

HARRY LEE GOLDSBORO II,
PETITIONER
v.
STATE OF FLORIDA,
RESPONDENT

IN THE SUPREME COURT OF THE UNITED STATES

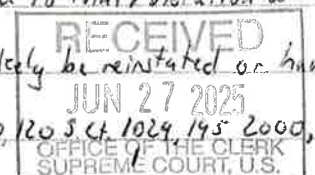
CASE NO.: 24-6947
FLSC NO.: SC2025-0108
5TH DCA NO.: SD2023-2883
2018CF00401DAD
L.T. NO.: 052018CF001001XXX
DATE: 07 JUNE 2025

PETITION FOR REHEARING

COMES NOW, on this 7TH day of JUNE, 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 Court denied the Petitioner's Writ of Certiorari on June 6th, 2025 (Goldsboro v. Florida, 24-6947 Jun 06, 2025). This timely petition For rehearing follows.

Pursuant to Rule 44, the Petitioner is requesting that the Court suspend its order denying certiorari and orders the Florida Supreme Court, 6th District Court of Appeals, and trial court to review the Petitioner's 3.850 Motion to Correct Illegal Sentence based on its merits and provides an opinion explaining its ruling. The Petitioner asserts that 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 Petitioner asserts that he was illegally sentenced to a 5 year prison term for a single, first-time, low-risk technical violation of probation in violation of FL Statute 948.06, which was based on counsel's affirmative misadvice and ineffectiveness, and the court's refusal to allow him to timely withdraw his involuntary plea violated his rights to effective assistance of counsel and due process under the 5th, 6th, and 14th Amendments of the U.S. Constitution. The Petitioner appealed to the 5th DCA, 6th DCA, Florida Supreme Court, and the U.S. Supreme Court, but he has never been afforded an evidentiary hearing and his claims were summarily denied by the lower court, then per curiam affirmed by the district court without an opinion.

The Petitioner asserts that the lower court and the 6th DCA unreasonably applied clearly established Federal law of the defendant's right to the effective assistance of competent counsel and due process pursuant to *Strickland v. Washington*, 466 U.S. 668, 104 S. Ct. 2052, 80 L.Ed.2d 674 1987, *McMann v. Richardson*, 397 U.S. 759, 90 S.Ct. 1441, 25 L.Ed.2d 763 1970. The U.S. Supreme Court has ^{never} recognized a distinction between direct and collateral consequences and has not ruled on a 6th Amendment claim for ineffective assistance under *Strickland* that asserts affirmative misadvice related to a direct consequence of a guilty plea and also claims due process violations under the 5th and 14th Amendments. The Petitioner makes clear, unequivocal claims that had counsel advised him that pleading to the technical violation would expose him to a 5-year prison sentence, he would have proceeded to trial / violation of Probation hearing because the State's case was weak, there were no witnesses, and he would likely be reinstated or have probation terminated for the time he served in jail, (see *Rue v. Flores-Ortega*, 528 U.S. 470, 120 S.Ct. 1029, 145 2000, -



holding that the Strickland test applies to claims that counsel was constitutionally ineffective [for failing to file a notice of appeal] and counsel's error resulted in prejudice, and but for counsel's deficiency the defendant would not have pleaded guilty and would have insisted on going to trial, or counsel's ineffectiveness rendered the entire proceeding unreliable and presumptively prejudicial. See also *Hill v. Lockhart*, 474 U.S. 52 (1985); *Rodriguez v. United States*, 395 U.S. 327 (1969); *Evitts v. Lucey*, 469 U.S. 387 (1985).

In his 3.850 Motion, the Petitioner asserted that the Court Failed to explain that it could sentence the defendant to a 5-year maximum prison sentence for a single, first-time technical violation of probation, specifically when the record clearly shows that defense counsel asked the judge about the maximum exposure, and the judge replied "I don't broadcast my thoughts on sentencing." Moreover, the Petitioner asserted that counsel was unaware of FL 57.948.06's probation violation sanctions for technical violations, which did not permit a revocation and termination of probation, and clearly established case law prohibited revocation for violations that are not willful and substantial. Counsel further misadvised the Petitioner that he would either be reinstated, or be sentenced to a year in jail, or a maximum of 1 year in prison, but due to being incarcerated for over seven months, his probation would be terminated for time served. As for prejudice, the technical violation was for allegedly being out of the county without permission, and the new charge violation was dismissed, and there was no evidence that the Petitioner had left the county because a valid hotel check-out receipt showed that he was not at the hotel where the alleged violation occurred. No witnesses identified the Petitioner and a misidentification defense and alibi defense were viable defenses. Furthermore, the Petitioner asserted that if pleading to the technical violation would result in facing a 5-year prison sentence, and proceeding to trial held the same punishment, then it made no sense to forego trial and the Petitioner would have proceeded to trial. However, counsel's and the Court's misadvice, failure to advise of direct consequences, and ineffectiveness in presenting a viable defense strategy and possessing knowledge of controlling and substantial case law and statutes prejudiced the Petitioner's case. Counsel's ineffectiveness rendered the plea involuntary and the Court's imposition of a 5-year sentence was illegal, and the 6th DCA's per curiam affirmance of the lower court's ruling was a departure from the essential requirements of the law and an unreasonable application of clearly established Federal law, and the United States Supreme Court's limited intervention is needed to remedy a manifest injustice.

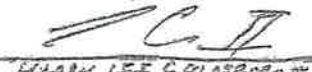
OATH

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 GOLOSBOROFF II, Pro Se
DEFENDANT, JAIL # 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 GOLOSBOROFF II, Pro Se
DEFENDANT, JAIL # 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 NW Washington, D.C. 20530 on this 7TH day of JUNE, 2025.


HARRY LEE GOLOSBOROFF II, Pro Se
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BREVARD COUNTY JAIL COMPLEX
ATTN: LEGAL MAIL
860 CAVA ROAD
COCOA, FL 32927
DATE: 07 JUNE 2025

HARRY LEE GOLDSBORO II,

IN THE SUPREME COURT OF THE UNITED STATES

PETITIONER

v.

STATE OF FLORIDA,

RESPONDENT

CASE NO.: 24-6408 6447

FL SC NO.: SC2025-04471316

5TH DCA NO.: 602023-2883

L.T. NO.: 208CF004010A-0

DATE: 06/07/2025

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.


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860 CAMP ROAD
COCOA, FL 32927
DATE: 06/07/2025