

24-5521
No. _____

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ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES

Vernon Carter - PETITIONER
(Your Name)

FILED
AUG 29 2024
OFFICE OF THE CLERK
SUPREME COURT, U.S.

vs.

State of Florida, Sec. - RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

The Florida Supreme Court
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

Vernon Carter
(Your Name)

1050 Big Joe Road
(Address)

Monticello, FL 32344
(City, State Zip Code)

850-342-0500
(Phone Number)

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SUPREME COURT, U.S.

QUESTION(S) PRESENTED

The punishable by life “element” for a life sentence must be instructed to jury and place on the “Verdict” form.

Here in the Petitioner’s case, the jury had (no) knowledge of a P.B.L. Life Sentence (Therefore, the jury loss their Pardon Power on the amended information. Violation 5th, 6th, 8th Amendment)

P.B.L. information did the trial Court’s instruction to jury on uncharged alternative, theories violate right to trial by jury, a right to be informed of criminal charges and Double Jeopardy, P.B.L. Kidnapping Count II Carjacking, Grand Theft Auto violation 5th, 6th, 8th Amendment.

Did the “Verdict” form agreed upon by the jury failure to specify of P.B.L. “Guilt” as to Count (1) P.B.L. Kidnapping Count (2) Carjacking violate 5th, 6th, 8th Amendment to the United States Constitution.

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 judgement is the subject of this petition is as follows

(1) Office of the Attorney General of Florida

PL – 01 The Capitol

Tallahassee, Florida 32399-1050

(2) Crim APP WPB Attorney General

1515 N. Flagle Ave., Ste. 900

West Palm Beach Florida 33401

(3) Broward County Florida Clerk of Court Court House

(4) Broward County Florida Public Defenders Office

201 S.E. 6th Street Fork Lauderdale Florida 33301

(5) General Counsel Department of Corrections

501 South Calhoun St., Tallahassee, Florida 32399-2500

TABLE OF CONTENTS

OPINIONS BELOW

JURISDICTION

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

STATEMENT OF THE CASE

REASONS FOR GRANTING THE WRIT

CONCLUSION

INDEX TO APPENDICES

Appendix A – Opinion Florida Supreme Court

Appendix B – Initial Information and Amended Information

Appendix C – P.B.L. Information

Appendix D – Sentence Computation sheet – Criminal Punishment

GAIN - TIME - SHEET
Code Score Sheet – Rule 3.992

Appendix E – The Only Arrest Report

Appendix F – Photo Lineup, and Sworn Tape Statements Were Placed into Evidence

Footnote: Was not made part of the direct appeal package. Was found in lost Records 10 years after the direct appeal package (Photo Lineup were the only Eyewitness view the Six pack) Photo with the petitioner's picture in and said to Detective Jenkin that i was not the person he saw commit the crime. Det. Jenkin testify at the petitioner's trial and never mention the Photo Live up ~~the~~ Eyewitness DAVID DIANA.)

TABLE OF AUTHORITIES CITED

CASES

Apprendi, 120 S. Ct. 2348

Gaudin, 115 S. Ct. 2310

Robinson, 215 So.2d 1262

Iseley, 944 So.2d 227

McBride, 848 So.2d 287

Atkinson, 297 U.S. 157, 160

Rosier, 276 So.3d 403

Keating, 191 F.3d 1053

Nisson, 975 F.2d 802, 806, 11th Cir.

Hughes, 101 S. Ct. 173

McKenzie, 31 So.3d 275

Daniel, 935 So.2d 1240-1241

STATUTES AND RULES

775.085

921.001(8)

787.01

921.0016

787.01(1)(a)(2) – L9

3.701

812.133(1), 2(b)

775.021(4)(b)(2)

812.133(3)(8)

Fla. R. Crim. P. 3.500 Verdict of Guilty

775.082(3)(b)

Fla. R. Crim. P. 3.530-1307

9.141(b)(2)(d)

Fla. R. Crim. P. 52(b)

924.021(3)

Rule 60(6)(1)

924.33

Rule 3.992 Score Sheet

OTHER

28 U.S.C. §1251(a)

Article I Section 9 Clause 2

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 judgement 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 N/A; 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 A to the petition and is opinions Florida Supreme Court

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

☒ The opinion of the Fourth District Court of Appeal - 4D02-4114-*Opinion* Court appears at Appendix N/A to the petition and is

☒ reported at Carter 868 So.2d 1276 - 2004; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

Footnote: THE petitioner suppress Hearing the trial Judge Elena Holmes Accepted - Moody v State, 842 So. 2d 754 (Fla 2003) As pending in the Florida Supreme Court. Judge Holmes deny the Hearing. Then the Florida Supreme Court over turn Moody case. But the petitioner case was ruled Adversely to his opinion in which they are both same under Moody v State 842 So. 2d 754 (This is 14 Amendment Violation)

2

JURISDICTION

☐ For cases from **Federal courts**:

The date on which the United States Court of Appeals decided my case was N/A.

