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SUPREME COURT, U.S.

IN THE
SUPREME COURT OF THE UNITED STATES

ORIGINAL

CARLTON SMITH — PETITIONER
(Your Name)

vs.

Florida DEPT. of CORRECTIONS, ET. AL — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

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

PETITION FOR WRIT OF CERTIORARI

CARLTON SMITH, DC# C07410, Pro-se.
(Your Name)

Liberty Correctional Institution
11064 NW DEMPSEY BARRON ROAD
(Address)

Bristol, Florida 32321-2622
(City, State, Zip Code)

"Not Applicable"
(Phone Number)

QUESTION(S) PRESENTED

Petitioner asserts that the Florida Supreme Court erred and denied the Petition for
A writ of habeas corpus, 198-1, 198-32, with exhibits documents attachments, in case
NO. SC30024-1360. Whereby, the denied order is a departure from the essential
Requirements of law, pursuant to Rule 9.147(d)(3022), of the Florida Rules of
Appellate Procedure, and it deprived Petitioner's rights guaranteed by due process
of the U.S. Const., 1st, 5th, and 14th Amendment.

LIST OF PARTIES

[] All parties appear in the caption of the case on the cover page.

[X] 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:

1. Hon. Ricky Dixon, Secretary and General Counsel, Hon. Daniel A. Johnson for Florida Department of Corrections, at 501 Calhoun Street, Tallahassee, Florida 32399-2500.
2. Hon. Ashley Moody, Attorney General for the State of Florida, at The Capitol Place - 01, Tallahassee, Florida 32399.
3. Hon. John A. Tomasino, Clerk for the Supreme Court of Florida, at 500 Duval Street, Tallahassee, Florida 32399.
4. Hon. Kristina Samuels, Clerk for the First District Court of Appeal, at 2000 Dryden Street, Tallahassee, Florida 32399.
5. Hon. Daniel A. Stanley, Clerk for the Circuit Second Judicial Circuit - Liberty County, Florida, at Highway 20 - P.O. Box 399 - Bristol, Florida 32321.

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TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
<u>Cochran vs. State of Kansas</u> , 316 U.S. 255-258, 86 L. Ed 1453, 62 S. Ct. 1068.	8
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<u>Johnson v. Zerbst</u> , 304 U.S. 458, 82 L. Ed 1461, 58 S. Ct. 1019.	8
<u>Mohler v. EBY</u> , 264 U.S. 34, 46, 68 L. Ed 549, 557, 44 S. Ct. 283.	6
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STATUTES AND RULES

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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 N/A to the petition and is

☐ reported at "Not Applicable"; 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 N/A to the petition and is

☐ reported at "Not Applicable"; 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 SC 2024-1360; or,
☒ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the First District Court of Appeal court appears at Appendix B to the petition and is

☒ reported at 1D2023-2726; 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 "Not Applicable".

☐ 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: "Not Applicable", 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 "Not Applicable" (date) on "Not Applicable" (date) in Application No. N/A A N/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 Nov. 1st 2024.
A copy of that decision appears at Appendix A.

☐ A timely petition for rehearing was thereafter denied on the following date: "Not Applicable", and a copy of the order denying rehearing appears at Appendix N/A.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including "Not Applicable" (date) on "Not Applicable" (date) in Application No. N/A A N/A.

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

United States Constitution Amendment: 1 st , 5 th , and 14 th Amendment:	<u>Pages</u> Pg. 4-5, 9-10, and 11
U.S.C. 2243	9
United States Constitution Amendment: 1 st , 5 th , and 14 th Amendment . . .	II

STATEMENT OF THE CASE

Thus, Petitioner is the Petitioner in a Petition for a Writ of habeas Corpus Proceedings Pending in the Florida Supreme Court in CASE NO.: SC2024-1360, the Respondents are the Custodian for Florida Department of Corrections, and the Attorney General for the State of Florida. See, APP. C, The Petition in CASE NO.: SC2024-1360.

On November 1st 2024, Florida Supreme Court sua sponte and conduct a hearing on the Petition in CASE NO.: SC2024-1360 but did not required the Respondent for Florida Department of Corrections to show cause Pursuant to Rule 9.100(h) of the Florida Rule of Appellate Procedure. At the close of the hearing the Court denied the Petition because Petitioner raises the same issues as in Smith v. Fla. Dept. of Corrections, CASE NO.: SC2024-1077, in which the Petition was denied. Cf. Topps v. State, 865 So. 2d 1253 (Fla. 2004). No Motion for Rehearing will be considered by this Court. See, APP. "A", the denied order in CASE NO.: SC2024-1360.

