

APPENDIX A

1. FLORIDA SUPREME COURT ORDER SC2025-0107 01/24/2025 ... 8
2. NOTICE OF NEW CASE AND RECORDS REQUEST TO 18TH JUDICIAL CIRCUIT 01/08/2025 ... 11
3. NOTICE OF APPEAL TO FLORIDA SUPREME COURT 01/08/2025 ... 13
4. 5TH DCA ORDER DISMISSING WRIT OF PROHIBITION 01/03/2025 ... 15
5. DEFENDANT'S RESPONSE TO ORDER TO SHOW CAUSE TO 5TH DCA 12/13/2025 ... 16
6. REQUEST FOR COPIES TO 5TH DCA 12/12/2025 ... 21
7. 5TH DCA ORDER TO SHOW CAUSE 12/09/2025 ... 23 7A. MOTION FOR NEW TRIAL ... 23A1-
8. INMATE ACCOUNT BALANCE 12/09/2025 ... 24
9. 18TH JUDICIAL CIRCUIT RECORDS REQUEST RESPONSE 12/08/2025 ... 27

Supreme Court of Florida

FRIDAY, JANUARY 24, 2025

Harry Lee Goldsboro, II,
Petitioner(s)

SC2025-0107

Lower Tribunal No(s):

v.

5D2024-2579;

052019CF021200AXXXX

State of Florida,
Respondent(s)

Petitioner's Notice to Invoke Discretionary Jurisdiction, seeking review of the order or opinion issued by the 5th District Court of Appeal on January 3, 2025, is hereby dismissed. This Court lacks jurisdiction to review an unelaborated decision from a district court of appeal that is issued without opinion or explanation or that merely cites to an authority that is not a case pending review in, or reversed or quashed by, this Court. See *Wheeler v. State*, 296 So. 3d 895 (Fla. 2020); *Wells v. State*, 132 So. 3d 1110 (Fla. 2014); *Jackson v. State*, 926 So. 2d 1262 (Fla. 2006); *Gandy v. State*, 846 So. 2d 1141 (Fla. 2003); *Stallworth v. Moore*, 827 So. 2d 974 (Fla. 2002); *Harrison v. Hyster Co.*, 515 So. 2d 1279 (Fla. 1987); *Dodi Publ'g Co. v. Editorial Am. S.A.*, 385 So. 2d 1369 (Fla. 1980); *Jenkins v. State*, 385 So. 2d 1356 (Fla. 1980).

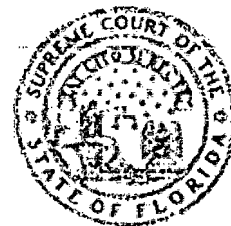
No motion for rehearing or reinstatement will be entertained by the Court.

A True Copy

Test:

SC2025-0107 1/24/2025

John A. Tomasino
Clerk, Supreme Court



CASE NO.: SC2025-0107

Page Two

SC2025-0107 1/24/2025

TD

Served:

CRIMINAL APPEALS DAB ATTORNEY GENERAL
HON. SAMUEL BOOKHARDT, III
5DCA CLERK
BREVARD CLERK
HARRY LEE GOLDSBORO, II

2025 WL 289692

Only the Westlaw citation is currently available.
Supreme Court of Florida.

Harry Lee GOLDSBORO, II, Petitioner(s)

v.

State of FLORIDA, Respondent(s)

SC2025-0107

|

January 24, 2025

Lower Tribunal No(s): 5D2024-2579;
052019CF021200AXXXXX

Opinion

*1 Petitioner's Notice to Invoke Discretionary Jurisdiction, seeking review of the order or opinion issued by the 5th District Court of Appeal on January 3, 2025, is hereby

dismissed. This Court lacks jurisdiction to review an unelaborated decision from a district court of appeal that is issued without opinion or explanation or that merely cites to an authority that is not a case pending review in, or reversed or quashed by, this Court. See *Wheeler v. State*, 296 So. 3d 895 (Fla. 2020); *Wells v. State*, 132 So. 3d 1110 (Fla. 2014); *Jackson v. State*, 926 So. 2d 1262 (Fla. 2006); *Gandy v. State*, 846 So. 2d 1141 (Fla. 2003); *Stallworth v. Moore*, 827 So. 2d 974 (Fla. 2002); *Harrison v. Hyster Co.*, 515 So. 2d 1279 (Fla. 1987); *Dodi Publ'g Co. v. Editorial Am. S.A.*, 385 So. 2d 1369 (Fla. 1980); *Jenkins v. State*, 385 So. 2d 1356 (Fla. 1980).

