

No. _____

ORIGINAL

24-6308

IN THE

SUPREME COURT OF THE UNITED STATES

FILED

DEC 16 2024

OFFICE OF THE CLERK
SUPREME COURT, U.S.

LaDon Maurice Green — PETITIONER
(Your Name)

vs.

Florida Dept. of Corro. — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Fifth District Court of Appeals

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

PETITION FOR WRIT OF CERTIORARI

LaDon Maurice Green

(Your Name)

400 Tedder Rd

(Address)

Century, FL 32535

(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

Does the Florida State Courts have the authority to ignore and disregard this Courts decisions in Gideon v. Wainwright, 372 U.S. 335 (1963); Hamilton v. Alabama, 368 U.S. 52 (1961); Argersinger v. Hamlin, 407 U.S. 25 (1972); and Johnson v. Zerbst, 304 U.S. 458 (1938) when all four decisions together supports Petitioner's claim that he being an indigent defendant was denied the assistance of counsel offer for appointment for his arraignment proceedings and trial, then later imprisoned for offense when there was no knowing and intelligent waiver?

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

- 1) LaDon MAURICE GREEN v Sec'y, Dept. of Corr. - Case number 3220-CV-00610-BJD-PDB, United States District Court for the Middle District of Florida
- 2) LaDon MAURICE GREEN v State of Florida - Case number 5D24-1737, Fifth District Court of Appeal, Florida
- 3) LaDon M. GREEN v State, Case number SC22-1388, Florida Supreme Court
- 4) LaDon M. GREEN v. State, case number 1D18-0960, First District Court of Appeal, Florida

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OTHER

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☐ is unpublished.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☐ is unpublished.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 A 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 Fifth District Court of Appeals court appears at Appendix A 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 August 20, 2024. A copy of that decision appears at Appendix A.

☐ A timely petition for rehearing was thereafter denied on the following date: November 1, 2024, and a copy of the order denying rehearing appears at Appendix C.

☐ 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

- 1) Fifth Amendment - Due Process
- 2) Sixth Amendment - Right to Counsel
- 3) Fourteenth Amendment - Due Process of Law
- 4) Eighth Amendment - Cruel and Unusual Punishment
- 5) Article I, Section 16 - Right to counsel (Fla. Const.)
- 6) First Amendment - Denied access to court

STATEMENT OF THE CASE

Petitioner was originally arraigned on August 16, 2012, for robbery with a deadly weapon. During this proceeding Petitioner waived his right to counsel for the allegations alleged. Then on November 20, 2012 Petitioner informed the Court that he was ready for trial on the allegations alleged. However, On November 29, 2012, the State during the eleventh hour amended the information alleging new facts that the suspect wore a hood or mask to hide his identity with no specific to if it was a hood or mask pursuant to Fla. Stat. 775.0845. This action sabotaged Petitioner's defense. During these proceedings it is clear from the record that Petitioner did not understand the ramifications that Fla. Stat. 775.0845 would apply to his charge, and the Court never offered the assistance of counsel but in the alternative offered the advice of the State Attorney in obtaining a plea. No plea was entered and arraignment was then forwarded until December 3, 2012. Again the offer of counsel was not offered and because Petitioner still had no clear understanding to the amendment the Court entered a plea of not guilty for the Petitioner. Yet the Clerk's record states that Petitioner waived the reading of the information and

and entered a plea of not guilty. This fact is incorrect.

During the December 3, 2012 proceedings Petitioner was asked by the court if he was ready for trial.

Petitioner had answered no. The Court told Petitioner that she was placing him at the end of her calendar and that then he could decide what he wanted to do. But immediately after Petitioner was removed from the Courtroom, the judge initiated an ex parte communication with the State and based on their discussion decided not to bring Petitioner back out. But instead moved the case to a different judge to pick jury after minutes prior Petitioner had said that he was not ready for trial.

Jury Selection began and still no offer of counsel was made. On December 4, 2012 Petitioner requested counsel and was told by the court that he had no right to counsel due to his prior waiver that did not pertain to the hood or mask allegation in the information. This trial ended in a hung jury do to the weakness of the States case,

On January 28, 2013 the beginning of the retrial the State Attorney office put two Asst. State Attorneys

on the case against the Petitioner and again the Court failed to offer counsel eventhough there had been an unequivocal request for counsel, and the State never addressed the court of the prior request and that the other judge had told Petitioner incorrect information that he no longer had a right to counsel. Petitioner was convicted and an appeal was taken.