Moreover, in Smith v. Fla. Dept. of Corr., in CASE NO.: SC2024-1077, Petitioner did filed a Petition for a Writ of habeas Corpus, on July 17th 2024 with Florida Supreme Court "under the law of the case" in CASE NO.: 1D23-2726, included the... lower tribunal: CASE NO.: 2019-CA-141. See, APP. D, the Petition in SC2024-1077. The Court treated the Petition as a Petition for a Writ of Mandamus. Because Petitioner has failed to show a clear legal right to the relief requested, he is not entitled to Mandamus relief. Accordingly, the Petition for writ of Mandamus is hereby denied. See > Huffman v. State, 813 So. 2d 10, 11 (Fla. 2000). No Rehearing will be considered by this Court. See, APP. "E", the denied Order in CASE NO.: SC2024-1077, August 19, 2024. Hence, the Court denied the... Petition for a writ of habeas Corpus, ^{treated} as a writ of Mandamus without issuing an Order to the Respondent for Florida Department of Corrections to show cause. Nevertheless, the Court has misconstrued Petitioner's illegal restraint claim ^{the} from the Petition for a Writ of habeas Corpus filed on July 17th 2024. Where the Court, treated the Petition as a Petition for a Writ of Mandamus which is misplaced, for which it violates Petitioner's rights against the U.S. Const. 1st, 5th, and 14th Amendment.

Pg. #4 Thus, the Florida Supreme Court didn't rule on the merits of the Petition for writ of habeas Corpus treated as a Petition for a Writ of Mandamus, ^{which was not} under the law of

... → See APP. E "Acknowledgment of New Case" in case NO.: SC2024-1077, July 23rd 2024, case in case NO.: 1D23-2726, in which does not allow Petitioner to Appeal to the Honorable Court for a Petition for a writ of Certiorari. The Florida Supreme Court deprived Petitioner of his rights to Appeal to the Honorable Court for a Petition for a writ of Certiorari when Florida Supreme Court failed to written case NO.: 1D23-2726, on the denied Order in case NO.: SC2024-1077, August 19th 2024, and it violates Petitioner's Rights Against the U.S. Const., 1st, 5th, and 14th Amendment. See APP. E, denied order case NO.: SC24-1077.

Hence, the Florida Supreme Court "Argument" in the denied Order on November 1st 2024, on the Petition for a writ of habeas Corpus, in case NO.: SC2024-1360, stated: "The Petition is hereby denied because Petitioner raises the same issues as in > Smith v. Fla. Dep't. of Corr., NO. SC2024-1077, 2024 WL 3867950 (Fla. Aug. 19, 2024), in which the Petition was denied. Cf. TOPPS v. State, 865 So. 2d 1253 (Fla. 2004). No motion for rehearing will be considered by this Court. Therefore, the Court treated the Petition for a writ of habeas Corpus, filed on July 17th 2024, ^{As a Petition for a writ of Mandamus} in case NO.: SC2024-1077, was Baseless and Misplaced but the Court could not Rule on the merits that's the reason why case NO.: 1D23-2726, isn't placed on the denied Order because issues could not address in a Petition for a writ of Mandamus. Whereby, Petitioner raises same issues is irrelevant to the facts alleges in the Petition in case NO.: SC2024-1360. Because the Court did not Rule on the merits on Petitioner's illegal Restraint Claim "under the law of the case", in case NO.: 1D23-2726, the outcome Prejudice and deprived Petitioner of his rights for an Appeal Against the U.S. Const., 1st, 5th, and 14th Amendment. See, APP. A, denied Order in case NO.: SC2024-1360, and APP. E, denied Order in case NO.: SC24-1077.

This Rule > 9.147(d)(2022), of the Florida Rules of Appellate Procedure plainly requires the Petitioner to show that there is a Preliminary hearing basis for relief, on the Petition, that have been "Suppressed" by the Prison Official Mail Room Staff at Liberty Correctional Inst., Process and Rendered by the Clerk for First District Court of Appeal, in case NO.: 1D23-2726, was "untimely" and "without Jurisdiction" Pursuant to Rule > 9.147(d)(2022), of the Florida Rule of Appellate Procedure. Whereby, Florida Supreme Court should have Issue a writ or an Order to Show Cause to the Respondent for Florida Department of Corrections on the Petition in case NO.: SC2024-1360.

