct any Injustice that has resulted from a violation of a Constitutional right. The *Billings*, herein this Petition, without adding any extra additional claim(s) not properly exhausted in the Lower Tribunals, will demonstrate how all Tribunals, to include the U.S. Court of Appeals, 11th Circuit, have reviewed, and entered a decision related to the Constitutional claims in question, in this case, has resulted in a Paradigmatic Abuse of Discretion and Manifest Injustice. More specifically, as relates to this Court's jurisdiction in reviewing and considering Certiorari, and made evident by the Opinions of the United States District Court on *Billings* (5) § 2254 Habeas Corpus Claims (Appx Vol. 4, Ex (B), "Court Order missing pgs 2, 5, 7, 16 & 17"), the U.S. 11th Circuit Court of Appeal decision on his Request for C.O.A (Order Not Attached), and the 11th Circuit's most recent, March 21, 2024 Opinion on Appeal therefrom (Appx Vol. 4, Ex (H)), the facts and Evidence considered and relied upon by all Tribunals in denying *Billings* Post-Conviction relief was illicitly by the Attorney General in all Answer Briefs and Responses to his Constitutional Claims. In that, the States Characterization of the facts of this case was designed to diminish *Billings* Constitutional Claims, and presented a factual scenario to the Fifth DCA, Fla. Supreme Court, U.S. Dist. Court, and 11th Circuit U.S. Court of Appeals in which is completely unsupported by the record. Thus, as a matter of Due Process, pursuant to 28 U.S.C. § 1257(a) and the United States Constitution, this Court has jurisdiction to review the totality of the case, facts, and Evidence relied upon to deny *Billings* relief in Case No.: 22-11997-Jl on Appeal from Case No.: 5-20-cv-168-CEM-PRL in light of the facts and Evidence made of Record in this case and issue Writ of Certiorari to correct any Injustice that has occurred. This case Manifested as follows; (From the most recent March 21, 2024 Opinion to the Origin of this case, CCSO Agency No.: 2014-001-22764):

Federal Courts:

On March 21, 2024, the U.S. 11th Circuit Court of Appeals entered its Affirmed Opinion on Appeal from the U.S. Dist. Court's Denial of Habeas Relief (Appx Vol. 4, Ex. (H)) Case No.: 22-11997-Jl (See all proceedings related); - No Rehearing was Filed; Extension of Time to file Certiorari: GRANTED to extend to July 19, 2024;

On April 4, 2023, the 11th Circuit Court of Appeals granted in Part, Denied in Part Request for C.O.A in Case No.: 22-11997-Jl (Court Order Not Attached) (See all proceedings related); - No Rehearing was Filed;

• On May 23, 2022, The U.S. District Court, Middle District of Florida, Ocala Division, Affirmed the Trial Court's Legal Findings denying *Petitioner* Habeas Relief and C.O.A.; Case No.: 5:20-cv-000168-CEM-PRL; (Appx. Vol. 4, Ex. (B), Order missing pages 2; 5; 7; 16 & 17))

- No Rehearing Filed;

State Courts:

• On or about December 19, 2019, The F.Fth DCA *per curiam* affirmed, without a written Opinion, The Trial Court's ruling; Case No.: 5D19-0526; Published citing: *Schiedenhelm v. State*, 286 So.3d 278 (Fla. 5th DCA 2019); (Court Order Not Attached); (Appx. Vol. 3, Ex's (S-U), "Proceedings"));

- No Rehearing Filed;

• On December 26, 2018, The Fla. Supreme Court Declined Jurisdiction; Case No.: SC18-1903;

- No Rehearing Filed; (Appx. Vol. 3, Ex's (P-R), "Proceedings"));

• On February 21, 2019, The Trial Court entered its written Court Order Following the 2nd Evidentiary Hearing and its Legal Findings Orally Pronounced thereat on February 13, 2019, on Remand From From the F.Fth DCA's Court Order on 3-850 Appeal in Case No.: 5D17-3504; L.T. No.: 2014-CF-000983;

- Rehearing Filed on February 18, 2019, and Denied on March 5, 2019; (Appx. Vol. 3, Ex's (L-O), "Proceedings"));

- Suggestion of Non-Compliance Filed on October 19, 2018 and Denied on October 22, 2018;

• On August 31, 2018, The F.Fth DCA Reversed the Summary Denial of *Petitioner's* Ground Six 3-850 Claim, Remanded For an Evidentiary Hearing, and *per curiam* affirmed, without a written Opinion, the remaining (7) Grounds; Case No.: 5D17-3504; Published citing: *Schiedenhelm v. State*, 255 So.3d 431 (Fla. 5th DCA 2018); (Appx. Vol. 3, Ex's (A-K), "Proceedings"));

- Rehearing Filed on September 20, 2018, and Denied on October 11, 2018, where after, *Petitioner* Filed the aforementioned "Suggestion of Non-Compliance" on October 19, which was Denied on the 22, 2018

• On November 8, 2017, The Trial Court entered its written Court Order Following its Oral Pronouncement of its Legal Findings at the close of the November 1, 2017, Evidentiary Hearing on Reserve From *Petitioner's* 3-850 Motion For Post Conviction Relief, Grounds 1; 5; & 8 thereof; L.T. No.: 2014-CF-000983; (Appx. Vol. 3, Ex's (A-D), "Proceedings"));

- Rehearing Filed and Denied; (Not Attached);

• On May 24, 2016, The F.Fth DCA *per curiam* affirmed, without a written Opinion, the Trial Court's Judgement and Sentence on Direct Appeal; Case No.: 5D15-0480; Published citing: *Schiedenhelm v. State*, 197 So.3d 57 (Fla. 5th DCA 2016); (Appx. Vol. 2, Ex's (A-M), "Proceedings"));

- ... - Rehearing Filed on July 7, 2016, and Denied on August 5, 2016;
- On February 9, 2015, The Trial Court Denied *Petitioner's* Motion For New Trial, and Follow up Motion For JOA at the conclusion of the Motion Hearing; Case No.: 2014-CF-000983;
 - No Rehearing Filed; (Appx. Vol. 2, Ex. (G), "Court Order Attached to Initial Anders Brief"));
- On January 23, 2015, The Trial Court entered its Judgement and Sentence in this case, in which the Constitutionality thereof is as the purpose of this Certiorari; Case No.: 2014-CF-000983;
 - JOA Filed at the Close of Trial, and Denied; Motion in Limine Filed at the opening of Trial by Trial Counsel, and Granted by Trial Court to exclude critical Constitutional issues From:
- * On September 5, 2014, This case, and the entire Facts and Evidence thereof originated in Citrus County Florida; CCSO Agency Case No.: 2014-00122764; (See Appx. Vol. 1, Ex's (A-M));
 - Formal Charges against *Petitioner* Announced on October 6, 2014, and Arraignment, as well as Trial Counsel Appointed, commenced same Day;
 - Charges Dropped against the Co-Defendant, Jason Williams, on October 2, 2014, (i.e, the Day the State began adding extra addition Facts not made of Record, and excluding Critical Facts made of Record in which support *Petitioner's* Constitutional Claims...

* This Court has Jurisdiction to review the Facts and Evidence of this case as it Manifest, and to Correct any Injustice it deems necessary under 28 U.S.C § 1257 (a), and U.S. Const. Amend.'s VI & XIV especially when there involves an Issue of Public Importance and/or conflict with U.S.S.Ct. preceder

NOTE: "Fundamentally un-Fair State Court Evidentiary rulings are basis For Habeas Corpus relief." *Thomas v. Lynaugh*, 812 F.2d 225-230 (5th Cir. 1987); 484 U.S. 842 (1987) (Admission or Exclusion of Evidence may be actionable if affected Evidence is crucial, critical, or highly significant Factor in the context of the entire Trial).

* Thus, this court has Jurisdiction to review this case and Facts thereof as it manifested to produce the March 21, 2024 Opinion as Follows:

STATEMENT OF THE CASE AND FACTS

On January 23, 2015, the *Petitioner* was found Guilty of: Count 1, Possession of Methamphetamine with Intent to Sell; Count 2, Resisting an Officer with Violence; Count 3, Battery on a LEO; and Count 4, Tampering with Evidence. As a result thereof, *Petitioner* was sentenced as follows: (15) years as to Count 1, and a year and a day as to each of the remaining Counts. All sentences to be served Consecutively for a total of (18) years and (3) Days in the Fla Dept. of Corrections.