During Petitioner's direct appeal he requested the December 3, 2012 arraignment transcripts twice and was denied. This action prohibited Petitioner from raising the denial of his right to counsel claim. Petitioner's direct appeal in case number 1D13-1871 was then affirmed and mandate issued June 25, 2014. In Florida had the December 3, 2012 arraignment transcripts been provided, the denial of counsel claim would have received an automatic reversal.

On May 7, 2015 Petitioner filed a Rule 3.850 motion. On August 12, 2015 Petitioner filed a motion to disqualify trial judge, asserting that in a motion to disqualify trial judge filed prior to trial that the transcript proved that she had

stated that the motion was legally sufficient yet had denied the motion in error. This action caused the judge that conducted his trial and rendered the judgment without the proper jurisdiction to have done so. Thus causing judgment to be null and void. On October 15, 2015 the judge granted the motion to disqualify trial judge and the case was reassigned. However the issue addressing matter in 3850 motion was still denied on August 16, 2016 and affirmed in case number 1D17-0059 and mandate issued on February 2, 2018.

Prior to this filing Petitioner has filed multiple petitions for habeas corpus and prohibition and Rule 3.800(a) motions. These petitions were filed in the First District Court of Appeal and the Florida Supreme Court about the denial of his right to counsel for arraignment and trial. Due to these multiple filings both courts have issued orders barring Petitioner from filing pro se in their courts involving this conviction. Causing this indigent defendant to be denied his First Amendment right to access the court where the State refuses to appoint counsel in his place. Petitioner has a writ of habeas corpus pending in the United States District Court for the middle District of Florida in case# 3:20-cv-00610-BJD-PDB.

REASONS FOR GRANTING THE PETITION

Petitioner asserts that this court should grant this petition because Petitioner has a United States Constitutional Right to be protected by the guarantees of Due Process and Equal Protection of Law, and when a State violates its own State Constitution that State violates these guaranteed rights.

Petitioner's position is that the Florida Courts have repeatedly violated Article I, Section 16 of the Florida Constitution, and by not abiding by its social contract with the people of Florida it has abridged the Petitioner's rights within the United States Constitution that guarantees Due Process of Law, Equal Protection, and the protection against Cruel and Unusual Punishment.

Petitioner affirmatively alleges that the record demonstrates on its face an entitlement to relief, in accordance with the Oath every Judiciary has sworn to obey and protect both the State of Florida and the United States Constitutions, and Petitioner's Judgment and Sentence is illegal as it potentially fails to comport with

Gideon v. Wainwright, 372 U.S. 335 (1963); Hamilton v. Alabama, 368 U.S. 52 (1961); Argersinger v. Hamlin, 407 U.S. 25 (1972); Alleyne v. United States, 570 U.S. 59 (2013); McNeil v. Wisconsin, 501 U.S. 171 (1991); Article I, Section 16(a) of the Florida Constitution limitations in accordance with the Oath requirements.

Petitioner contends that when he was initially arraigned on August 16, 2012 for a robbery charge alleging the robbery was committed with a deadly weapon which was a knife. During this proceedings Petitioner waived his right to counsel based on the allegations alleged, so that he could acquire private counsel. After being allowed to proceed pro se Petitioner had a chance to review the police reports and discovered that the victim had described the suspect as being 5'-10" to 6'-2" tall with a really deep voice. The Petitioner is 6'-6" tall and described as having a normal voice. With these facts Petitioner decided that it would be best if he represented

himself at trial. This way the victim could hear his voice and see him standing before her instead of having counsel speak for him and only see him sitting not being able to determine his height. Due to the fact that the Police and the State Attorney's Office refused to allow Petitioner to participate in an actual lineup and a voice lineup as requested by Petitioner. By the time Petitioner's case had proceeded to trial it is clear that with it being over a year had elapsed and the Petitioner being the only person before her. The victim was in error in assuming that Petitioner was her assailant due to he was the only one presented before her.

However, on November 29, 2012, the State during the eleventh hour amended the Information alleging that the suspect wore a hood or mask to hide his identity, pursuant to Fla. Stat. 775.0845. Pursuant to Alleyne v United States, 570 U.S. 99, 114-15, 133 S.Ct. 2151 (2013), states, "the essential Sixth Amendment inquiry is whether a fact is an element of the crime. When a finding of fact alters the legally prescribed punishment so as to

aggravate it, the fact necessarily forms a constituent part of a new offense and must be submitted to the jury. In Petitioner's case the fact of the hood and mask element was submitted to the jury and Petitioner was found guilty of this element.