☐ No petition for rehearing was timely filed in my case.

☐ A timely petition for rehearing was denied by the United States Court of Appeal 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 July 24, 2024
A copy of that decision appears at Appendix A.

☐ A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

U.S.C.S. CONSTITUTION, AMENDMENT 5TH, 6TH AND 8TH

Any fact that by law, increases the penalty for a crime is an "element" that must be submitted to the jury and found beyond a reasonable doubt. Fact constitutes an "elements" or "ingredient" of the charged offense. Special circumstances must be specified in the "Indictment." A fact that increases a sentencing floor, thus, forms an essential ingredient of the offense. Elevating the low-end to life sentence which in Florida means a death sentence because it "Comes without a date to be released" loss of liberty associated with the crime is your life.

V – VI AMENDMENT AND VIII AMENDMENT

This case involves the sixth amendment right to a jury determination of "guilt" on every element of the crime with which he is charged to and beyond a reasonable "doubt". See Apprendi v. New Jersey United States Gaudin.

VIII AMENDMENT

Prohibition against cruel unusual punishment Petitioner "Carter" has been imprisoned based upon evidence of trespassing facts and jury instructions which constitute P.B.L. Kidnapping, Carjacking, no fire arm, no weapon, no bodily injury. 23 years in prison. 64 years old. A death sentence.

ARTICLE I SECTION 9 CLAUSE 2

Provides that the privilege of a Writ of Habeas Corpus which allows a prisoner to challenge his or her imprisonment in Court cannot be suspended except in extreme circumstances such a rebellion or invasion, where the public is in danger.

1 Footnote:

Florida has (Sanction) the petitioner out of their Lower Courts And deny the petitioner Relief in the only court available to the petitioner. THE Florida Supreme Court there (no) courts available Now. But United States Federal Court system Only.

STATEMENT OF THE CASE

The Petitioner was charged by information with one Count kidnapping P.B.L. F.S. 787.01 – No firearm, no weapon, no bodily harm. One Count Carjacking F.S. 812.133(1), 2(b) and F.S. 812.133(3)(8) statute. In the initial information the State charged the Petitioner with inflicting great bodily harm on the victims. The state filed an “Amend” information again charging the Petitioner with [commit a facilititate the Commission of a Carjacking contrary F.S. 787.01(1)(a)(2)-L9. See ^BAppendix. However, the amended information failed to allege infliction of great bodily harm. See ^BAppendix. This is unauthorized amendment is made to an indictment or information the charging instrument is reduced to a nullity 775.082(3)(b) a jury finding cannot cure this defect in the amended information reversed and remanded. See McKenzie v. State, 31 So.3d 275; Daniel v. State, 935 So.2d 1240, 1241 (DCA 2006); Also 9.141(b)(2)(d) proper portion of the records. 924.021(3) statute state to be fundamental the error must be basic to the judicial decision under review under Florida law an amendment information that subject an accused to the possibility of a conviction for an offense not charged is impermissible.

SEE “THE CHARGING CONFERENCE TRANSCRIPT”

Judge Ilona Holmes stated: I got a problem with this Carjacking charge because carjacking is a complete crime. [mean everything else is [inherent] inside carjacking] O.K. Ms. Bell, the State Attorney go ahead and type it up with (Abundance Caution) I am going to have to wait and see. Public Defendant Scott Leoine and Kanser said objection your Honor this is only a trespassing charge that the only evidence here. And the only arrest report said strongarm robbery of a car. See ^EAppendix. The amended information say kidnapping P.B.L., but the law says its only a first degree P.B.L. if there’s a deadly weapon or a firearm Court its just another example of very bad legislation on tracking the P.B.L. statute. This is unauthorize departure to life sentence. Statute 921.001(8) –

921.0016 – 3.701 – 924.33 – 775.021(4)(b)(2) – 775.085, six violations of the Florida Constitution.

Because also their no enhancement here.

SENTENCING HEARING TRANSCRIPT

At the sentencing hearing Judge Ilona Holmes made this statement in her courtroom. “Sentencing is my call only” and gave the Petitioner a life sentence. But the sentence computation sheet said it only life sentence if it over 363 point the Petitioner lowest permissible prison sentence in months 90 months (not life or death). Public Defendant Scott Levine said objection your Honor this case doesn’t warrant a life sentence or 17 years. The Petitioner has absolutely no criminal history and there no enhancement here and no firearm or deadly weapon or great bodily injury to this victim. Judge Holmes said “I know, let the Appeal Court handle it.”