* This Injustice Manifested as follows:

APPENDIX VOLUME #1

(Pre-Trial)

The Traffic Stop...

* Appx. Vol. 1, Ex. (A), "Original Report": On September 5, 2014, Deputy Heath Schaffer "observed a Black Ford Explorer... without its headlights on 'IN THE RAIN'". "The Driver (Co-Defendant) Defendant Mr. Jason Williams, turned left (at 2). The Deputy conducted a Routine Traffic Stop on the vehicle and its "Driver (i.e., the Co-Defendant in this case, Jason Brian Williams)" for not having his headlights on "IN THE RAIN" (i.e., A Traffic Infraction). (2-3)

* The Deputy "requested the Driver's License, Registration, and Insurance, WHICH HE PROVIDED" (i.e., The Driver, Jason Williams provided his Driver's License) (at 3), and then...:

* The Deputy requested "THE PASSENGER/Defendant, Mr. Jeremy Schiedenhelm's (i.e., the *Petitioner*) identification, which HE provided HIS Department of Corrections Inmate Card (i.e., A Valid Florida I.D.). The Deputy then returned to his patrol vehicle (at 3), and then...:

The Illegal Detention...

* Appx. Vol. 1, Ex. (B), "Pre-Trial Deposition": Deputy Schaffer completed a Wants and Warrants check in which concluded that neither the Driver nor *Petitioner* had any Wants or Warrants (at 9). And then, absent "any reason to believe... that they were involved in drug (or criminal) activity at the time... after he knew (*Petitioner*) was in the vehicle, before (Deputy Schaffer) had him get out", he "called for a K9 drug dog, then ordered *Petitioner* to exit the vehicle to "gather some information from him", and rather than let him leave, the Deputy ordered *Petitioner* to "sit back in vehicle", and entered the information into the system (10-12). (No uniform traffic citation was written in this case (See Appx. Vol. 1, Ex. (C))). Thereafter, the K9 arrived, and...:

The K9 Alert and (2) Illegal Stop & Frisk's...

* Appx. Vol. 1, Ex. (D), "Deputy Jonathan Seffern Jr.'s Supplemental Report": Deputy Seffern Jr. "arrived to assist Deputy Schaffer with the Traffic Stop". Deputy Schaffer explained that he called for a K9, and when the K9 arrived, "K9 Deputy Behnen deployed his...

... K9 Co-partner Jerry Lee to conduct an exterior sniff of 'the vehicle' for Narcotics" and "K9 Jerry Lee 'Alerted on the Vehicle for the odor of Narcotics'" (at 29).

* At that point both Defendants Williams and Schiedenhelm (*Petitioner*) were requested to exit the vehicle and were 'Patted down for Weapons' by Deputy Schaffer, (1st Stop & Frisk). Rather than allowing *Petitioner* to leave, K9 Deputy Behnen restricted his Freedom to leave while Deputies Schaffer and Seffern Jr. searched the Drivers vehicle, during which, "No Narcotics were Found" so the Deputies advised both Defendants that they would be searching their persons 'FOR CONTRABAND' (at 29). And then...

* The Deputies "requested Defendant Williams to empty his pockets, at which time": Jason Brian Williams (The Co-Defendant) "pulled a bag from his pocket" that "contained a Crystalline Substance" (29-30). "Deputy Schaffer asked Defendant Williams, (The Co-Defendant), 'who the Methamphetamine belonged to... Defendant Williams explained that it belonged to him'... and "that he would be willing to retrieve the bag containing the paraphernalia from his GROIN AREA" (at 31).

NOTE: The Report does not indicate which "One" of the "15" bags belong to the Co-Defendant.

* Deputy Seffern Jr. then ordered *Petitioner* to submit to another (2nd Illegal) Pat down search, during which, the Deputy began feeling "his buttox... and then spreading his legs apart... was able to feel between his inner thighs" (at 29-30). The Deputy coincidentally alleged that "he felt a hard blunt 'Crystal like' object... secured (*Petitioner*) in handcuffs... for further search of his Groin Area", and *Petitioner* "began screaming that he was grabbing his penis and scrotum". The Deputy continued to search *Petitioner's* "Groin Area", alleged *Petitioner* kicked back striking him in the shin and screaming so loudly that the residents in the area began to come out, witness what was happening, and so the Deputy stopped what he was doing, and locked *Petitioner* in the back seat of his patrol vehicle (at 31).

NOTE: Nothing illegal or otherwise was found on *Petitioner's* person.

The Actual Arrest of *Petitioner*...

* "Later... prior to leaving the scene" *Petitioner* "was advised that he was being placed under arrest for Resisting an Officer with Violence" (Ex.(D), at 31). Deputy Seffern Jr. then transported *Petitioner* to the jail (31-32)...

The Arrival at the Jail; Third Illegal Frisk search, and Illegal Strip Search...

* Appx. Vol. 1, Ex. (E), "Disciplinary Report": Upon arriving at the jail, the arresting CCSO Deputies were met by Detention Facility Employee Daniel Greenwald who "went out to intake and performed a Frisk search on (*Petitioner*) with CCSO present due to information that he had 'drugs' on his person. 'After the Frisk Search was complete'... Arresting...

... Deputies along with Mr. Greenwald escorted *Petitioner* to a bathroom within the jail wherein after, Mr. Greenwald ordered him to "Strip-out". During the "Strip Search"... *Petitioner* "removed a plastic bag" from his underwear, "then threw the bag in the toilet"... Greenwald "grasped (*Petitioner*) right hand and pulled him to the opposite wall"... *Petitioner* "then Flushed the toilet and attempted to pull away"... at which time Greenwald "redirected him towards the wall"... and then "to the ground" with the assistance of arresting Deputies. "Hand restraints were placed on" *Petitioner* and he was "escorted to the shower cell where the restraints were removed without incident."

NOTE: There was NO evidence (i.e., incident report; pictures; and otherwise NO documented account by this alleged victim) of any Battery. Also, NO written authorization was given by Greenwald's Supervising Officer to justify the Strip Search, nor made of Record.

The State Design's its case...

* Appx. Vol. 1, Ex. (F), "Court Docket entry, "Original Charges": On 9/5/14 *Petitioner* was Originally arrested For and charged as follows:

- 1) (§893.13 (1A1)) Poss Meth w Intent to Sell Manufacture;
- 2) (§843.01) Resist OFFicer with Violence;
- 3) (§784.078(3)) Battery on Detention Facility Employee w Fluids;
- 4) (§951.22 (1)) Introduce / Pass Contraband into a Detention Facility;
- 5) (§918.13) Evidence Destroying Tamper with or Fabricate Physical.

Conningling; Manipulating; Adding; Excluding; and Otherwise Fabricating Evidence...

* Appx. Vol. 1, Ex. (G), "Property / Evidence Receipt": Deputy Schaffer documented and stored the (14) bags of Crystalline Substance as Evidence belonging to *Petitioner*, and then, at some point, an unidentified "State OFFicial" added, and otherwise manipulated said Evidence by signature as any Fair review of Ex. (G) will demonstrate. Additionally; See Ex. (H):

* Appx. Vol. 1, Ex. (H), "Co-Defendant, Jason Williams, Property / Evidence Receipt's": The Substance in which Mr. Williams confessed to having possessed was stored in the same location as those alleged to have belonged to *Petitioner* (i.e., V23) along with the paraphernalia Mr. Williams was arrested For having possessed (at 35). Also, See at 36:

* Co-Defendant, Jason Williams confessed to having possessed a 45 Cal. pistol; (7) 45 Cal. rounds, and a gun holster yet was not charged therefore, and then the State; (12) Days later:

* Appx. Vol. 1, Ex. (I), "Combined Court Action Sheet": On September 17, 2014, Asst. State Attorney Julia Metts, in her Summary of the Case & Facts, notes that the Co-Defendant was a convicted felon who had a gun located in his vehicle, but that all Substance's discovered in this case were thrown / Found in the toilet in the County Jail belonging only to ...