This Court has said that "the purpose of the Sixth Amendment counsel guarantee - and hence the purpose of invoking it is to 'protect the unaided layman at critical confrontations' with his 'expert adversary,' the government, after 'the adverse positions of the government and defendant have solidified' with respect to a particular alleged crime. See McNeil v Wisconsin, 501 U.S. 171, 177-178 (1991), quoting United States v Gouveia, 467 U.S. 180, 189 (1984). It is evident that Petitioner should have been offered the assistance of counsel to have aided him when he had initially exhibited the need of aid at the November 29, 2012 arraignment. It is also evident that the State did not solidify its particular alleged crime until that point. Therefore, Petitioner was entitled to the Sixth Amendment guarantee.

Then there is this Court's other decisions where it has repeatedly stated, "waivers of the right to counsel, as of constitutional rights in the criminal process generally, must be a knowing, intelligent act done with sufficient awareness of the relevant circumstances." Iowa v. Tovar, 541 U.S. 77, 81, 124 S.Ct. 1379, 1383 (2004) (quoting Brady v. United States, 397 U.S. 742, 748 (1970); See also Colorado v. Spring, 479 U.S. 564, 107 S.Ct. 851 (1987); Moran v. Burbine, 475 U.S. 412, 421, 106 S.Ct. 1135 (1986); Miranda v. Arizona, 384 U.S. 436, 444, 86 S.Ct. 1602 (1966). In Moran v. Burbine, this Court clarified that "the inquiry has two distinct dimensions. First, the relinquishment of the right must have been voluntary in the sense that it was the product of a free and deliberate choice rather than intimidation, coercion, or deception. Second, the waiver must have been with a full awareness of both the nature of the right being abandoned and the consequences of the decision to abandon it. Moran, 475 U.S. at 421. The determination of whether a waiver was knowing, intelligent, and voluntary is to be made by assessing the totality of the circumstances."

Petitioner asserts that during the August 16, 2012 waiver proceedings, that he was never made aware that if the State decided to amend its information that Petitioner would forego any future rights to counsel as provided by the Sixth Amendment guarantee.

Petitioner further asserts that with what has been argued we address his question to this court that the Florida State Courts have ignored and or disregarded this Courts decisions in Gideon v. Wainwright, 372 U.S. 335 (1963); Hamilton v. Alabama, 368 U.S. 52 (1961); Argersinger v. Hamlin, 407 U.S. 25 (1972); and Johnson v. Zerbst, 304 U.S. 458 (1938), when this Court has specifically said "the Sixth Amendment stands as a constant admonition that if the Constitutional safeguards it provides be lost, justice will not still be done." Gideon, 335 U.S. at 343; "No person may be deprived of his liberty who has been denied the assistance of counsel as guaranteed by the Sixth Amendment." Argersinger, 407 U.S. at 37-38; "Due process under the Fourteenth Amendment requires that an accused in a State case be granted the aid of counsel at his arraignment is a critical stage in the State

criminal proceedings; if he is without the aid of counsel at his arraignment in such proceedings, his conviction will be held **void** without the necessity of showing that he was prejudiced in any way by the absence of counsel."

Hamilton, 368 U.S. at 52; "If the accused, however, is not represented by counsel and has not competently and intelligently waived his constitutional right, the Sixth Amendment stands as a jurisdictional bar to a valid conviction and sentence depriving him of his life or his liberty.... The judgment of conviction pronounced by a court without jurisdiction is void, and one imprisoned thereunder may obtain release by habeas corpus." Johnson, 304 U.S. at 468.

Petitioner has cited these cases in multiple Habeas Corpus petitions, Rule 3.850 motions, and Rule 3.800(a) motions in the Florida Courts. All these courts have decided to ignore or disregard this Courts decisions.

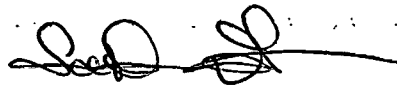
WHEREFORE, This Court should grant this petition because its clear that Petitioner has been Denied his Fifth, Sixth and Fourteenth Amendment rights pursuant to the United States

Constitution and all matters discussed.

CONCLUSION

Petitioner asserts that this court must address Petitioner's question of great importance so as to inform all courts that all decisions of this Court is not to be ignored or disregarded as if the decision can be considered discretionary. For this reason, the petition for a writ of certiorari should be granted.

Respectfully Submitted,



LaDon Maurice Green - DC# 299316

Date: December 16, 2024