No motion for rehearing or reinstatement will be entertained by the Court.

All Citations

Not Reported in So. Rptr., 2025 WL 289692

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HARRY LEE GOLDSBORO II,
DEFENDANT/PETITIONER

IN THE 5TH JUDICIAL CIRCUIT IN AND FOR
BREVARD COUNTY, FLORIDA

CASE NO.:
052019CF021200AXXX
5TH DCA CASE NO.:
5D2024-2579
5D2024-3539
5D2023-1391
DATE: 08 JANUARY 2025

STATE OF FLORIDA,

PLAINTIFF/RESPONDENT

NOTICE OF NEW CASE AND RECORDS REQUEST

COMES NOW, on this 8th day of January 2025, the Defendant/Petitioner, HARRY LEE GOLDSBORO II, pro se, pursuant to Fla. R. App. P. 9.220 filed a Records Request for lower tribunal case number: 052019CF021200AXXX, and 5th DCA case numbers 5D2024-2579 and 5D2023-1391. On December 30th, 2024, the 5th DCA mailed the Defendant an Acknowledgment of New Case notice that case number 5D2024-3539 has been filed in this cause. The Defendant anticipates the 5th DCA dismissing case number 5D2024-2579 since the Defendant went to trial; however, the Defendant's request for the record in case 5D2024-2579 is still valid and required to support his claims in case 5D2024-3539. Therefore, the Defendant is still requesting the portions of the record from case 052019CF021200AXXX in support of cases 5D2023-1391 and 5D2024-3539, which are still pending cases.

OATH

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


HARRY LEE GOLOSBOROFF II, JR.
DEFENDANT, JAIL # 4838407

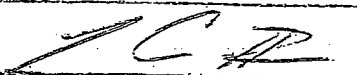
CERTIFICATIONS AND ACKNOWLEDGEMENTS

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, JR.
DEFENDANT, JAIL # 4838407

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Notice of New Case and Records Request was delivered by mail to: the Brevard County Clerk of Court for the 18th Judicial Circuit 2825 Judge Fran Jamieson Way, Viera, FL 32940-8006 and the Clerk of the Circuit Court and Comptroller, Brevard County, Florida 700 S. Park Avenue, P.O. Box 2767, Titusville, FL 32781, and the Court Administration's Digital Recording Office at the Moore Justice Center 2825 Judge Fran Jamieson Way, Viera, FL 32940-8006 on this 8th day of January 2025.


HARRY LEE GOLOSBOROFF II, JR.
DEFENDANT, JAIL # 4838407
BREVARD COUNTY JAIL COMPLEX
ATTN: LEGAL MAIL
860 CANN ROAD
COCOA, FL 32927
DATE: 08 JANUARY 2025

HARRY LEE GOLOSBORO II

APPELLANT

v.

STATE OF FLORIDA

APPELLEE

FLORIDA SUPREME COURT

5TH DCA CASE NO.:

SD2024-2579

L.T. NO.:

2019CF021200A XXXX

DATE: 08 JANUARY 2025

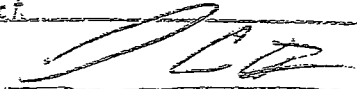
NOTICE OF APPEAL

COMES NOW, on this 8th day of January, 2025, the Appellant, HARRY LEE GOLOSBORO II, pro se, submits this timely Notice of Appeal From the 5th DCA's order dismissing the Appellant's Writ of Prohibition Filed on September 6th, 2024, on January 3rd, 2025. On September 30th, 2024, the 5th DCA ordered the Petitioner to show cause as to why the petition should not be dismissed as the court mistakenly believed that the Petitioner was represented by counsel. On October 8th, 2024, the Petitioner responded to the order and provided proof that he was pro se and had standby-counsel only. On October 28th, 2024, the 5th DCA ordered the Petitioner to File an Appendix containing supporting documents that complies with FL R. App. Procedure 9.220. FL R. App. P. 9.220 states that "In any proceeding in which an appendix is required, if the court finds that the appendix is incomplete, it shall direct a party to supply the omitted parts of the appendix. No proceeding shall be determined until an opportunity to supplement the appendix has been given." On November 1st, 2024, the Petitioner Filed a Request for Extension to File Appendix with the 5th DCA because the Petitioner's Demand For Discovery and Motion to Compel Discovery to the State Attorney had not been answered, and a hearing on the motions was rescheduled from September 27th, 2024 to November 8th, 2024 due to Hurricane Helene. On November 8th, 2024, the Petitioner submitted a records request to the 18th Judicial Circuit Clerk of Courts requesting the specific portions of the record necessary for the appendix. On November 27th, 2024, the 5th DCA ordered the State to respond to the request for an extension. On December 6th, 2024, the State responded that it had no good faith basis to oppose the extension; however, the State indicated that a jury had been sworn and selected on December 3rd, 2024. On December 1st, 2024, the Clerk of the Court responded that the Writ of Prohibition and Appendices A-D (Filed on April 12th, 2023) had been Filed under Orange County case number 2018-CF-004010, which was closed and the Petitioner would have to pay for copies. This was an error with the clerk's Filing system as the Petitioner never Filed any Writ of Prohibition in that case and the Petitioner specifically requested records associated with Brevard County case number 2018-CF-021200A, to which the clerk never provided. Trial was scheduled to begin on December 2nd, 2024 based on the Petitioner's Demand For Speedy Trial Filed on ^{November} ~~December~~ 8th, 2024. The Petitioner never received the requested record, and the 5th DCA never issued a stay in the case.

On December 9th, 2024, the 5th DCA ordered the Petitioner to show cause as to why the petition should not be

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 COLASBORO II, AKA
DEFENDANT, JAIL #4838407

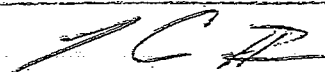
CERTIFICATIONS AND ACKNOWLEDGEMENTS

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 COLASBORO II, AKA
DEFENDANT, JAIL #4838407

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Notice of Appeal was delivered by mail to: the Florida Supreme Court Office of the Clerk 500 South Duval Street Tallahassee, FL 32399-1927, the State Attorney's Office County Courthouse 301 South Monroe Street #475 Tallahassee, FL 32301, and the Brevard County Clerk of Court 2825 Judge Fran Jamieson Way Viera FL 32940-8006 on this 8th day of January 2025.


HARRY LEE COLASBORO II, AKA
DEFENDANT, JAIL #4838407
BREVARD COUNTY JAIL COMPLEX
ATTORNEY AT LAW
830 CAMP ROAD
COCOA, FL 32927
DATE: 08 JANUARY 2025

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FIFTH DISTRICT

Harry Lee Goldsboro, II,

Case No.: 5D2024-2579

L.T. No.: 2019-CF-021200-A

Petitioner(s),

v.

State of Florida,

Respondent(s).

Date: January 3, 2025

BY ORDER OF THE COURT:

ORDERED that the Petition for Writ of Prohibition, filed September 6, 2024 (certificate of service), is dismissed.

*I hereby certify that the foregoing is
(a true copy of) the original Court order.*

5D2024-2579 1/3/25

SANDRA B. WILLIAMS, CLERK



Panel: Judges Eisnagle, Kilbane and Pratt

cc:

Criminal Appeals DAB Attorney General
Hon. Samuel Bookhardt, III
Harry Lee Goldsboro, II
Whitney Hartless

HARRY LEE GOLDSBORO II,

PETITIONER

v.

