

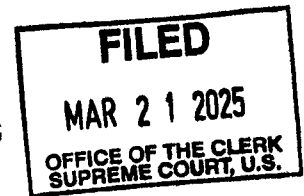
No. _____

24-6908

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES



HARRY LEE GOLDSBORD II — PETITIONER
(Your Name)

VS.

STATE OF FLORIDA — 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

HARRY LEE GOLDSBORD II #4838407
(Your Name)

BREVARD COUNTY JAIL ATTN: LEGAL MAIL
(Address)

860 CAMP ROAD COCOA, FL 32927
(City, State, Zip Code)

N/A
(Phone Number)

QUESTION(S) PRESENTED

1. For the purposes of both statutory and constitutional speedy trial, when an incarcerated defendant is in custody in one county, but has charges pending in another county, is the defendant considered to be in "custody" as defined in Fla. R. Crim. P. Rule # 3.191 (d) Custody, which starts the clock for speedy trial?
2. Is the State permitted to wait months or even years before serving the capias, warrant, or arresting a defendant who is incarcerated in the state, simply because he is located in another county?
3. If the State fails to serve the capias, warrant, notice of charges, or arrest a defendant who is incarcerated in a different county during the 175-day speedy trial period, thereby preventing him from timely asserting his right to a speedy trial, does the State and Court lose jurisdiction because the defendant is entitled to discharge as per Rule # 3.191 (p)?
4. If the State fails to serve the capias, warrant, notice of charges, or arrest a defendant during the 175-day speedy trial period, does the State forfeit the right to the recapture period?
5. Does a miscarriage of justice occur when the lower tribunal denied the defendant's Motion to Dismiss in finding that the 44-month delay was not unreasonable and did not prejudice the defendant in any way?
6. Does a miscarriage of justice occur when the lower tribunal denied the defendant's Motion to Dismiss in finding that the State was not at fault for the delay because the State filed a detainer, despite the State's failure to serve the capias, warrant, notice of charges, or arrest the defendant during the 175-day speedy trial period?
7. Does a miscarriage of justice occur when the district court of appeals departed from the essential requirements of law when the court per curiam affirmed the lower tribunal's decision without an opinion?
8. Does a miscarriage of justice occur when the district court of appeals departed from the essential requirements of law when the court failed to grant the Petitioner's writ of prohibition and permitted the lower tribunal to proceed with prosecution in excess of its jurisdiction?

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:

1. 18th Judicial Circuit - Lower Tribunal, and State Attorney's Office For Brevard County, FL
2. 5th DCA - District Court of Appeals, and the State of Florida at the Office of the Attorney General
3. Florida Supreme Court - highest state court, and State Attorney's Office
4. United States Supreme Court, and United States Attorney General

RELATED CASES

1. 18th Judicial Circuit in and for Brevard County, Florida Lower Tribunal ... March 30th, 2023
052019CF0212004XXXX
2. 5th District Court of Appeals District Court of Appeals Writ of Prohibition
502023-1391 ... June 12th, 2024
3. 5th District Court of Appeals District Court of Appeals Belated Appeal and Motion For Rehearing,
Rehearing En Banc, Certification, and Written Opinion Case No. 502023-1391 ... July 29th, 2024
4. 5th District Court of Appeals District Court of Appeals Addendum to Belated Appeal and Motion For
Rehearing En Banc, Certification, and Written Opinion Case No. 502023-1391 ... August 9th, 2024
5. Notice of Appeal to Florida Supreme Court Case No. 502023-1391 ... August 29th, 2024
6. Order From United States Supreme Court to appeal to highest state court FLCAS No. 502023-1391 ... October 30th, 2024
7. Request For Extension to File Writ of Certiorari to U.S. Supreme Court FLCAS 502023-1391 ... November 8th, 2024
24-5554
8. Request to Re-File Notice of Appeal to Florida Supreme Court Case No. 502023-1391 ... November 8th, 2024
9. Florida Supreme Court order denying appeal and U.S. Supreme Court Order Granting Extension ... November 26th, 2024
[FLSC incorrectly listed case number 502023-2883 as the case number, instead of 502023-1391]
10. Writ of Certiorari to U.S. Supreme Court case no. 24-5554/24AS11 ... December 15th, 2024
[Petitioner incorrectly listed 24AS11 as the extension application case number]
11. Motion to Correct Order Case No. 502023-1391 to Florida Supreme Court ... February 1st, 2025
12. Order From Florida Supreme Court dismissing appeal ... February 12th, 2025