... *Petitioner*. And then, (15) Days after that:

* Appx. Vol. 1, Ex. (J), "Announcement of No Information": On October 2, 2014, Asst. State Attorney Blake Shore submitted the State's Announcement that: "Evidence legally insufficient to prove guilt", and therefore dropped all charges against the Co-Def., Williams. And then, (4) Days thereafter:

* Appx. Vol. 1, Ex. (K), "Information": On October 6, 2014, Asst. State Attorney Blake Shore submitted the State's Announcement that they were dropping the charge of Introduction of Contraband into a Detention Facility, (i.e., moving to prosecute *Petitioner* of Count 1), and Filing information as to the remaining offenses, but completely transformed Count 3 From: §784.078(3), Battery on a Detention Facility Employee with Fluids, into: §784.07(2) and 784.03(1)(a). Also, on that same day, *Petitioner* was Arraigned and:

* Appx. Vol. 1, Ex. (L), "Plea-Agreement": The State offered *Petitioner* a Plea Agreement of (25) months. The Plea Agreement was rejected, and so:

* Appx. Vol. 1, Ex. (M), "Work Orders": On December 29, 2014, Asst. State Attorney Bryan Cauphey sent the (15) bags of a Crystalline Substance acquired in CCSO Agency Case No.: 2014-00122764, (i.e., substances that the Co-Defendant, Williams, confessed was his as well as those alleged to belong to *Petitioner*) to the FDLE for testing. The State was seeking to enhance Count 1 to "TRAFFICKING", and stated such therein Ex. (M).

The FDLE Laboratory Report Analysis & Results...

* Appx. Vol. 1, Ex. (N), "FDLE Lab Report": On January 16, 2015, the FDLE submitted its Analysis and test results of the substances acquired in CCSO Agency Case No.: 2014-00122764 as follows: "Subjects: Jason Brian Williams (Co-Defendant), and Jeremy Schiedenhelm (*Petitioner*)";

"Items: 8(A), One bag of Crystalline Substance (Belonging to the Co-Def., Jason Brian Williams) was in fact 'Methamphetamine, 8(A)', and 8(B), Fourteen smaller baggies of a Crystalline Substance (Belonging to *Petitioner*) was 'NOT ANALYZED' at all, 8(B).

The State submits all (15) bag's as Evidence against *Petitioner*...

* On January 20, 2015, the State Commingle's all (15) bag's, and enters them as Evidence to be used against *Petitioner* at Trial via Exhibit #1, and documents therein that the FDLE confirmed the substance in all (15) bag's was Methamphetamine (See Appx. Vol. 1, Ex. (O), "Supp. Discovery Exhibit #1") (NOTE: The FDLE Lab Report (Ex. (N)) does NOT support this).

APPENDIX VOLUME #2

(Trial)

Petitioner Attempts to Fire Court Appointed Counsel & Hire Counsel of his Choice...

***Appx. Vol. 2, Ex. (A), "Jury Selection":** On January 21, 2015, prior to Pre-Trial Jury Selection, the Trial Court confirmed with *Petitioner's* Trial Attorney that a 3 year probationary offer was made by the state, and thereafter asked *Petitioner*: "Do you have any questions for your Attorney on that Mr. Schiedenhelm?" (3-4). The *Petitioner* responded:

"Actually Judge, I'd like to hire an Attorney..." (at 4)

Without holding a "Nelson" hearing or any other inquiry into this Due Process matter, the Trial Court orally announced, in open Court:

"The State made an offer, it was rejected..."

"Any request for Continuance is hereby Denied, because you have counsel representing you. And as such... Is the State ready?" (at 4).

Trial Counsel Excludes Fourth Amendment Issues by way of Limine...

***Appx. Vol. 2, Ex. (B), "Motion in Limine":** On January 21, 2015, after *Petitioner* attempted to Fire his Trial Counsel, and without informing him nor receiving his consent, Ms. Braddock (i.e., Trial Counsel), Filed a Pre-Trial Motion in Limine, and then, only (2) Days thereafter:

At Trial...

***Appx. Vol. 2, Ex. (C), "Trial Transcripts":** On January 23, 2015, Trial commenced, whereat, prior to any Evidence being presented, the Trial Court asked if there were "Any Preliminary Matters to be heard, and Trial Counsel stated "Yes, your honor (T.T. 5)... I had Filed a motion in limine", and the Court asked: "... When was it Filed?". Trial Counsel answered: "... a couple days ago because I E-mailed it to the State". The Clerk stated: "It's NOT in there. (at 6). So Trial Counsel provided the Court with "a copy" (at 6), and, at its First look at the motion's content, the Trial Court exclaimed: "Oh my gosh, ... Is this a Motion that is really a Motion to Suppress or a Motion in Limine?" (at 7). The Court goes on to ask the State: "... Has the State had a chance to review the Limine?" And the State answers: "... Actually we have..." And so the Court inquires: "What's the States position regarding all of the --?" (Fourth Amendment Issues?) But Trial Counsel interrupts the Court, and insists: "... If I could just list them on the record?" (at 7)...

***Trial Counsel, without any objection(s) From the State, and the Trial Court's Granting Limine on All Ground's, diminishes, by excluding, all supporting Fourth Amendment Issues, Claims, and Facts that would have required the Court to GRANT suppression of the Evidence in this case. In that, Trial Counsel assists the prosecution in excluding the Fact that the One bag of Crystalline Substance that tested positive for Methamphetamine belonged to the Co-Defendant, Jason Williams, and the Facts that he confessed to arresting Deputies that the Methamphetamine was his; that he possessed a 45 Cal. pistol, and (7) 45 Cal. ...**

...Bullets as a convicted Felon, and the Facts that Deputy Schaffer relied upon to illegally pro-long the traffic stop in addition to his knowledge of Petitioner's past. (T.T. 7-12). And the Trial Counsel Notes Petitioner demanded her file a Motion to Suppress...

T.T. 13: Ms. BRADDOCK: "And I just want to put on the record, your Honor:

My client (Petitioner) had requested me to File a Motion to Suppress in this case...

* Trial Counsel only Noted this Fact after her consequentially damaging Motion in Limine in which clearly has allowed this alarming conspiratorial Injustice to go unnoticed For so long.

The State & Trial Counsel make record that Petitioner only possessed (14) bags...

* (T.T. 32-33, Opening statements by Asst. State Attorney Bryan Cauphey): The State, in graphic detail, explain to the Jury how the Evidence will demonstrate that the package Petitioner allegedly threw inside of, and then Flushed down the toilet in the jail: "Inside that package was (14) bags of a Crystalline Substance" (at 33). And then on:

* T.T. 53: The States witness, Deputy Heath Schaffer testifies that there were "14" little baggies", and during Cross Examination, Trial Counsel confirms this while illiciting harmful Facts that Further assisted the prosecution when she asked the Deputy: "... The amount of DRUGS found consisted of 14 individual baggies?" Deputy Schaffer testified: "Approximately 14" (T.T. 67).

* The States Expert witness, FDLE analyst, Richard Horvat, whom analyzed the substance's in the 15 bags testified that he "was familiar with the State of Florida versus Jeremy Schiedenhelm" because he "was connected to it by analyzing the case that "he was at Trial to testify about that day "according to the paperwork" (T.T. 135).

NOTE: A review of the "Work Orders" (Appx. Vol. 1, Ex. (M)) that were sent to the FDLE, and the FDLE Laboratory Report (Appx. Vol. 1, Ex. (N)) demonstrates that the case Mr. Horvat is referring to is the CCSO Agency case No.:

2014-00122764 in which this instant case originated to include the Co-Defendant, Jason Williams, and the "One bag of Crystalline Substance" he confessed was "his Methamphetamine" (Appx. Vol. 1, Ex. (D), at 31)).

* Mr. Horvat goes on to testify that he "recieved a sealed bag. Inside that bag were one larger tied-shut bag and then 14 smaller tied-shut (T.T. 135) bag's... All he analyzed was "the larger bag" (T.T. 136)... "the 14 smaller baggies appeared to be the same... as the big baggie" (T.T. 138)... but "it doesnt mean that they also contain methamphetamine", and he couldn't "give an opinion as to if, in fact, that was methamphetamine" (T.T. 139).

* Deputy SeFFern Jr.'s testimony (T.T. 81-108) pertains to "Specifically... Jason (sic) Schiedenhelm "the suspect" that that Deputy arrested, and that case; "Specifically... The State of Florida versus Jason (sic) Schiedenhelm (T.T. 83-84), (i.e., At no time during this witnesses testimony does he nor the State or Trial Counsel refer to Petitioner).

Trial Counsel accepts the State's Evidence...