Nevertheless, in the case at bar > Donald v. United States, 340 U.S. 206-

See, APP. G
Petition for a writ of
habeas Corpus in case
NO.: 1D23-2726,

Pg. #5

-210, 95 L. Ed. 215 ("The fourteenth amendment Precludes Indiana from, keeping Respondent imprisoned if it persists in depriving him of the type of Appeal generally afforded those convicted of crime. On the other hand, Justice does not require Indiana to discharge Respondent if such an Appeal is granted and reveals a trial record free from errors. Now that this Court has determined the Federal Constitutional Question, Indiana may find it possible to provide the Appellate review to which Respondent is entitled. The Judgment of the Court of Appeals and the District Court ARE VACATED and case remanded. On remand, the District should enter such orders as are appropriate to allow the State a reasonable time in which to afford Respondent the full Appellate review he would have received but for the suppression of his papers, failing which he shall be discharge." (SIMILARLY) Quoting > Mahler v. EBY, 264 U.S. 32, 46, 68 L. Ed 549, 557, 44 S Ct. 283. (SIMILARLY).

Hence, Florida Supreme Court failed to comply with the Statutory Procedures in Rule > 9.147(d)(2022), of the Florida Rules of Appellate Procedure. When the Court denied the Petition on November 1st 2024, in case NO.: SC2024-1360, the denied order was erroneous and contrary to the law; it expressly and directly conflicts with Rule > 9.147(d)(2022) of the Florida Rules of Appellate Procedure. As the Procedure in Rule > 9.147(d)(2022), of the Florida rules of Appellate Procedure is mandatory and a failure to follow that Procedure is a "departure from the essential requirements of the law." Thus, Petitioner concluded that the Rule creates a substantive right to be free from a unsubstantiated claim on the Clerk of the Court lacking Jurisdiction to disposition of Appeal and that a violation of the right cannot be fully protected on Appeal from the final Judgment because there is no remedy for an Appeal. See, APP. "A", the denied Order in case NO.: SC2024-1360.

In Summary, the Petitioner contends that the order in this case NO.: SC2024-1360, is a departure from the essential requirements of law and that the material Injury cannot be corrected on Appeal from the final Judgment because there's no remedy for an Appeal, and it causes irreparable harm against Petitioner for an Appeal. Whereby, Florida Supreme Court denied the Petition in case NO.: SC2024-

1360, on basis Petitioner raise the same issues as in Smith v. Fla. Dep't. of Corr., Case NO.: SC2024-1077, for which the Court has failed to ISSUE A WRIT OR AN ORDER TO SHOW CAUSE to the Custodian Respondent for Florida Department of Corrections to Show Cause Pursuant to Rule 9.100(h), of the Florida Rules of Appellate Procedure; the put come has deprived Petitioner of a substantive right to a full and fair meaningful hearing guarantee by Rule > 9.147(d)(2022), of the Florida Rules of Appellate Procedure in which the error, Pre-Judice and deprived Petitioner of his rights guarantee by due Process of the U.S. Const. 1st, 5th and 14th Amendment. See, APP. "A", the denied order in CASE NO.: SC2024-1360.

The Nature of the Relief Sought by this Petition is a Writ of CERTIORARI Quashing the Order denied on habeas Corpus in CASE NO.: SC2024-1360, and Remand with a Immediate Release or discharge of Petitioner from the Custody of Florida Department of Corrections.

Hence, Petitioner contends that the Order allowing the Respondent for Florida Department of Corrections to hold Petitioner illegally in Custody based on Florida Supreme Court's denied Order in CASE NO.: SC2024-1360, on the Petition. Where the "Suppression" of Petitioner's Appeal beyond the time which Appeal could be had, for which the Petition in CASE NO.: 1D23-2726, Process and Rendered "untimely" ^{And} "without Jurisdiction" which is a "departure from the essential requirements of law". See, APP. "G", the Petition for a Writ of habeas Corpus, Pgs. 1, thru - 25, with exhibits documents attachments, filed on September 29th 2023, by Placing the Petition in the hands Prison officials Mail room staff, at Liberty Correctional Institution for mailing to the First District Court of Appeal. Whereas, the Petition filed in the Court on October 10th 2023, ^{And} the Clerk of the Court Process and Rendered the Petition in CASE NO.: 1D23-2726, "untimely" and "without Jurisdiction". See, Appendix "H", Acknowledgment of New Case in CASE NO.: 1D23-2726, which is in violation of Fla. Rules of Appellate Procedure > 9.147(d)(2022), Provides that the Court must conduct a evidentiary to determine whether the Petition for a Writ of habeas Corpus, Pgs. 1, thru - 32, with exhibits documents attachments filed on September 10th 2024, in CASE NO.: SC2024-1360, "under the law of CASE" in CASE NO.: 1D23-2726 has been Supported by evidence of Suppression including a "untimely" Process and Rendering "without Jurisdiction" by the clerk.

of the Court for First District Court of Appeal. This Rule > 9.147(d)(2022) of the Florida Rules of Appellate Procedure creates a substantive right to avoid an unfounded claim for punitive damages. Because a violation of the right cannot be remedied on appeal an order that fails to follow the statutory procedure is reviewable by certiorari. See, App."C", Petition.