TABLE OF AUTHORITIES CITED

CASES

CASES	PAGE NUMBER
1. <i>BARKER V. WINGO</i> , 407 U.S. 514 (1972)	p. 15, 36, 37, 56, 64, 69
2. <i>ROBINSON V. STATE</i> , 5023-0330 Fla. App. Feb 2, 2024	p. 42
3. <i>MORREALE V. STATE</i> , 5023-697 Fla. App. Mar-15, 2024	p. 15, 42
4. <i>STATE V. MILLER</i> , 581 So.2d 641, 642 Fla. 2d DCA 1991	p. 15
5. <i>BORN-SUNZAGA V. STATE</i> , 258 So.3d 283 Fla. 2018	p. 41
6. <i>MURPHY V. STATE</i> , 351 So.3d 242 Fla. App. 2022	p. 26, 57, 61, 66, 68, 69
7. <i>STATE V. WILLIAMS</i> , 791 So.2d 1088, 1091 Fla. 2001	p. 41
8. <i>MAJNWARING V. STATE</i> , 11 So.3d 986 Fla. 5th DCA 2009	p. 26
9. <i>CORDEO V. STATE</i> , 686 So.2d 737 Fla. 3d DCA 1997	p. 43
10. <i>V.P. V. STATE</i> , 502024-1483 Fla. App. Jun 24, 2024	p. 14
11. <i>MAW V. STATE</i> , 502024-1182 Fla. App. Jun 24, 2024	p. 14
12. <i>BALZOURT V. STATE</i> , 214 So.3d 714 Fla. App. 2017	p. 12
13. <i>ELB V. STATE</i> , 191 So.3d 877, 474 Fla. 2d DCA 2016	p. 12
14. <i>FARETTA V. CALIFORNIA</i> , 422 U.S. 806, 835 45 S.Ct. 2525, 45 L.Ed.2d 562 1975	p. 12
15. <i>Oggett v. UNITED STATES</i> , 505 U.S. 647, 654-52 1992	p. 35, 58, 59, 69
16. <i>Laramie v. State</i> , 90 So.3d 341, 345 Fla. 5th DCA 2012	p. 12
17. <i>Memorandum v. State</i>, 4 So.3d 986 Fla. 5th DCA 2009 <i>Crockett v. State</i> , 206 So.2d 792 1st DCA 2016	p. 28, 34

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5. 6TH AMENDMENT - COMPULSORY PROCESS TO OBTAIN WITNESS IN OWN DEFENSE ...	p. 13, 14, 15, 39, 44, 45, 46

OTHER

1. <i>TRABO V. REESE</i> , 478 So.2d 843 FLA. 2d DCA 1985; <i>ROBBINS V. STATE</i> , 453 So.2d 877 FLA. 2d DCA 1984 ...	p. 27, 65
2. <i>Bates v. Keating</i> , 396 So.2d 1122 (Fla. App. 1981)	
3. <i>United States v. Edwards</i> , 577 F.2d 883, 889-890 5th Cir 1978 ...	p. 37
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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 C to the petition and is

- ☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished. (FIFTH DISTRICT COURT OF APPEAL, JUNE 12TH, 2024)

The opinion of the FLORIDA SUPREME COURT court appears at Appendix A to the petition and is

- ☒ reported at GOLDSBORO V. STATE, SC2025-0197 (FLA. FEB 12, 2025); 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 2/12/2025.
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).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

1. 6TH AMENDMENT OF THE U.S. CONSTITUTION

- A. CONSTITUTIONAL SPEEDY TRIAL
- B. INEFFECTIVE ASSISTANCE OF COUNSEL
- C. COMPULSORY PROCESS TO OBTAIN WITNESSES IN OWN DEFENSE

2. 5TH AND 14TH AMENDMENTS OF THE U.S. CONSTITUTION FOR DUE PROCESS OF LAW

- A. The State failed to preserve exculpatory evidence - victim's cell phone data, items from crime scene
- B. 44-month delay in arrest prohibited defendant from preserving cell phone with pictures, videos, texts, and geolocation data that was exculpatory in nature
- C. 44-month delay was presumptively prejudicial and caused actual prejudice
- D. 44-month delay prevented defendant from timely asserting his right to a speedy trial.