* At the close of the state's case in chief, Trial Counsel moved for JOA as to Count 1, Poss of Methamphetamine with Intent to Sell or deliver (T.T. 141-143), and as to Count 2, Resisting an Officer with Violence (T.T. 143-147)... "Not to the other Counts" (T.T. 147).

* Trial Counsel, during her argument as to Count 1, Further illicit's that "the drugs" Pelham allegedly threw in the toilet inside the bathroom in the jail consisted of "(14) smaller bags... and one larger bag" (T.T. 143). (i.e., Counsel assisted the prosecution in making its case as to the One larger bag that the Co-Def, Jason Williams, confessed was his Methamphetamine in Appx. Vol. 1, Ex. (A), at 4; Ex. (B), at 14; and Ex. (D), at 31, by making Trial Record that that Evidence was Pelham's).

NOTE: Due to Trial Counsel's unprofessional, immoral, and unconstitutional decision's in Filing a Motion in Limine that clearly excluded critical Facts that would have supported suppression of the Evidence in this case, then illiciting harmful Facts and testimony during Trial, and then moving for JOA thereafter, which by doing so means that Pelham, unknowingly, accepted all the Evidence presented at Trial most favorable to the State, the Pelham has been deprived any Fair Due Process of law review of the actual "True & Correct" Facts of this case... And then:

Trial Counsel filed a follow up Motion for JOA & Motion for New Trial...

* Appx. Vol. 2, Ex. (D), "Motion For JOA", and Ex. (E), "Motion For New Trial".

* Appx. Vol. 2, Ex. (F), "Motion Hearing Transcripts": Trial Counsel made the "Same argument" as that made at Trial as to Counts 1 & 2.

Direct Appeal...

* On June 4, 2015, Appellate Counsel moved the DCA to "Relinquish Jurisdiction" back to the Trial Court for the hearing of a Motion to Suppress so that Trial Counsel could make the proper Fourth Amendment Claim's of a Suppression Hearing, have Judge Howard rule on those claim's, and so that the Fifth DCA could have meaningful review of all the issues involved in this case. On June 24, 2015, the DCA Denied that motion, and so, on June 29, 2015, Appellate Counsel submitted the Initial Brief pursuant to Anders arguing that: The Issue in this case is that Trial Counsel was Ineffective, and her Ineffectiveness is apparent from the face of the record where she Noted for the record that Pelham demanded her to file a Motion to Suppress, but that "Case Law" prevented her from Filing that Motion, Counsel should have argued, at a Suppression hearing that the Detention and Stop & Frisk of Pelham was illegal, and violated the Fourth Amendment, but because the DCA Denied his Motion to Relinquish Jurisdiction then it was obvious the DCA would not entertain this issue on Direct Appeal, so he moved to withdraw (Appx. Vol. 2,

... Ex.(G). On November 3, 2015, the Fifth DCA ordered Appellate Counsel (20) Days to File on that Issue. On November 23, 2015, Appellate Counsel submitted the Initial Brief on that Issue (Appx Vol. 2, Ex.(H)), and on December 18, 2015, the State submitted its Answer, wherein, amongst the already alarming amount of False and Misleading Facts and Evidence presented by the State in this case, the Attorney General illicit's: See Appx Vol. 2, Ex.(I): pg. 1 - "A Motion in Limine revealed part of the scenario that was not divulged to the Jury: THE DRIVER OF THE VEHICLE used a prison identification card to identify himself to the LEO... Thus, the stop required more effort than a standard license check". (This False Evidence was entertained by the DCA).

NOTE: The Driver of the vehicle in this case was the Co-Defendant, Jason Brian Williams, whom provided his Driver's License, Registration, and insurance card for the Deputy; See Appx Vol. 1, Ex.(A), at 2; Ex.(B), at 8; and Ex.(D), at 29.

* On January 7, 2016, Appellate Counsel submitted the Reply, wherein, he argued that: "The State presented a Factual scenario... completely unsupportive by the evidence" (Appx Vol. 2, Ex.(J)).

* On May 24, 2016, the DCA *per curiam* affirmed the Judgment and Sentence based upon False and Misleading Facts as demonstrated above (Appx Vol. 2, Ex.(K)), and on July 7, 2016, *Petitioner pro-se* moved for Rehearing En Banc which was denied on August 5, 2016 (Appx Vol. 2, Ex's (L) & (M)).

APPENDIX VOLUME #3:

(State Court Post Conviction)

The 3.850 Motion For Post-Conviction Relief...

* Appx Vol. 3, Ex.(A), "3.850 Motion": On June 15, 2017, *Petitioner, pro-se*, moved the Trial Court For Post-Conviction Relief raising (8) Claims of Ineffective Assistance of Counsel, and on August 2, 2017, the Trial Court Reserved the Ruling on Grounds 1; 5; & 8 For an Evidentiary Hearing, and Summary Denied the remaining Grounds (Appx Vol. 3, Ex.(B)).

The First Evidentiary Hearing...

* Appx Vol. 3, Ex.(C), "Evid. Hear. Transcripts": On November 1, 2017, the First Evidentiary Hearing commenced, during which, as pertains to Ground One, and Trial Counsel's Failure to File a Motion to Suppress, Trial Counsel testified: (T. 24-38): "It was a strategic decision to argue it in JOA... but not in a Motion to Suppress... based on... the case law" (T. 34), but Trial Counsel "did not cite any case law", and although she "went over it with him (i.e., *Petitioner*) as to why she was not Filing the motion to suppress" (T. 34), She only met with him "twice, total, through her whole ...

...representation... 'because *Petitioner* was adamant he wanted her to file a motion to suppress" (T. 35), and after Trial Counsel "explained the proper thing would be she would argue at Trial and JOA that they (i.e., Arresting Deputies) were not in a lawful execution of a legal duty,"... "At that point... *Petitioner* insisted..." He kept saying it should be a Motion to Suppress" (T. 37)

*The Trial Court Found that "a motion to suppress was not legally justified. It was not legally supportable to even do that" (T. 50). (See Also Ex.(D), "Written Order")

NOTE: Any Due Process review of the evidence above, in light of the Facts from the Jury Selection Transcripts (Appx. Vol. 2, Ex.(A), at 4), reveals that *Petitioner* attempted to exercise his Sixth and Fourteenth Amendment Right to make his own defense, and then, when his Trial Attorney refused him that right, he tried to bring it to the Trial Court's attention, and explained that he wanted to hire Counsel of his choice, but the Trial Court Denied him that right. (It should be noted, *Petitioner* was appointed Counsel only 3 months prior to his requesting to hire his own Counsel).

3.850 Appeal...

*Appx. Vol. 3, Ex.(E), "Initial Brief": On February 8, 2018, *Petitioner* submitted his Initial Brief on Appeal from the Denial of Grounds 1, 5, & 8 following the Evidentiary Hearing and the Summary Denial of the remaining (5) Grounds. On February 28, 2018, the State submitted its Answer (Appx. Vol. 3, Ex.(F)) wherein, amongst its entire display of Facts and Evidence unsupported by the record, and as pertains to Ground One, as to Trial Counsel's failure to file a Motion to Suppress, the State illicitly the following:

Ex.(F), pg. 1: "This point was the sole issue on Direct Appeal, and the State argued that any delay in the stop was caused by 'the fact that the driver of the vehicle was using a prison identification card, which took longer to process'..."

*Additionally, the State argued that: "the traffic stop was never (at 6) truly contested and the only allegation of illegality came from the length of detention, which was explained on direct appeal by the 'fact that the driver presented a prison identification card, 'NOT A LICENSE'". (at 7) (Again, this False Evidence was entertained by the

NOTE: As previously demonstrated, The Actual Evidence of this case clearly shows that "THE DRIVER of the vehicle in this case was the Co-Defendant, Jason Williams, whom clearly provided his DRIVER'S LICENSE" (See Appx. Vol. 1, Ex.(A), at 2; Ex.(B), at 8; and Ex.(D), at 29)).