In Cochran v. State of Kansas, 316 U.S. 255-258, 86 L. Ed. 1453, 62 S. Ct. 1068, the U.S. Supreme Court held: "on writ of certiorari to the Supreme Court of the State of Kansas to review a denial of a writ of habeas corpus". However, in pt Cochran's choice of words, he has set out allegations supported by affidavits and nowhere denied that Kansas refused privileges of appeal which it afforded to others. Since no determination of the verity of these allegations appears to have been made, the cause must be remanded for further proceedings. Reversed. Id. at 316 U.S. 258. Likewise, Florida Supreme Court did not issue a writ or an order to show cause to the custodian respondent for Florida Department of Corrections before it make its decision and denied the petition in case no: SC2024-1360. See, App."A", and App."C", Petition SC2024-1360.

Moreover, Florida legislature enacted rule > 9.147(d)(2022), of the Florida Rules of Appellate Procedure, which provides:

Disposition of Appeal. The Court shall render its decision on appeal as expeditiously as possible, and no later than (7) seven days from transmittal of the record. If no decision is rendered within that time period, the order shall be deemed reversed, the petition shall be deemed granted, and the clerk shall place a certificate to that effect in the file, and provided the appellant, without charge with a certified copy of the certificate.

Furthermore, petitioner asserts "the denial of equal protection through suppression of petitioner's appeal beyond the time which appeal could be had, rendered the commitment constitutionally void." See > Smith v. O'Grady, 312 U.S. 329, 85 L. Ed. 859, 61 S. Ct. 572. Similarly, see also > Johnson v. Zerbst, 304 U.S. 458, 82 L. Ed. 1461, 58 S. Ct. 1019. Similarly, quoting > Cochran v. Kansas, 316 U.S. 255, supra. Likewise, the commitment constitutionally is void in the Florida Department of Corrections (similarly).

The Florida Supreme Court erred by denied the petition in case no: SC2024-

-1360, on the basis of a technicality -- an assumed Pleading defect -- that was not raised by the Parties. It was not clear that the Florida Department of Corrections would have defended in that fashion. The Florida Supreme Court could not sua sponte denied an Action based on affirmative defenses not raised by proper Pleading, when a Petitioner was entitled to immediately release set out plausible reasons and a specific factual basis in detail, the Custodian Florida Department of Corrections was required to respond to the Petition. See: Harris v. Nelson, 394 U.S. 286, 288-89, 290-91, 89 S.Ct 1082, 22 L.Ed 2d 281 (1969) "The writ of habeas Corpus is the fundamental instrument for safe guarding individual freedom against arbitrary and lawless State Action. Its pre-eminent role is recognized by the Admonition in the Constitution that: "The Privilege of the writ of habeas Corpus shall not be suspended." U.S. Const., Art. 1, § 9, Cl 2. The scope and flexibility of the writ - its capacity to reach all manner of illegal detention - its capacity to reach all manner of illegal detention - its ability to cut through barriers of form and procedural mazes - have always been emphasized and jealously guarded by Courts and lawmakers. The very nature of the writ demands that it be administered with the initiative and flexibility essential to ensure that miscarriages of Justice within its reach are surfaced and corrected." (Similarly).

In the case at bar, > Harris v. Nelson, Supra: "Petitioner in habeas Corpus Proceeding, as the Congress and this Court have emphasized, and as we have discussed, Supra, at 290-292, 22 L. Ed at 285, 286, 287, are entitled to careful consideration and Plenary Processing of their claims including full opportunity for presentation of the relevant facts. Congress has provided that once a Petition for a writ of habeas Corpus is filed, unless [394 U.S. 299] the Court is of the opinion that the Petitioner is not entitled to an Order to Show Cause, the writ must be awarded "forthwith", or an Order to Show must be issued. 28 USC § 2243. Similarly, Likewise, Florida Supreme Court did not indicate in its Opinion that the Petitioner is not entitled to an Order to Show Cause. However, the Court should have issue an Order to Show to the Respondent for Florida Department of Corrections before making its decision and denied the Petition in

CASE NO.: SC2024-1360, November 1st, 2024. Which violates Petitioner's Rights GUARANTEED BY due Process of the U.S. Const., 1st, 5th, And 14th Amendment. See, APP "A", denied Order in CASE NO.: SC2024-1360.