3. Fla. R. Crim. P. Rule # 3.191

- A. The court and state lack jurisdiction to prosecute the defendant because his right to speedy trial was violated.
- B. The court granted an extension and continuance for the state over defense's objection when the state presented no justification provided by the exceptions of the speedy trial rule 3.191(i)(1)-(5).
- C. The State failed to bring the defendant to trial during the 30-day recapture period after the Notice of Expiration of Speedy Trial Time

4. Fla. R. App. P. Rule # 9.140 and 9.141

- A. The 5th DCA departed from the essential requirements of law by allowing the lower tribunal to proceed to trial in the absence of all jurisdiction.
- B. The 5th DCA departed from the essential requirements of law by denying belated appellate review despite defendant's assertion of affirmative misadvice as to right to appeal, and by timely filing the belated appeal well within the two-year time limit, only 60 days after the order became final.

STATEMENT OF THE CASE

- November 26th, 2024.

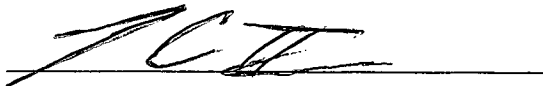
REASONS FOR GRANTING THE PETITION

1. Permitting the State to proceed with prosecution when it is prohibited by a lack of all jurisdiction would result in a manifest injustice and irreparable injury would occur.
2. The lower tribunal committed a Fundamental error when it denied the Petitioner's Motion to Dismiss based on statutory and constitutional speedy trial grounds, after a 42-month delay in arresting an incarcerated defendant.
3. The lower tribunal committed a Fundamental error when it denied the Petitioner's Motion to Dismiss finding that there was no due process violation despite the presumptively prejudicial 42-month delay and the defendant's testimony explaining the exculpatory evidence he lost due to the State's delay.
4. The lower tribunal committed a Fundamental error when it denied the Petitioner's Motion to Dismiss finding that the defendant's speedy trial clock did not begin until he was arrested in Brevard County in October 2022, but he failed to timely assert his right prior to being arrested and he was at fault for the delay.
5. The 5th DCA committed a Fundamental error and departed from the essential requirements of law when it per curiam affirmed the lower tribunal's ruling without a written opinion, and allowed the lower tribunal to proceed with prosecution in excess of its jurisdiction.
6. The 5th DCA committed a Fundamental error and departed from the essential requirements of law when it failed to follow rulings from the 5th DCA and other district courts regarding both statutory and constitutional speedy trial violations.
7. The 5th DCA committed a Fundamental error and departed from the essential requirements of law when it ordered that no action would be taken on the Petitioner's Belated Appeal and Motion for Rehearing despite the Petitioner's assertion of affirmative misadvice by counsel and timely filing of the appeal well within the two year time limit.
8. The U.S. Supreme Court's discretionary review is required to establish specific, clear, and unambiguous guidelines for the starting of the speedy trial clock, regarding incarcerated inmates in the state of Florida to eliminate any confusion as to the State's responsibility to timely serve the capias, warrant, and notice of charges during the 175-day speedy trial window.
9. The U.S. Supreme Court's discretionary review is required to provide specific, clear, and unambiguous instructions to the trial courts in the 18th Judicial Circuit, the State Attorney's and Public Defender's Office, and the 5th District Court of Appeals regarding when the speedy trial clock begins for an incarcerated inmate in the state's custody to prevent future injury to hundreds of incarcerated inmates throughout the state.
10. An affirmative ruling granting the Petitioner's writ of certiorari would have significant impacts on the 18th Judicial Circuit and the district courts of appeal throughout Florida and establish an undeniable and binding precedent on the lower tribunals, district courts, and even the Florida Supreme Court, which would protect the statutory and constitutional rights of hundreds of incarcerated inmates who were effectively denied their right to a speedy trial and were either forced to proceed to trial when the court lacked jurisdiction, or submitted to involuntary pleas in violation of their rights to due process and effective assistance of counsel.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

A handwritten signature in dark ink, appearing to be "JCTH", is written over a horizontal line.

Date: MARCH 12TH, 2025