* On March 18, 2018, *Petitioner* replied (Appx. Vol. 3, Ex. (G)), and on August 31, 2018, the DCA Reversed the Summary Denial of Ground Six, Remanded For an Evidentiary Hearing, and *per curiam affirmed* the remaining Grounds (Appx. Vol. 3, Ex. (H)). On September 13, 2018, *Petitioner* moved for Rehearing/Clarification (Appx. Vol. 3, Ex. (I)), and on October 11, 2018, the DCA Denied Rehearing (Appx. Vol. 3, Ex. (J)). On October 19, 2018, *Petitioner* moved the DCA in Suggestion of Non-Compliance with the Rules as means to demonstrate to the DCA that the State presented Extra Additional Facts and Evidence not made of Record in its Answer in which, up review of the Issues as relates thereto has deprived *Petitioner* any Fair Due Process review of the Claims presented. On October 22, 2018, the Fifth DCA struck that motion as unauthorized. (Appx. Vol. 3, Ex. (K)).

The Second Evidentiary Hearing...

* Appx. Vol. 3, Ex. (L), "Evid. Hear. Transcripts": On February 13, 2019, the Second Evidentiary Hearing commenced during which, Trial Counsel testified; As to her Failure to move For JOA as to Count Battery on a LEO, and apprise the Trial Court of the relevant law on Strip Searches within a Detention Facility, §901.211(5), F.S. ; T. 6-43:

* Appellate Counsel asked Trial Counsel: "Are you aware that Officer Greenwald has to have written authorization from his supervisor in order to perform the Strip Search?" And Trial Counsel admitted: "I'm not aware of that" (T. 23). Appellate Counsel then asked: "But if a Strip Search occurred, wouldn't you agree that, according to 901.211, a written authorization was one of the requirements that they had to comply with?", and Trial Counsel stated: "If that's what the Statute says" (T. 24). Trial Counsel further explained that: "it's a little different because they were asking... to see what the badge was", and Appellate Counsel points out: "But that's part of the Strip Search, right?" And Trial Counsel admits: "All I know is they asked him to undress..." (T. 24), and that even if she "were aware of the Statute"... She would not have made the argument in her JOA (T. 29-30). And when asked: "But you didn't make that argument as to the Battery Count...?" Trial Counsel testified: "I don't recall... I don't know" (T. 31). So Appellate Counsel presented her with the Transcripts of her JOA arguments, and Trial Counsel admitted: "I didn't specifically say 'Battery on a Law Enforcement'..." (T. 33).

* The Trial Court, in its Legal Findings, found: "I Find nothing to support the contention that (T. 5)... the JOA argument was in anyway deficient... The fact that you have cherry-picked a statute out one sentence about 201.211 (sic)... I think to be beyond the parameters of what the statute is all about... Your client had been lawfully arrested... and I don't care if Mr. Schiedenhelm doesn't like the statutes or the Court's ruling. It makes no difference to me (T. 53). See Also, Appx. Vol. 3, Ex. (M), "Written Order": The Trial Court found that there was no Strip Search in this case, that this was merely a "Beach in Search" to seize ...

... evidence already observed in a previous pat search.

* On February 18, 2019, *Petitioner* moved For Rehearing (Appx. Vol. 3, Ex. (N)), and on March 5, 2019, the Trial Court Denied Rehearing (Appx. Vol. 3, Ex. (O)).

* *Petitioner* Appealed, but it should be Noted that on November 9, 2018, *Petitioner* moved the Fla. Supreme Court For Discretionary Review (Appx. Vol. 3, Ex. (P)), the state Answered on December 26, 2018 (Appx. Vol. 3, Ex. (Q)), and the Fla. Supreme Court declined Jurisdiction on January 30, 2019 (Appx. Vol. 3, Ex. (R)).

NOTE: The Motion For Discretionary Review was Filed while *Petitioner's* 2ND Evidentiary Hearing on Demand From the Fifth DCA was pending.

The 2ND Evidentiary Hearing (3.850) Appeal.

* On April 9, 2019, *Petitioner* submitted his Initial Brief (Appx. Vol. 3, Ex. (S)), the State Answered on June 10, 2019 (Appx. Vol. 3, Ex. (T)), and *Petitioner* Replied on the same day (Appx. Vol. 3, Ex. (U)). The Fifth DCA entered its *per curiam affirmed* decision, without an Opinion in December, 2019 (Order not Attached) Mandate issued January 3, 2021.

NOTE: The *Petitioner* declined to move For Rehearing due to the Fact that the DCA, in all previous Appeals, including Direct Appeal, has either completely ignored or mistakenly overlooked the "True and Correct" Facts of this case, in addition to allowing the State to present its arguments with no penalty nor acknowledgement of its presentation of Extra Additional Facts not made of Record and exclusion of critical facts made of Record. This Fact has deprived *Petitioner* any Fair Due Process Review of the Constitutional Issues involved in this case as relates to his previous Fourth Amendment Claim as well as this Sixth & Fourteenth Amendment Claim. More specifically, aside from illiciting that the Duver provided a prison I.D., the State repeatedly argues that Deputy Seffern Jr. alone conducted a legal Pat Search that revealed *Petitioner* was concealing something (Drugs) between his legs.

* It need be Noted that, in addition to the "True & Correct" Facts of this case, evident From the Pre-Trial Record, *Petitioner* made a detailed account of the First Pat-Down Search for weapons by Deputy Schaffer which revealed *Petitioner* was not armed nor posed a threat to Officer's safety; how rather than allowing him to leave, and in violation of his Fourth Amendment Rights, the K9 Deputy restricted his Freedom to leave, and then after Deputy Seffern Jr. conducted the 2ND Pat Search "For Contraband", and allegeded that he Felt an object ...

... between *Petitioner's* legs, (in his Groin Area), upon arrival at the jail, a Third Pat Search, by Detention Facility Employee, Officer Daniel Greenwald, settled the conflict whereas; Mr. Greenwald testified that he didn't feel the item; and only after not finding any weapons or anything on *Petitioner*, him, along with the Arresting Deputies escorted *Petitioner* to a bathroom within the Detention Facility, and commenced to Strip Search him without the requisite "Written Authorization From the Supervising Officer on duty" (Appx Vol. 3, Ex. (L), T.6-23)).

*The State only presented a Fraction of the Facts surrounding this incident in its Answer, and then, as *Petitioner's* Trial Counsel made clear in the Initial Brief on Appeal: "This was not a Fourth Amend. Claim, but rather a violation of the Statute itself (i.e., §901.211(5), F.S.) in which Law Enforcement Officers in Florida are required to comply with" (Appx Vol. 3, Ex. (U), at 3)). The Deputies and Officer Greenwald broke the Law, and Trial Counsel did not make any argument related thereto. Thus, *Petitioner* sought Habeas Relief as follows:

APPENDIX VOLUME #4

(Federal Court's Post Conviction)

28 U.S.C §2254 Petition For Writ of Habeas Corpus

*On April 20, 2020, *Petitioner* submitted his §2254 Petition, and on August 26, 2020, he Amended said Petition raising (5) Habeas Corpus Claims as relates to his Grounds 1, 2, 3, & 6. 3:850 Claims, and the Trial Court's Denial thereof. (Petition not Attached). On November 24, 2020, the State submitted its Response thereto (Appx Vol. 4, Ex. (A)), and on December 28, 2020, *Petitioner* Replied (Reply not Attached). The U.S. District Court, Middle District of Florida, Ocala Division, Affirmed the Trial Court's Legal Findings Denying Habeas Relief as to all (5) Grounds on May 23, 2022 (Appx Vol. 4, Ex. (B)) (Certificate of Appealability Denied).

NOTE: Again, the State, in its Answer, illicit's that: "US used a prison identification card to identify himself to the LED... Thus, the stop required more effort than a 'standard' license check... later... The Trial Court noted that US's identifying paperwork was his prison paperwork, which affected the time involved..." (Appx Vol. 4, Ex. (A), at 2)

*Although the Facts illicited as relates to *Petitioner* providing his prison I.D. (i.e., his valid Fla. I.D.) are not False, the State merely used the same argument it's used throughout Direct Appeal and Post-Conviction Proceedings...

absent using the word: "Driver" of the vehicle, yet it still will be cited that: because *Reliance* (i.e. the Passenger of the vehicle) provided "his prison ID... The stop required more effort than a standard license check", and the U.S. Dist. Court and U.S. Court of Appeals relied upon, and conceded with this completely unconstitutional rendition of the facts. Thus, depriving *Reliance* Due Process and Equal Protection of Law.

The Request for Certificate of Appealability...

