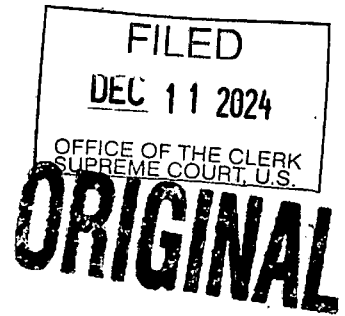


24-6450
No.



IN THE
SUPREME COURT OF THE UNITED STATES

Jason Orlando Rios — PETITIONER
(Your Name)

vs.

State of Florida — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Fourth District Court of Appeal, State of Florida, case #4D23-1381
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Jason Orlando Rios
(Your Name)

Mayo Correctional Institution Annex
(Address)

8784 U.S. Hwy 27 West, Mayo, FL 32066
(City, State, Zip Code)

N/A
(Phone Number)

QUESTION(S) PRESENTED

1. Should Florida's Courts continue to be permitted to use a newly enacted Section under § 90.404(a)(c)1, Fla. Stat., which improperly allows Courts to now grant testimony of other allegations of child molestation from other alleged child victims to be ruled admissible at trial, offered specifically as "propensity evidence" for the purpose of showing the jury that the accused child molester indeed has a "propensity" to commit the general type of offense of child molestation? Which results in the denial of the accused U.S. Federal Const. rights to due process, and or, Fair trial. U.S.C.A. Const. Amend. 5, 6, 14; Fla. Const. Art. 1 § 2, 9, 16(a).
2. Why should this Court allow Florida to continue to be one of only two states in the United States (Louisiana) to require a mandatory life without parole sentence for a capital Sexual Battery upon a child conviction? Forty-four other states do not mandate that an individual die in prison for the same conviction, making Florida an extreme outlier. Petitioner is not raising that a LWOP sentence itself is unconstitutional for such a conviction, rather petitioner raises that it is the complete absence of any sentencing discretion by Florida trial courts other than to mandate an individual die in prison without any set number of years to serve, until death, which constitutes a cruel punishment, and because this only occurs in Florida and Louisiana, constitutes an unusual punishment, and therefore violates the cruel and unusual punishment clauses of the Eighth Amendment to the U.S. Constitution, and Article 1 Section 17, of the Florida Constitution. U.S.C.A. 8; Fla. Const. Art. 1 § 17.
3. How can Florida be permitted to conduct the petitioners trial for a capital crime of Capital Sexual Battery upon a child, convicting the petitioner by a jury comprised of only 6 jurors, where petitioners conviction requires a mandatory life in prison without parole sentence, and as such petitioner should have been entitled to a 12 person jury? Petitioner never personally waived his constitutional right to a 12 person jury, and Trial Court never secured any such personal waiver of this constitutional right from petitioner, in violation of petitioners Sixth and Fourteenth Amendments of the United States constitution. U.S.C.A. 6, 14; Fla. Const. Art. 1 § 2, 9, 16(a).

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) Direct Appeal from judgement and sentence of criminal case,
Jason Orlando Rias v. State of Florida, No. 4D2023-1381, Fourth
District Court of Appeal State of Florida. Judgement entered Sept.
12th, 2024. Per Curiam Affirmed.
- 2) Jason Orlando Rias v. State of Florida, No. 2018CF001256A,
19th Judicial Circuit Court, St. Lucie County, Florida.
Trial by Jury verdict, Judgement

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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 19th Judicial Circuit Court, St. Lucie County, FL court appears at Appendix B to the petition and is

- ☒ reported at Jason Rios v. State, case No. 2018CF001256A; 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 Sept. 12th, 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 _____.

☐ 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), and/or,
28 U.S.C. § 2101(d)

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Issue 1.

"The Williams Rule" or statute §90.404(2)(a), Fla. Stat., §90.404(2)(b)1., (2)(c)1., Fla. Stat.; U.S.C.A. 5, 6, 14; Fla. Const. Art. 1 §2, 9, 16(a).

Issue 2.

U.S.C.A. 8; Fla. Const. Art. 1 §17

Issue 3.

U.S.C.A. 6, 14; Fla. Const. Art. 1 §2, 9, 16(a).