HARM ERROR RULE CODIFIED 924.33 (2020)

Recusenco superseded them, 548 U.S. at 221-22/126 S. Ct. 2546 enhancement without the jury find failure to instruct harmless error analysis [any fact, by law must be submitted to the jury]

Examination of all the appeal papers must be done by this Honorable Court. A life sentence on a non-capital charge of trespassing argue by Public Defender Scott Levine only.

EXCULPATORY EVIDENCE

The victim Hougard made a statement to police and employee name (Dave) saw the culprit earlier in that day can possibly identify the suspect. ^E See Appendix. Detective David Jenkin testify at my trial but never mention anything about the photo life up he shows the only eyewitness to the crime. Detective David Jenkins is still available testify at hearing. An evidentiary hearing is warranted in a Federal Court on this document that was not made part of the original direct appeal package.

REASONS FOR GRANTING THE PETITION

The jury never made a finding of “guilt” on P.B.L. kidnapping information “The Verdict Form” absolutely does not mention a firearm, or deadly weapon and the State did not seek any enhancement. It only a P.B.L. Kidnapping if these “element” are inside the information. The sentence is in violation of double jeopardy P.B.L. Kidnapping Life Sentence. Such a finding was not a clear jury finding of “guilt” and is in violation of the Supreme Court’s precedent in Apprendi v. New Jersey, 530 U.S. 466 120 S. Ct. 2348, 147 L. Ed. 2d 435 (2000) clear that the sixth amendment of the United States Constitution guarantee’s each criminal Defendant the right to a jury determination of “guilt” on every element of the crime with which he is charged beyond a reasonable doubt = quoting United States v. Gaudin 515 U.S. 506, 510 – 115 S. Ct. 2310 132 L. Ed. 244 (1995). See also Robinson v. State 215 So.2d 1262 [Fla. 1st DCA 2017] quoting State v. Iseley, 944 So.2d 227, 231 (Fla. 2006). The Florida Supreme Court has clarified that, although a specific finding in n interrogating on this “Verdict Form” is preferable. What is ultimately required is a clear jury finding. Here in the case at bar, there was no clear finding of a “guilt” P.B.L. Kidnapping “Verdict” pursuant to Count One in violation of the sixth amendment of the United States Constitution. Therefore, under Apprendi without an absolute and clear finding of a “Guilty Verdict” Petitioner’s imprisonment in the Florida Department of Corrections is unlawful and unconstitutional. Petitioner has sought relief via Habeas Corpus for being charged under an unconstitutional P.B.L. kidnapping carjacking statute 787.01(1)(a)(2)-L9 – F.S. 812.133(1), 2(b) and the erroneous jury instruction. Life plus 30-years sentence to the State appellate Court. The law of case doctrine and re-judicata does not apply where its application would result in a manifest injustice. State of Florida v. McBride, 848 So.2d 287 (2003). See Appendix – Florida Supreme Court opinion dated: July 24, 2024. A sentence is illegal if it imposes a kind of punishment that

no judge under the entire body of sentencing statutes could possibly inflict under any set of factual circumstances. Florida Supreme Court cases Blakely & Carter.

Florida's fundamental error doctrine parallels the federal plain error doctrine, whose foundational parameters were based on United States v. Atkinson 297 U.S. 157.160 (1936). See also Rosiea v. State of Florida, 276 So.3d 403 [1 DCA 2019] (quoting Atkinson) It is the duty of this country high Court to survey the whole legal playing field on this unamerican unconstitutional life and death sentence.

D
See Appendix, the Petitioner release date sheet says death sentence. Fla. R. Crim. P. 3.500 Verdict of Guilty where more than one Count. If different offenses are charged in the indictment or information on which the Defendant is tried the jurors shall, if they convict the Defendant make it appear by their verdict on which counts of which offenses the find the Defendant guilty. Also see Fla. R. Crim. P. 3.530 – 1307 jury verdict. Ambiguous or defective verdict will not be given legal effect.

See rule: Fed. R. Crim. P. 52(b) [Plain error] test: A fatally flawed verdict form Keating v. hood 191 F.3d 1053.

Rule 60(6)(1) Relief is available for mistakes of law as well as mistakes of fact – Nisson v. Lundy 975 F.2d 802, 806 11th Cir. [1992]

A pro se party's motion papers must be liberally construed in favor of that party and are held to less stringent standards than formal submission drafted by lawyers. Hughes v. Rowe, 449 U.S. 5, 10, 66 L. Ed. 163-101 S. Ct. 173 (1980).

This Certiorari is timely.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Vernon Cant

Date: Aug 29, 2024