* On November 10, 2022, *Reliance* submitted a Request for Certificate of Appealability to the 11th Circuit U.S. Court of Appeals as relates to the U.S. Dist. Court's Denial thereof pertaining to *Reliance* (5) Habeas Corpus Claims (Appx Vol. 4, Ex. (C)). On April 4, 2023, the 11th Circuit granted C.O.A. as to Ground 3: (Whether Trial Counsel provided Ineffective Assistance by failing to apprise the Trial Court of Fla. Stat. §901.211(5), during JOA argument) (Court Order NOT Attached).

The Appeal...

* On May 3, 2023, *Reliance* submitted his "Initial Brief" (Appx Vol. 4, Ex. (D)). The state Answered on July 11, 2023 (Appx Vol. 4, Ex. (E)). On July 24, 2023, *Reliance* replied thereto (Appx Vol. 4, Ex. (F)), and then, prior to the Court's ruling, *Reliance* moved to Supplement the Record and to Strike Appellees Answer (Appx Vol. 4, Ex. (G)).

* On March 21, 2024, The 11th Circuit Affirmed the Trial Court's Legal Findings, Denying *Reliance* relief (Appx Vol. 4, Ex. (H)).
Special Note:

* Any Fair Due Process review of the 11th Circuit's Opinion will reveal, when considered under the Due Process & Equal Protection of Law Clause of the Fifth, Sixth, & Fourteenth U.S. Constitutional Amendments, and based upon the facts of this case as it Manifested, i.e. Not the factual scenario designed by the States Characterization of the Facts, that *Reliance* has been deprived of Life & Liberty without Due Process & Equal Protection of Law and Effective Assistance of Counsel in violation of U.S. Const. Amendments V, VI, & XIV. Thus, in the name of Judicial integrity, the U.S. Constitution, Due Process, and Equal Protection of Law this Honorable Court is burdened with duty, under its Oaths, and responsibility to correct this Injustice.

The *Reliance* presents the following Questions, as relates to the U.S. 11th Circuit Court of Appeals' disposition of (Case No.: 22-11997-JL and All proceedings in which this Injustice Manifested...

QUESTION ONE

IF TRIAL COUNSEL FAILS TO AND REFUSES A DEFENDANT'S REPEATED DEMANDS TO FILE A MOTION TO SUPPRESS AND MAKE THE PROPER FOURTH AMENDMENT CLAIMS WHEN AN ALARMING AMOUNT OF FOURTH AMENDMENT ISSUES CLEARLY EXIST, IS THAT INEFFECTIVE ASSISTANCE UNDER *Strickland* AND A VIOLATION OF U.S. CONST. AMEND.'S VI & XIV?

REASON TO GRANT CERTIORARI

★ "The Sixth Amendment grants the accused personally the right to make his own defense... Law and Tradition may allocate to Counsel binding decisions of trial strategy. This allocation however may only be justified by the Defendant's consent." *Faretta v. California*, 422 U.S. 806, 819-20 (1965) (A criminal Defendant shall have the right be represented by Counsel of his choice).

• It is apparent from the face of the Trial Record, and that of the First Evidentiary Hearing that *Petitioner* repeatedly demanded Trial Counsel to file a Motion to Suppress Evidence prior to Trial, and that she refused to do so absent any logical Due Process reason. The Evidentiary Record also demonstrates that, because Counsel refused to file that Motion, *Petitioner* only met with her twice insisting that "it should be a Motion to Suppress", and so he attempted to exercise his Sixth Amendment and Due Process right "to hire counsel" of his choice, but the Trial Court Denied him that right without a hearing. And then, following the Evidentiary Hearing on this Issue, The Trial Court found that "a motion to Suppress was not legally justified... It was not legally supportable to even do that"... (No precedent nor legal authority was cited).

• The Fifth DCA; U.S. District Court, Middle District of Florida; U.S. Circuit Court of Appeals, 11th Circuit; and The Fla. Supreme Court unconstitutionally Affirmed the Trial Court's "Legal Findings" Contrary to the U.S. Supreme Court's entire structure of Illegal Searches and Seizures requiring Suppression of Evidence under U.S. Const. Amend's IV & XIV as follows

* As a matter of Due Process and the Reasonableness standard of the Sixth Amendment Trial Counsel had a professional obligation to file a Motion to Suppress, and, at a suppression hearing, argue; (in light of the Evidence of this case from the Pre-Trial Record):

★ a) "A traffic stop is a seizure within the meaning of the Fourth Amendment" *Delaware v. Prouse*, 440 U.S. 643 (1979), and *Petitioner*, being "A Passenger in the car, like the Driver, is seized for Fourth Amendment purposes and so may challenge the constitutionality...

... of the stop "*Brendlin v. California*, 551 U.S. 249 (2007) (And treatise writers share this same prevailing Judicial view that a passenger may bring Fourth Amendment challenges to the legality of a Traffic stop. See, e.g., 6 *W. LaFare, Search & Seizure* 11.3(e), pp. 194, 195, and 277 (4th ed. 2004 and 2007) (If either the stopping of the car, the length of the Passenger's Detention thereafter, or the Passenger's removal from it are unreasonable in a Fourth Amendment sense, then surely the Passenger has standing to object to those constitutional violations and have suppressed any evidence which is their fruit. 1 *W. Ringel, Searches & Seizures, Arrests and Confessions* 11:20, p. 11-98 (2d ed. 2007); (*Petitioner* was the passenger of the vehicle);

- b) This stop was clearly a pre-text to roust the Driver and *Petitioner* for drugs. "If it was RAINING" (i.e., the Traffic Infraction was for Not having headlights on in the RAIN), the Deputy would not have spent so much time outside of his car;

- c) The Driver was the Co-Defendant, Jason Williams, whom Deputy Schaffer stopped for a Routine "Fourth Amendment" Traffic infraction, and therefore the only legal authorization the Deputy had in this case was to address the Driver and the reason (i.e., Mission) of the traffic infraction pursuant to *Rodriguez v. United States*, 135 S.Ct 1609 (2015); *Terry v. Ohio*, 392 U.S. 1 (1968); §901.151 F.S.; and U.S. Const. Amend. IV & XIV;

- d) The mission of, and "Reasonable Duration of the traffic stop" in this case was "the length of time necessary" for Deputy Schaffer "to check the Driver's License, Registration, and Proof of Insurance, to determine whether the Driver had any outstanding Warrants, to write the Driver a citation or Warning for the traffic infraction, to return the documents, and issue the Driver any citation or Warning" *Rodriguez, Id.*;

- e) The Driver, Jason Brian Williams provided his "Driver's License, Registration, and proof of Insurance to Deputy Schaffer, and rather than completing the mission of the traffic infraction, and in violation of *Rodriguez & Terry supra*; U.S. Const. Amend's IV and XIV, and Florida's Stop & Frisk Law under §901.151 F.S., the Deputy;

- f) First requested *Petitioner's* ID as well, went back to his patrol vehicle, checked for, and concluded that neither the Driver nor *Petitioner* had any Warrants or Warrants, and rather than writing a warning or citation for the traffic infraction, and/or allowing the Passenger (i.e., *Petitioner*) to leave, the Deputy;

- g) Illegally suspended the traffic infraction, and called for a K9 drug dog after he knew *Petitioner* was in the vehicle in order to conduct a De-Facto drug investigation on him because the Deputy knew *Petitioner* had been involved in selling Narcotics in the Past;

- h) There was no reasonable suspicion or probable cause to justify the Deputy's actions, and "Calling for a drug dog and thereafter a drug sniff... is not an ordinary incident of a Traffic Stop, but rather a measure aimed at detecting evidence of ordinary criminal...