STATEMENT OF THE CASE

Petitioner Jason Orlando Rios was convicted by a six man jury of 3 counts of capital sexual Battery on a child victim under 12, 2 counts of Lewd or Lascivious molestation on a child less than 12. Rios (Appen. B) was sentenced consecutively on all counts to life imprisonment without the possibility of parole, criminal case No. 18CF001256A, in the 19th Judicial Circuit Court, St. Lucie County, Florida. Rios appealed from his judgement and Sentence on direct appeal at the Fourth District Court of Appeal, Per Curiam Affirmed, on Sept. 12th, 2024. Rios then elected to seek Certiorari review in the Supreme Court of the United States. There is a 90 day time limit for Rios to file a timely petition for writ of Certiorari, which expires on December 11th, 2024. Rios initial brief filed in 4th D.C.A. on direct appeal raised four grounds, case No. 4D2023-1381. Rios petition for writ of certiorari filed in Supreme Court of United States raised three grounds, which the same three grounds were already brought before the State Court, on direct appeal, raised in Rios initial brief, case No. 4D2023-1381 (Appendix-D) and all grounds were denied by the 4th D.C.A. (Appendix-A). The instant petition for writ of certiorari ensues.

REASONS FOR GRANTING THE PETITION

Issue 1.

If this Most Honorable Court does not grant this petition Florida's Trial Courts will continue to do what they did to me all around the State. The Williams rule, or § 90.404 will continue to be manipulated by Courts, whose only concern is admitting the most damning, prejudicial, collateral crimes evidence of other allegations of child molestation testimony upon accused child molesters at trial until the accusations against the accused are undefendable due to the extreme bias and societal outrage toward child molesters by society. It is a nightmare of epic proportion to find yourself in the legal system defending yourself against a child molestation accusation, but what Florida did to me and is doing to other accused men, is to take a second witness' testimony of a separate uncharged or prior allegation of child molestation, which is completely dissimilar, to the instant case, enough so as to be irrelevant to the instant charged offense, and use the Williams Rule, § 90.404 as a mere formality, manipulating the legal criteria, ignoring all gatekeeping duties, and simply rule the dissimilar, irrelevant other act of child molestation necessary to show the jury that you are a child molester and the other, second allegation prove that as a child molester, that you have a "propensity" to commit the same general crime over and over. Which is you molest children, that's what a child molester does; which in front of a jury, once the jury hears that, and the allegations treated as fact, the State of Florida has made the legal scenario a legal impossibility to defend against. I have 3 life sentences because of Florida's tactics in child molestation cases. In my case the charged offenses were of vaginal/penile penetration of my own daughters, with 3 counts of Capital Sexual Battery among others such as child molestation charges. However the collateral crimes evidence is my child's mother out of nowhere now alleging that 6 years prior to this current 2018 allegation, that my penis was exposed in front of my 4-5 year old daughter, which without more is simply misdemeanor nudity in my own home, with no sex acts and no touching, completely dissimilar so as to be irrelevant to the instant 2018 vaginal raping accusations against me, but my Florida Trial Court ignored the plain language of § 90.404(2)(a) Fla. Stat. which states in part that Collateral crimes evidence of other acts of

Reasons For Granting The Petition

Child molestation is "inadmissible" when the evidence is relevant solely to prove bad character, and a propensity to commit the general type of crime of child molestation. However, look at the trial courts Feb. 27th, 2024 order granting the evidence (See: Appendix - C (P. 156-158)). The trial Court shows Florida trial Courts new attack on accused child molesters, as the Court treats § 90.404(2)(a), Fla. Stat. and its plain language as if it never existed, and the trial Court explains that § 90.404(2)(c)(i), Fla. Stat. now allows Courts a free for all on propensity evidence, as the Court states in bold type 4 separate legal examples of Florida Courts new legal stance, which is that other acts of child molestation testimony can and is now being admitted for the specific purpose of proving to the jury that the accused child molester has a "propensity" to molest children. The court provided 2 cases which show Florida's new unfair shift in the plain language of the laws involved, Pitts v. State, 263 So. 3d 834, 839 (Fla. 1st DCA 2019) alleging § 90.404(2)(b)(i), Fla. Stat. allows other acts of child molestation to be admitted "by showing that the accused had a propensity" to molest children, and Whisby v. State, 2018 WL 6615177, at 3 (Fla. 1st DCA 2018) alleging "collateral-crime evidence of a sexual offense is admissible even if offered to show propensity". So here are 2 more victims of Florida trial courts new method calculated to ensure child molestation convictions, Mr. Pitts, Mr. Whisby, and myself sat in courtroom during our trial, while the State of Florida ignored § 90.404(2)(a), Fla. Stat. clear, plain language prohibiting such evidence from being admissible if being used to show bad character and/or propensity, and here us defendants sat at trial while these trial courts erroneously and/or improperly admitted testimony of other acts of child molestation solely for the expressed, specific purpose of presenting to the jury that we all had or have bad character essentially, the character of a child molester, and has a propensity to go molest any children we can get our hands on, as a fact, to the jury, which in other words is being solely relevant to explain to a jury, this man is a child molester, and what do child molesters do, they molest and rape young children, so any children who walk into this trial and allege being "touched" by the accused, you can believe the child because this child molester has a propensity to be a child molester. Clearly the erroneously and/or improperly admitted prior acts evidence of child molestation under § 90.404(2)(c)(i), Fla. Stat. was harmful error, and violated my, Mr. Pitts, and Mr. Whisby's