STATE OF FLORIDA,

RESPONDENT

THE DISTRICT COURT OF APPEAL

IN FLORIDA, FIFTH DISTRICT

CASE NO.:

SD2024-2579

LT. NO.:

052019-CF-021200/XXXX

DATE: 13 DECEMBER 2024

RESPONSE TO ORDER TO SHOW CAUSE

COMES NOW, on this 13th day of DECEMBER 2024, the Petitioner HARRY LEE GOLDSBORO II, pro se, respectfully submits this Response to Order to Show Cause to the 5th District Court of Appeal's order to Petitioner to show cause within ten days as to why the petition should not be dismissed as it appears that trial has concluded and Petitioner was convicted. The Court's order was issued on December 9th 2024 and the Petitioner received the order on December 13th, 2024. In response, the Defendant submits the following:

I

BASIS FOR INVOKING THE JURISDICTION OF THE COURT

Pursuant to Article V, section 9(b)(3), of the Florida Constitution and Fla. R. App. P. 9.030(b)(3) and 9.100, this Court has jurisdiction to issue a writ of certiorari, writ of prohibition, and "all writs" necessary to the complete exercise of its jurisdiction pursuant to Article V, Section 9(b)(3), Florida Constitution. Although the Defendant/Petitioner was convicted after a jury trial, the Court's order to show cause directs the Petitioner show cause as to why the above-styled petition should not be dismissed. The Petitioner contends that the petition is not moot because the Court prosecuted the Petitioner in excess of its jurisdiction; the Court made several errors during the trial proceedings that were either fundamental, harmful, or otherwise reversible, which would result in a new trial in which the Petitioner would again be subject to the same prejudice in his defense and the Court's same lack of jurisdiction; and the Petitioner's rights to due process of law, constitutional speedy trial, right to obtain witnesses in his defense, and right to confrontation, protected under the 5th, 6th, and 14th Amendments of the United States Constitution would again be violated, resulting in a miscarriage of justice, and the arguments the Petitioner presents are of great public importance and highly likely to recur to not only the Petitioner, but to other inmates incarcerated in Brevard County and throughout Florida, issues of which have thus far avoided review.

The Petitioner seeks certiorari review because the Petitioner's conviction was a miscarriage of justice as the Court acted in excess of its jurisdiction, departed from the essential requirements of law, that resulted in material injury for the remainder of the case by violating his statutory and constitutional rights to a speedy trial and these incurable errors cannot be corrected on postjudgment appeals, and this case presents a controversy capable of repetition, yet evading review, which should be considered on its merits.

This case raises questions of great public importance and is likely to recur.

The Petitioner also seeks prohibition to prevent the Court from proceeding in a cause over which it has no jurisdiction, in the event the numerous trial errors result in a new trial.

prejudice, or greater, recurring.

The Petitioner seeks prohibition as it is an appropriate remedy to prohibit trial court proceedings when an accused has been denied his right to a speedy trial and his motion for discharge has been denied (see *Sibert v. Hare*, 276 So.2d 523 Fla. 4th DCA 1973; *Sherrill v. Franze*, 427 So.2d 161 Fla. 1983). Prohibition is a proper remedy to prevent a lower court from proceeding in a cause over which it has no jurisdiction (see *State ex. rel. Girard v. McNulty*, 398 So.2d 311 Fla. 1977), and a court does not have jurisdiction to try a defendant when he is entitled to discharge because his right to a speedy trial has been violated. In *Francis v. State*, 317 So.2d 1268 Fla. App. 2021, the court ruled that prohibition is an appropriate remedy to prohibit trial court proceedings when an accused has been denied his right to a speedy trial, and his motion for discharge has been denied (*Francis v. State*, 2021). "A court does not have jurisdiction to try a defendant when he is entitled to discharge on the ground of double jeopardy or collateral estoppel, or if he is entitled to a discharge because of a violation of his immunity from prosecution or his right to a speedy trial." (citing *Bennett H. Brummer, et al. Extraordinary Writs: A Powerful Tool for the Florida Practitioner*, 33 U. Miami L. Rev. 1045 (1979)). As expressly guaranteed by both the State and Federal Constitutions the accused possesses the right to a speedy and public trial" (*State v. Nelson*, 26 So.3d 570, 574 Fla. 2010 citing Amendment VII U.S. Constitution; Article I Section 16 Florida Constitution, FL ST 918.05). In *Periso v. State*, 221 So.3d 1231 Fla. App. 2017, the 5th DCA granted the petitioner a writ of prohibition for a violation of speedy trial upon demand, as he was incarcerated in Florida, and he was not brought to trial within 50 days. In the case at bar, the Petitioner never had a chance to assert his right to a speedy trial because the time period expired three years prior to him being arrested and notified of the charges, and he was incarcerated in Florida the entire time.