... wrongdoing "Rodriguez, S.Ct. at 1415-16; *Indiannapolis v. Edmond*, 531 U.S. 32, 40-41 (2000). See also *Vardines v. State*, 73 So.3d 34 (Fla. 2011). Lacking the same close connection to roadway safety as ordinary inquiries, a dog sniff is not fairly characterized as part of the officer's traffic mission. *Id.*; The length of time should've been contested to include:

- i) Calling *Petitioner* out of the vehicle while waiting for the K9 to arrive was illegal, and unlawfully prolonged the stop; (The time spent while waiting for the K9 to arrive);
- j) Questioning *Petitioner* was illegal, and completely un-related to the traffic infraction as well as a tactic to buy time while waiting for the K9 to arrive;
- ★ k) After Deputy Schaffer completed illegally questioning *Petitioner*, and rather than allowing him to leave, the Deputy illegally deprived *Petitioner* of his life and liberty in ordering him to sit back inside the vehicle in violation of U.S. Const. Amend's IX & XIV, and therefore any Evidence acquired thereafter should have been suppressed based upon the "Illegal Detention"; (Thereafter the K9 arrived);
- l) The K9 alerted to the vehicle, not *Petitioner*, giving the Deputy probable cause to search the vehicle, not *Petitioner*; (The Dog sniff should've been contested in any event);
- ★ m) The First pat search, by Deputy Schaffer, for weapons was illegal, and thereafter, *Petitioner* should have been allowed to leave, but instead, while Deputies Schaffer and Seffern Jr. Illegally searched the vehicle, K9 Deputy Behnen maintained control of *Petitioner's* Freedom to leave against his will and in violation of U.S. Const. Amend's IX & XIV;
- ★ n) Because the Deputies could not find any narcotics in the vehicle, they conducted another "protective search (for contraband) that went beyond what was necessary to determine if (the Driver and *Petitioner*) were armed", and therefore, the 2nd pat search of *Petitioner* was invalid under *Terry* "and its Fruits should have been suppressed" *Minnesota v. Dickerson*, 508 U.S. 366 (1993); (The Pat Search's should've been contested);
- ★ o) Handcuffing *Petitioner* was illegal and the "alleged" Violent Resistance, where Deputy Seffern Jr. alleged *Petitioner*, "After all of the aforementioned illegal actions, and Fourth Amendment Violations, "Kicked him in the shin", occurred during the Deputies illegal (2nd) Stop & Frisk of *Petitioner's* "buttocks... inner thighs... Groin Area", and while "grabbing his Scrotum and Penis". Not during any lawful execution of a legal duty, and clearly, "outside of an Arrest scenario", and therefore, the prohibition against the use of Force to resist "an Arrest" under §776.051 F.S. does not apply to this case pursuant to *Tillman v. State*, 934 So.2d 1263 (Fla. 2006) and Ch. 2008-67, §1, Laws of Florida. Thus, based upon the "Illegal Stop & Frisk", all evidence acquired as a result thereof; should have been suppressed as the Fruits of a poisonous tree;

• p) The *Petitioner* was illegally placed in the Deputies Police car, whereinafter, prior to leaving the scene, Deputy Seffern Jr. advised him that he was being placed under arrest. For resisting arrest, AT THAT POINT, and therefore:

• q) The Arrest of *Petitioner* was illegal;

• r) Transporting *Petitioner* to the jail was illegal;

• s) The Frisk search in the Sally Port of the jail by Detention Facility Employee Daniel Greenwald was illegal, and revealed *Petitioner* did not have any weapons, and Mr. Greenwald did not feel anything between *Petitioner's* legs, in his Groin Area;

★ t) The Strip Search was conducted in violation of §901.211(5)F.S., and therefore illegal, and because a violation of that Statute occurred during a Fourth Amendment Violation, any evidence seized thereafter should have been Suppressed;

* u) The acquisition of the Evidence in this case was during an unreasonable Search and Seizure in Violation of The United States entire structure of Illegal Searches & Seizures during a Traffic Stop involving a Passenger, and therefore, under U.S. Const. Amend's IV & XIV;

★ "As a matter of Due Process, evidence acquired by a Search and Seizure in violation of the Fourth Amendment is inadmissible in a State Court as well as a Federal Court" *Mapp v. Ohio*, 367 U.S. 643 (1961). "The essence of the constitutional provision prohibiting unreasonable Searches and Seizures is not merely that evidence so acquired shall not be used in a Court, but 'that it shall not be used at all'" *Wong Sun v. U.S.*, 371 U.S. 471 (1963).

* The Fact that Trial Counsel even suggested to Forego Suppression "based on Case Law", and rather allow the State to present the Evidence in this case at trial, and then argue that the Deputies were not in the lawful execution of a legal duty in UDA thereafter, should be cause to ban her from the Fla. Bar, and restrict her from practicing law altogether. The Deputies should have been held criminally liable for False imprisonment and sexual harassment in light of the "True and Correct" Facts of this case, and the prosecution should have been exposed for Fraud on the Court and perjury, as well as an investigation conducted into conspiracy to commit Fraud.

* As demonstrated above in Question One, Trial Counsel was clearly ineffective under *Strickland*, and *Petitioner* has been deprived life and liberty without Due Process of Law in violation of U.S. Const. Amend's IV; VI; & XIV. Thus, reason for Granting Certiorari as to Question One.

Moreover, the Opinions, and lack thereof, by all Tribunals who've reviewed this issue has resulted in a Paradigmatic Abuse of Discretion and Manifest Injustice, whereas, "There is no Case Law nor Legal Authority in this Country that prevented a Motion to Suppress in this case nor any that could Reasonably justify Trial Counsel's decision and the Trial Courts Legal Findings under the Due Process Clause of the Sixth and Fourteenth Amendments."

QUESTION TWO

IF TRIAL COUNSEL FAILS TO MOVE FOR JOA WHEN THE STATES EVIDENCE ON A KEY ELEMENT OF AN OFFENSE IS INSUFFICIENT TO PROVE GUILT, AND COUNSEL IS NOT AWARE OF NOR RESEARCHES, AND THEREFORE FAILS TO APPRISE THE TRIAL COURT OF A RELEVANT LAW THAT WOULD HAVE SUPPORTED A JOA ARGUMENT AS TO THE OFFENSE IN QUESTION, IS IT INEFFECTIVE ASSISTANCE UNDER *Strickland* AND A VIOLATION OF U.S. CONST. AMEND'S VI & XIV?

REASON TO GRANT CERTIORARI

★ "Under U.S. Const. Amend.'s Six & Fourteen, a Criminal Defendant is entitled to effective Counsel" *Strickland*. And the Due Process Clause of the Sixth and Fourteenth Amendments guarantee a Defendant "Equal Protection of Law".

Under §784.07(2), Fla. Stat., by law, the State is required to prove that the Law Enforcement Officer alleging an offense thereunder, (i.e., Battery on a LEO), was in Fact a Law Enforcement Officer, and that the Defendant alleged to have committed said offense knew he/she was a Law Enforcement Officer, and that, "At the point the Battery occurred, said Officer was acting within the lawful Execution of a Legal Duty," as a KEY ELEMENT OF the offense, beyond a reasonable doubt.

§901.211(5), Fla. Stat. mandates, by law, that: "No Law Enforcement Officer shall order a Strip Search within an Agency or Detention Facility without first obtaining written authorization from the supervising Officer on duty thereof". The Fla. Supreme Court in *Perry v. State*, 953 So.2d 459 (Fla. 2007) quashed the judgement of the intermediate Court and Remanded the case for reconsideration as the State did not show that the on-duty supervisor gave the Deputies in that case written authorization to perform the Strip Search of the Defendant, as required by §901.211(5), Fla. Stat. Thus, the State in that case failed to prove the Deputies acted within the lawful execution of a legal duty when they attempted to Strip Search *Perry* and therefore the evidence on a key Element of the offense, "Resisting an Officer with Violence", was Insufficient to prove Guilt.

• On Remand from the Fla. Supreme Court, the 4th DCA held that: "As apply's to both 'Battery on a LEO & Resisting an Officer with Violence under §784.07(2), Fla. Stat. & 843.01, Fla. Stat., 'The prohibition against the use of Force to resist an Arrest under §776.051, Fla. Stat. does not apply to post-intake procedure's such as a Strip Search" *Perry v. State*, 968 So.2d 70, at 76 (Fla. 4th DCA 2007).

* Any Fair Due process review of the Facts of this case demonstrates that, just like in *Perry*, the Deputies informed Detention Facility Employee Daniel Greenwald that "They" believed *Peltier* was concealing something in his Groin, but Mr. Greenwald, based upon his independent "Frisk Search" informed the Deputies that "he didn't feel the item" but because Deputy Se Fern Jr. "advised him it was there" (See Appx Vol. 2, Ex. (C), T.T. 93) Mr. Greenwald, along with CSD present, escorted *Peltier* to the bathroom and ordered him to undress (Appx Vol. 2, Ex. (C), T.T. 42; 44; 94; 115-118) during which the Battery was alleged.