Reasons For Granting The Petition

United States Constitutional rights to due process, and/or, Fair trial, and/or, equal protection of the law, even though I am, we are accused child molesters, we are still guaranteed constitutional rights. If this Most Honorable Court does not address this new "agenda" being carried out by Florida trial courts against accused child molesters involving § 90.404(2)(c)6, Fla.Stat., child molestation accusations will continue to be legally undefendable and many many persons will be placed in the unacceptable danger of wrongful and/or erroneous convictions. I hereby adopt the facts, the legal argument, and applicable law contained within ground one of my initial brief (Appendix-D, ground one, pg. 28-32) from my direct appeal in state court, case No. 4D2023-1381 to demonstrate my claim was brought before the Fourth District Court of Appeal, State of Florida, and that my U.S. Federal Constitutional rights guaranteeing me due process, and/or, fair trial, and/or, equal application of the law even though I'm an accused child molester, were denied and/or violated due to the lower trial courts erroneously and/or improperly admitted "Williams Rule Evidence" under § 90.404, Fla.Stat, See: U.S.C.A. 5, 6, 14; Fla. Const. Art. 1 § 2, 9, 16(a).

Issue 2.

Clearly when only two states out of the entire United States of America are imposing upon American citizens a mandate that there is no Judge's discretion at all, if you are convicted of capital Sexual Battery upon a child under 12 years old for any reason, it is mandatory that you serve a life sentence in prison, with no set number of years, without any possibility of parole, until you are dead. Only Florida and Louisiana impose this mandatory sentencing for such convictions. Therefore it is beyond dispute that Florida is an extreme outlier on this issue, and my sentences of three mandatory life without parole sentences are unusual. Also a life sentence without a set number

Reasons For Granting The Petition

of years to serve, and/or, no possibility to ever reconcile with Society or take part in it ever again, until I am dead is cruel. Therefore, if this Most Honorable Court does not grant this petition not only will my protections against cruel and unusual punishment clauses of my Eighth Amendment right of the U.S. Constitution remain violated due to my three mandatory life without parole sentences, but Florida shall continue to remain an extreme outlier violating many American citizens Eighth Amendment rights with Florida's cruel and unusual punishments, which only Louisiana commits the same violations upon its citizens. I hereby adopt the facts, legal argument, and applicable law raised in ground Two of my previous initial brief on direct appeal, case No. 4P2023-1381 (See: Appendix - D, ground two, pgs. 33-41) which demonstrates that my claim raised here was brought before the State Court, at the Fourth D.C.A. State of Florida, U.S.C.A. 8, Fla. Const. Art. 1 § 17

Issue 3.

Petitioner hereby adopts the facts, legal argument, and applicable law contained within petitioners ground Four of petitioners initial brief from his direct appeal in State Court, case No. 4P2023-1381 (See: Appendix - P, ground Four, pgs. 52-60) which also demonstrates that my claim raised here was brought before the State Court, at the Fourth D.C.A. State of Florida.

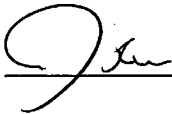
The petitioner was entitled to a 12 person jury. Petitioner never personally waived his constitutional right to a 12 person jury, and the trial Court never secured any such personal waiver, in violation of petitioners Sixth and Fourteenth Amendment rights of the U.S. Constitution.

See: U.S.C.A. 6, 14; Fla. Const. Art. 1 § 2, 9, 16(a).

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted, *Jason Orlando Rios*

 _____

Date: Dec. 11th, 2024