

24-6890

No. _____

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IN THE

SUPREME COURT OF THE UNITED STATES

Earl I. Emanuel — PETITIONER
(Your Name)

VS.

State of Florida — RESPONDENT

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

PETITION FOR A WRIT OF CERTIORARI

Earl I. Emanuel
(Your Name)
South Bay Correctional Facility
600 U.S. Hwy. 27 South
(Address)

South Bay, Florida 33493
(City, State, Zip Code)

561-992-9805

(Phone Number)

FILED
MAR 19 2025
OFFICE OF THE CLERK
SUPREME COURT, U.S.

QUESTION(S) PRESENTED

1. Did the Florida Supreme Court deny this petitioner's 14th amendment right to due process of law when it refused to recognize justice Gorsuch's sub silentio precedent set in Cunningham v. Florida, 144 S. Ct. 1287 (2024), that the people of Florida has the power to revise their jury practices?
2. Can the State Supreme Court be unbiased in determining if they violated separation of powers when they abrogated a procedural law by amending their corresponding rule?
3. Will this court settle the conflict between Judicial Rule 3.390 (a); (the judge shall not instruct on the penalty) and Statute 918.10 (1); (the jury instruction must include the penalty for the offense charged)? And decide which Rule is constitutionally valid?
4. Will this court revisit and reconsider its precedent set in 1970 on the constitutional integrity of the six-person jury law holding in Williams v. Florida, 399 U.S. 78 (1970), in light of the State Supreme Court's abrogation of the jury penalty instruction law solely to discourage jury pardons?

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:

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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 is unpublished.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 ~~the~~ ^{FOURTH} District Appeals court appears at Appendix B 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 of 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 2-26-25 A copy of that decision appears at Appendix A.

[] A timely petition of 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 an 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. THE 8TH AMENDMENT RIGHT TO AN IMPARTIAL JURY.
2. THE 6TH AMENDMENT RIGHT TO A JURY TRIAL.
3. THE ARTICLE IV, SECTION A, RIGHT TO SEPARATION OF POWERS WITHIN THE PRINCIPLES OF A REPUBLICAN FORM OF GOVERNMENT.
4. THE ARTICLE II, SECT. 9, RIGHT TO CHALLENGE ARBITRARY TRIAL THROUGH THE WRIT OF HABEAS CORPUS.
5. STATE CRIMINAL PROCEDURE LAW 918.10(1)... THE JURY INSTRUCTION MUST INCLUDE THE PENALTY FOR THE OFFENSES CHARGED.
6. THE 14TH AMENDMENT PRIVILEGES AND IMMUNITIES CLAUSE.
7. THE 14TH AMENDMENT DUE PROCESS CLAUSE.

STATEMENT OF THE CASE AND FACTS

Earl Emanuel was a ~~single~~ parent, charged with, arrested for, and convicted of, capital sexual battery after his pre-teen daughter accused him of sexually molesting her. He was tried before a six-person jury for a crime that statutorily insulated the state from a JOA. Due to insufficient evidence under 794.022. The victim's testimony was the only evidence used to convict him, when the victim recanted the testimony at a post-conviction evidentiary hearing, the judge refused to overturn the conviction. When this petitioner tried to have his conviction overturned in the wake of Justice Gorsuch's ~~sub silentio~~ precedent of his dissenting opinion in CUNNINGHAM V FLORIDA, 144 S.ct 1287 (2024), the Florida Supreme Court refused to grant Habeas Corpus review.

This petitioner argues that Honorable Justice Gorsuch certified that the people of Florida had the power to enact the penalty instruction law, the Florida Supreme Court violated separation of powers when they abrogated the law, and the deprivation of the instruction at capital sexual battery trials that divests the court of sentencing discretion, violates the 6th Amendment right to an impartial jury of 12 and the due process of law and equal protection of the 14th Amendment. This is because the legislature enacted the rule to give the jury a mitigating influence and the state Supreme Court specifically abrogated the law to negate the jury's mitigating powers. This violates Article ~~V~~, Sect.4 principles of separation of powers within a Republican form of Government. This appeal follows.

REASON FOR GRANTING PETITION

It is the duty of this court to uphold constitutional principles by taking jurisdiction over state cases when the state courts cannot be expected to be unbiased. In this case the state supreme court has violated separation of powers by abrogating a legislative act without finding it unconstitutional. The state supreme court refuses to acknowledge the peoples' power to revise their jury practices or hear challenges to their authority to abrogate that power.

SEE: In Re. 3.390, (a), 272 So2d 65 (1971); the Florida Supreme Court adopts statute 918.10 (c) into their judicial Rules as Pl. R. Crim. P. 3.390 (a). In Re. 3.390 (a), 416 So2d 1126 (Fl. 1982); a judicial rules committee made up of 20 state employees voted 17 to 3 and requests the Supreme Court amend their judicial rule to forbid the jury penalty instruction because it encouraged that abhorrent phenomena known as a jury pardon. " In Re. 3.380 (a), 462 So2d 386, (Fl. 1984); Chief Justice Boyd recommends the court not amend the rule because it was adopted broad law. The other justices disagreed and voted to amend their rule. The peoples power to control their state courts was surrendered to the very body the constitution was meant to protect against; the majority.

The mitigating power of the penalty instruction was exemplified in the case of Gibson v. State, 721 So2d 363 (Fl. 2 dca 1998); "Your Honor, if we had known that sentence we never would have voted to convict." The Florida Supreme Court has ruled that the failure of the court to assure the availability of a jury pardon is a structural defect that vitiates the right to a fair trial. SEE: State v. Montgomery, 39 So3d 252 (Fl. 2010)

CONCLUSION

The petition for a writ of certiorari should be granted ~~TO RESOLVE THE CONFLICTS OF LAW AND RULE BETWEEN FEDERAL AND STATE INTERPRETATIONS OF SEPARATION OF POWERS AND WHAT IT MEANS TO CONDUCT A JURY TRIAL IN STATE COURTS IN THE UNITED STATES.~~

Respectfully Submitted,

Isi Earl Emanuel

Name EARL EMANUEL

DC# B12256

Certificate of Mailing

I certify that I, Earl Emanuel DC# B12256

placed this petition for a writ of certiorari in the hands of South Bay Correctional

Facility officials for mailing to: The Florida Attorney General, Criminal
Appeals division, PL-01 THE CAPITOL, TALL. FLA. 32399-1000

MARCH on 19 20²⁵

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