However, all in all, Florida Supreme Court failed to comply with the letters of Rule > 9.147(d)(2022), of the Florida Rules of Appellate Procedure, which is consider a "departure from the essential requirements of law". Whereby, the evidence is blatantly showing on the faces of the affidavits of evidence, presented by the Petitioner on the "Suppression" on Petitioner's Appeal to the First District Court of Appeal in CASE NO.: 1D23-2726, which is "Null and Void" under the law of the case. Thus, Petitioner, filed the "Petition for a writ of habeas Corpus, PRS. A, then-25, with exhibits documents Attachments" on... September 29th, 2023, by placing the Petition in the hands of the Prison official mail room staff, at Liberty Correctional Institution ^{for mailing with the Court} (see, APP "C"). Whereas, the Petition filed in Court on October 10th, 2023, "untimely" and "without Jurisdiction". The clerk of the Court, Hon. Kristina Samuels Process and rendered the Petition on October 27th, 2023, "untimely" and "without Jurisdiction", Pursuant to Rule > 9.147(d)(2022), of the Florida Rules of Appellate Procedure for which the clerk "lacked Jurisdiction" after October 6th, 2023, to Process and rendered its decision on the Petition ^{see, APP "E"}. Acknowledgment of New case (letter) in CASE NO.: 1D23-2726, which is "Null and Void". Moreover, the First District Court of Appeal, "Per Curiam Dismissed" the Petition in CASE NO.: 1D23-2726, on December 4th, 2023. See, APP "B", "Per Curiam Dismissed order" in CASE NO.: 1D23-2726. Nevertheless, Petitioner asserts that the Florida Supreme Court did have the "Jurisdiction" to Reverse the "Per Curiam Dismissed Order" in CASE NO.: 1D23-2726, which is "Null and Void" under the law of the case" on the Petition in CASE NO.: SC2024-1360. See, APP "A", "Denied Order" on the Petition in CASE NO.: SC2024-1360 but the Court failed to "Reverse" the "Per Curiam Dismissed" under the law of the case" in CASE NO.: 1D23-2726, and discharge the Petitioner from the custody of Florida Department of Corrections, Pursuant to Rule > 9.147(d)(2022), of the Florida Rules of Appellate Procedure. Instead the Court denied the Petition in CASE NO.: SC2024-1360, and creates a "Miscarriage of Justice" warranting a reversal in which it violates Petitioner's Rights Against the U.S. Const., 1st, 5th, and 14th Amendment. Petitioner asserts the "Denied Order" on CASE NO.: SC2024-1360, must be Reversed.

This New Provision implements the "Strict Procedural Safeguards" Requirement laid down by the United States Supreme Court in National Socialist Party of America v. Village of Skokie, 432 U.S. 43, 97 S.Ct. 2205, 53 L.Ed 96 (1977). "In that case the Court held - that State Restraints imposed on Activities Protected by the First Amendment must be either immediately Review or Subject to A Staying Pending Review." (Similarity).

Reason for granting the Petition

Wherefore, its in the interest of Justice based on the Protection handed down by the citations Authorities of the U.S. Constitution and other facts of law. The Petitioner asserts the importance in consideration for the Honorable Court accepting this case for review include the existence of a conflict between the decision of which Review is sought and decisions of the Honorable Court on the same issue for which the Florida Supreme Court's decision denied the Petition for a writ of habeas Corpus, in Case NO: SC2024-1360, "expressly and directly in conflict with the Authorities cited in this Petition", and Another consideration is the importance to the Public of interest of the issue "Not misleading the Public", for which ... Florida Supreme Court erred and denied the Petition in Case NO: SC2024-1360, "in which demonstrate a departure from the essential requirements of the law", in Rule 9.147(d) (2022), of the Florida Rules of Appellate Procedure, and "the departure cause material Injury that cannot be corrected on Appeal from the final Judgment, for which there is NO Adequate Remedy by Appeal". Nevertheless, Petitioner Affirmatively declared that Florida Supreme Court did "acted in excess of its Jurisdiction" and "denied the Petition in Case NO: SC2024-1360" without issuing a writ to the Custodian Respondent for Florida Department of Corrections to show cause, for which creates "Miscarriages of Justice" warranting a "Reversal", and it violates Petitioner's rights for a full and fair meaningful hearing against the U.S. Const. 1st, 5th, and 14th Amendment. Therefore, the Petition for a Writ of Certiorari should be granted. The denied order must be Reversed.

Conclusion

The Petition for a Writ of Certiorari should be granted.

Respectfully Submitted,

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Date: December 4th, 2024

CARLTON Smith, DC # CD7410
Petitioner, Pro-Se.