- In violation of §901.211(5), Fla. Stat., "No written authorization was given by the Supervisor Officer on-duty at the jail to "legally" justify the Strip Search." Thus, at the point the alleged Battery occurred, Detention Facility Employee Daniel Greenwald was not in the lawful execution of a legal duty and therefore the State failed to, beyond a reasonable doubt, prove a KEY Element of the offense (i.e. The State's Evidence on a KEY ELEMENT of Count 3, Battery on a LEO, §784.03(1)(a) & 784.07(2), Fla. Stat., was insufficient to Guilt)

- Trial Counsel testified, at the 2nd Evidentiary Hearing on Demand From the Fifth DCA, as to this Issue, that she was not aware Mr. Greenwald and arresting Deputies had to have "Written authorization to perform the Strip Search according to §901.211" and that she "didn't specifically say Battery on a Law Enforcement" in her JOA arguments. The 12/1/2020, at the Evidentiary Hearing, provided the Trial Court with Trial Transcript Evidence that Counsel's argument pertained only to Counts 1 & 2, and "Not to the other Counts". (Appx Vol. 2, Ex. (C), T.T. 14)
- In its Legal Findings, the Trial Court found that that "this was merely a seizure of Evidence already observed in a previous search", no strip search occurred, and that he "doesn't care if Mr. Schiedenhelm doesn't like the Court's ruling" "It makes no difference to me."

* In light of the Facts of this case, Trial Counsel was clearly ineffective for failing to move for JOA as to Count 3, and apprise the Trial Court of §901.211(5), Fla. Stat. As a result thereof *Peltier* has been deprived of life and liberty without Due Process and Equal Protection of law in violation of U.S. Const. Amend's VI & XIV, and therefore reason for this Court to GRANT Certiorari as to Question Two.

Moreover, the Trial Court's decision was clearly biased and unconstitutional, and therefore the Opinions and lack thereof by the Tribunal's who've reviewed this Issue has resulted in a Paradigmatic ABUSE of Discretion and a Manifest Miscarriage of Justice as relates thereto. In the name of Judicial integrity and as means to preserve that of the United Constitution, *Peltier* prays that this Honorable Court, upon consideration of this Question, take special NOTE of the fact that the Pre-Trial Record in this case is devoid of any Evidence, pictures, and/or incident reports documented by Daniel Greenwald indicating and otherwise alleging that he was ever the victim of any Battery.

QUESTION THREE

IF TRIAL COUNSEL MOVES FOR JOA ON AN OFFENSE BUT FAILS TO ARGUE THAT THE STATE'S EVIDENCE ON MORE THAN ONE KEY ELEMENT OF THE OFFENSE WAS INSUFFICIENT TO PROVE GUILT, IS THAT INEFFECTIVE UNDER *Strickland*, AND A VIOLATION OF U.S. CONST. AMEND'S VI & XIV?

REASON TO GRANT CERTIORARI

★ "Under the Sixth and Fourteenth Amendments to the U.S. Constitution, Criminal Defendants have the right to effective Counsel." *Strickland*. And, the "Due Process Clause" of the Sixth and Fourteenth Amendments includes the language: "Equal Protection" of Law.

§ 893.13(1)(A)(1), F.S. mandates that, in order to prove a Defendant Possessed Methamphetamine with the Intent to Sell or Deliver "that or any other illegal substance", the State is required to prove that the substance is in fact Methamphetamine or at least contained a mixture of that or any other illegal substance, as a Key Element of the offense.

Under *Greenwade v. State*, 124 So. 3d 215 (Fla. 2013), The Fla. Supreme Court held that "When Law Enforcement officials discover individual wrapped packets of a substance, the State has to prove through chemical testing that each packet seized contains at least a mixture of a controlled substance..."

* In this case, the State's Evidence as to Count 1, Possession of Methamphetamine with Intent to Sell / Deliver was wholly circumstantial and relied upon the "Individual Packaging" of the Substance in and of itself alone to prove *Pelitioner* "Intended to Sell Methamphetamine". As demonstrated by the facts of this case, the Deputies discovered a total of (15) separate baggies, and the State ONLY proved (1) of those was Methamphetamine.

* While Trial Counsel did move for JOA as to Count 1, her entire argument was based upon the individual packaging not being sufficient to prove "Intent to Sell".

* Trial Counsel "Did Not" make any argument pertaining to the fact that (14) of the (15) packages were NOT proven to be illegal at all, and the Trial Court Summarily Denied this Issue without holding an Evidentiary Hearing in its Order Denying Post-Conviction relief.

• In light of the Facts and Evidence of this case, as demonstrated in this Writ of Certiorari and throughout the Post-Conviction proceedings leading thereto, *Pelitioner* is certain that he has been deprived of life and liberty due to Trial Counsel's Failure to argue...

... that the state's evidence failed to prove *Petitioner* possessed with the Intent to Sell or Deliver Methamphetamine whereas, "it did not prove the substance contained in (14) of the (15) baggies was Methamphetamine". Thus, the State failed to prove a "Key Element" of the offense. And therefore, Trial Counsel's performance was clearly ineffective under *Strickland* and deprived *Petitioner* of his U.S. Const. Amend's VI & XIV in turn giving this Honorable Court Reason For Granting Certiorari.

Moreover, the Opinions, and lack thereof, of all Tribunal's who've reviewed this issue has resulted in a Paradigmatic abuse of discretion and Manifest Miscarriage of Justice. In the name of Justice, and the integrity of this Honorable Court, this Court should correct this Injustice.

QUESTION FOUR

IF TRIAL COUNSEL FAILS TO OBJECT TO "PURE OPINION" TESTIMONY THAT CLEARLY INVADES THE PROVINCE OF THE JURY, IS THAT INEFFECTIVE UNDER *Strickland* AND A VIOLATION OF U.S. CONST. AMEND'S VI & XIV?

REASON TO GRANT CERTIORARI

* "Under the Sixth and Fourteenth Amendments to the United States Constitution, a criminal Defendant shall have the right to effective Counsel." *Strickland* And the Due Process Clause of the Sixth and Fourteenth Amendment's entitle a Criminal Defendant to "Equal Protection" thereunder.

Under "The Daubert Standard", the United States Supreme Court has clearly established that "Pure Opinion testimony is inadmissible as evidence" *Daubert v. Merrell Dow Pharmaceuticals Inc.*, 509 U.S. 579 (1993). "The Florida Legislature has prohibited the Courts from relying on Pure Opinion testimony in its Amendment of §90.702, Fla. Stat. " *Marsh v. Valyou*, 977 So2d 543 (Fla.2007).

* In this case, during the States direct examination of its Witness, Deputy Heath Schaffer, and based upon his "Opinion" as relates to his "experiance", when the State asked him:

"Appx. Vol. 2, Ex. (C), T.T. 53-54: Q: "... What does packaging like that indicate?"

The Deputy explained to the Jury:

A: "When they're packaged separately like that, 'It's For the sale of it, so they can sell a little here and there and not have to break it off right then and there, AT THE DRUG DEAL'"

• Trial Counsel did not object to nor even attempt to challenge, move to strike or request the Trial Court to Order the Jury to not consider this obviously harmful and improper testimony. The testimony clearly invaded the province of the jury whereas, it was a Sheriff Deputy whom told them that *Petitioner* possessed separately packaged bags of "Drugs" to sell at "The Drug Deal". Thus, Trial counsel clearly provided ineffective assistance of counsel under *Strickland* and due to her deficient performance, *Petitioner* was Found Guilty of Count 1, and sentenced to 15 years alone for that offense in which has deprived him of life and liberty without due process of law in violation of U.S. Const. Amend's VI & XIV.

* Thus, Reason For this Court to GRANT CERTIORARI as to Question Four.

Moreover, the Opinions, or lack of, as relates to Question Four, by the Tribunal's who've reviewed this issue have resulted in a Paradigmatic Abuse of Discretion and Manifest Injustice.

CONCLUSION

The *Petitioner* is certain that he has demonstrated herein this Writ of Certiorari that he has been deprived life and liberty without Due Process and Equal Protection of law under U.S. Const. Amend's VI & XIV. In the name of Justice and the Constitution in which this great Country is built upon, *Petitioner* prays that this Honorable Court take into consideration the Facts & Evidence presented herein this Writ of Certiorari and GRANT him any and all relief he is entitled to as a result thereof.

Respectfully
151 *[Signature]*

Schiedenhelm, Jeremy S.

Mayo Annex
4784 W. HW 27

Mayo, Fl. 32066