

HARRY LEE GOLDSBORO II,

PETITIONER

v.

STATE OF FLORIDA,

RESPONDENT

IN THE UNITED STATES

SUPREME COURT

CASE NO.: 24-6373

6TH DCA NO.: 602023-2876

L.T. NO.: 2018CF004010AO

DATE: 05/21/2025

PETITION FOR REHEARING

COMES NOW, on this 21ST day of MAY, 2025, the Petitioner, HARRY LEE GOLDSBORO II, pro se, and pursuant to Fed. Sup. Ct. R. 44 Rehearing (1) and (2), Rule 39, and 29 submits this timely Petition For Rehearing to the United States Supreme Court. The Petitioner previously submitted a Petition For Rehearing on April 7th, 2025, but the petition did not comply with Fed. Sup. Ct. R. 44 and the Court sent an order permitting the Petitioner to amend and resubmit the petition. The Court's order was dated May 1st, 2025 and provided the Petitioner 15 days to respond (May 16th, 2025); however, due to an unknown delay with the Petitioner's legal mail, he did not even receive the order until May 20th, 2025, four days after the order's deadline. The Petitioner is now filing the instant Petition For Rehearing immediately, to avoid any further delays. Pursuant to Rule 44, the Petitioner is requesting that the Court suspends its order denying certiorari and orders the 6th District Court of Appeals to consider the Petitioner's 3.830 postconviction motion for its merits as the Supreme Court's Findings in *Strickland v. Washington*, 466 U.S. 668, 104 S. Ct. 2052, 80 L.Ed.2d 674 1984, *Evitts v. Lucey*, 469 U.S. 387, 105 S. Ct. 830, 83 L.Ed.2d 821 1985, and *Hill v. Lockhart*, 474 U.S. 52, 59, 106 S. Ct. 366, 88 L.Ed.2d 203, 1985 have a controlling and substantial effect. The 6th DCA's per curiam affirmance of the lower court's ruling does not constitute a reasonable application of clearly established law and the interests of justice require intervention from the nation's highest court. The Court previously denied the Petitioner's writ of certiorari in case number 24-6373 on March 24th, 2025, which was then petitioned for rehearing on April 7th, 2025, and now the Petitioner re-submit this timely Petition For Rehearing.

The Petitioner asserts that the lower court and the 6th DCA unreasonably applied clearly established Federal law of the defendant's right to effective assistance of counsel and due process of law under the Sixth and Fourteenth Amendments of the U.S. Constitution, as proscribed in the Supreme Court's rulings in *Strickland*, *Evitts*, and *Hill*. *Strickland* provides the standard for ineffective assistance claims under the 6th Amendment. *Evitts* establishes that the due process clause of the 14th Amendment guarantees a criminal defendant the effective assistance of counsel on his first appeal as of right. *Hill* holds that to prevail on prejudice before the state court, the defendant must demonstrate a reasonable probability that but for counsel's errors, he would not have pleaded guilty and would have insisted on going to trial. The Plaintiff asserts the following claims:

1. The lower court erred by denying the Petitioner's belated plea withdrawal as untimely without addressing the merits of his motion and justifiable reasons listed in Fla. R. App. P. 9.141(c)(5)(A) and (B), and the record

- clearly shows that counsel withdrew representation only 5 days after the defendant signed the plea, in violation of Fla. R. Crim. P. 3.11(e), which prohibits withdrawal prior to the 30 day appeal period expiring.
2. The lower court erred by failing to evaluate the merits of the defendant's ineffective assistance of counsel claims and due process violations because the court dismissed the belated appeal as untimely. The defendant claimed that counsel failed to inform him that by signing the plea, despite the withholding adjudication clause, he would have to register as a convicted felon which caused his top secret clearance to be revoked and suspension as an officer in the U.S. Air Force.
 3. The lower court erred by failing to evaluate the merits of defendant's claim that counsel misadvised him as to the collateral consequences of the plea. Counsel misadvised the defendant as to the applicability of civil commitment proceedings, and the State sought civil commitment ~~three~~ five years after the defendant signed the plea.
 4. The lower court erred by failing to evaluate the merits of the defendant's claim that counsel failed to develop a reasonable defense strategy based on irreparable misidentification arising from an illegally administered photo lineup and for failing to file a Motion to Suppress the photo lineup.
 5. The 6th DCA's per curiam affirmance denying relief without an opinion, without ordering an evidentiary hearing, without receiving specific portions of the record that were unfuted, and by not having a sufficient amount of time to review the record during a state of emergency caused by Hurricane Milton, was an unreasonable application of clearly established law in light of Strickland, Evitts, and Hill. In addition, the 6th DCA's affirmance without an opinion prohibited the Florida Supreme Court from exercising jurisdiction and reviewing the district court's erroneous decision, and district court decisions without opinions essentially violate due process by forcing the appellant to seek certiorari review which is rarely granted. This essential denial of due process exacerbates the earlier injury the appellant suffered in the lower court and continues to worsen as the appellate courts choose to ignore the claims and also prevent superior courts from reviewing the claims that have merit.

For these reasons, the Petitioner humbly requests that this Honorable Supreme Court suspend its order denying certiorari, grant review by the Court, and remands the case to the 6th DCA to rule on the merits or grant any other relief the Court deems necessary in the interest of justice.

OATH

Under penalties of perjury, I declare that I have read the foregoing motion or had it read to me, that I understand the motion's contents, and that all of the Facts alleged in the motion are true and correct.


HARRY LEE GOLOSBOROS II, PRO SE
DEFENDANT, JAZL # 4838407

CERTIFICATIONS AND ACKNOWLEDGEMENTS

I certify that the motion is filed in good faith, that I have a reasonable belief that the motion is timely filed, has potential merit, and does not duplicate previous motions that have been disposed of by the court. I certify that I understand English and have read the foregoing motion or had the motion read to me. I understand that I am subject to judicial or administrative sanctions, including but not limited to forfeiture of gain time, if this motion is found to be frivolous, malicious, made in bad faith, or with reckless disregard for the truth, or an abuse of the legal process.


HARRY LEE GOLOSBOROS II, PRO SE
DEFENDANT, JAZL # 4838407

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Petition for Rehearing was delivered by mail to: the Office of the Clerk for the United States Supreme Court 1 First Street NE Washington, D.C. 20543-0001, and the United States Attorney General 950 Pennsylvania Avenue N.W. Washington, D.C. 20530 on this 21st day of MAY, 2025.


HARRY LEE GOLOSBOROS II, PRO SE
DEFENDANT, JAZL # 4838407
BREVARD COUNTY JAZL COMPLEX
ATTN: LEGAL MAIL
860 CAMP ROAD
COCOA, FL 32927
DATE: 21 MAY 2025

HARRY LEE GOLDSBORO II,
PETITIONER

IN THE UNITED STATES SUPREME COURT

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V.
STATE OF FLORIDA,
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CERTIFICATION OF LIMITED INTERVENING CIRCUMSTANCES

I HEREBY CERTIFY that this Petition For Rehearing states grounds that are limited to intervening circumstances of substantial or controlling effect pursuant to Fed. Sup. Ct. R. 44(2), that it is presented in good faith and not for delay, and the Court's review is required in order to correct and prevent a miscarriage of justice and to protect and preserve the Petitioner's right to due process of law.


HARRY LEE GOLDSBORO II, PRO SE

PETITIONER JAZL # 4838407
BREVARD COUNTY JAZL

ATTN LEGAL MAIL
860 CAMD ROAD

COCOA, FL 32927
DATE: 18 MAY 2025