The Petitioner contends that the 5th District Court has the authority to use its "other writs" provision to issue other writs necessary to the complete exercise of its jurisdiction (Article V, section 4(b)(3), FL Const.). The Petitioner asserts that certiorari review and prohibition are necessary to prevent a miscarriage of justice that will result in material injury for the remainder of the case, that cannot be corrected on post judgment appeal, and also that the issues presented are of great public importance that are likely to recur and has evaded review. The Petitioner personally knows of the 18th Judicial Circuit State Attorney's constitutional and statutory violations of speedy trial in his case, Kenneth Wayne Bowers's case (*Bowers v. State*, 377 So. 1224 Fla. App. 2024), and Antonio Dajuan Brown's (writ of prohibition filed to the 5th DCA on 4/18/2024) case. The Petitioner has spoken to numerous other inmates who were incarcerated in Florida when Brevard County filed charges and the Brevard State Attorney delayed or even the arrest of the defendants until well after the statute of limitations expired, and the State continues to

time periods on January 3rd, 2022 and his speedy trial period expired on June 26th, 2022. The 5th DCA never addressed the statutory or constitutional speedy trial violations presented in these cases with an opinion and these issues continue to recur and will continue to recur in Brevard County as it is the State Attorney's practice and custom to wait until a defendant completes their sentence in one county before Brevard County moves forward with its prosecution. Specifically, in Goldsboro's case 5D2023-1391, the 5th DCA ordered the State to show cause on April 15th, 2023, but after 15 months, per curiam affirmed the lower court's ruling on the motion to dismiss, without an opinion only 10 days after the Petitioner sought to amend the original writ; consequently, the issues presented regarding statutory and constitutional speedy trial violations of incarcerated inmates has yet to be reviewed and has evaded district court opinion, and remains a controversy capable of repetition and this case should be considered on its merits.

The Petitioner contends that the writ of prohibition is not moot and certiorari review and the Court's other writs authority are necessary to correct the lower court's fatal error of prosecuting the defendant in excess of its jurisdiction, and in the event that the Petitioner is granted a new trial in the future, he will still face the same prejudice to his case which will prohibit him from presenting his defense. In Kelley v. Rice, 800 So.2d 247 Fla. App. 2001, the 2nd DCA declared that "The State contends we should dismiss the petition as moot because Mr. Kelley has been released from custody. It is true that the matter is technically moot (see Bowles v. Singletary, 688 So.2d 1201, 1202 n.3 Fla. 1997). However, mootness does not destroy a court's jurisdiction if the question raised is of great public importance or is likely to recur (Id.)." (see Holly v. Auld, 450 So.2d 217, 218 n.1 Fla. 1984; Blalock v. Rice, 707 So.2d 738, 739 Fla. 2d DCA 1997, or if the error is capable of repetition yet evading review; N.W. v. State, 767 So.2d 946, 947 n.2 Fla. 2000). "Because Judge Downey took action to moot this petition, and because it appears that in another of his cases the same errors may have been committed and evaded review, we address the merits of the petition. The Court concludes that it has certiorari and prohibition jurisdiction to review Judge Downey's actions. To the extent that Judge Downey has entered an order in excess of his jurisdiction, we may review it by means of certiorari." (see Hudson v. Hoffman, 471 So.2d 117 Fla. 2d DCA 1985). The Petitioner in the case at bar has filed a Motion for a New Trial and if granted, the court will continue to exercise nonexistent jurisdiction over the Petitioner, who will continue to suffer irreparable injury, and this court may prevent the lower court from acting by way of prohibition (see State ex rel. Gillen v. Phillips, 193 So.2d 26 Fla. 2d DCA 1966; Anderson Inv. Co. Ltd. v. Lynch, 540 So.2d 832 Fla. 4th DCA 1988; "Although the issues raised by petition may now be moot because of Blalock's release, we cannot avoid the issue because the state failed to seek review of the lower court's decision to grant a new trial."

II

NATURE OF RELIEF Sought

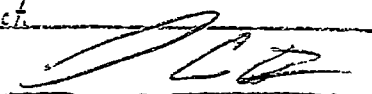
The Petitioner seeks to invoke the Court's certiorari review, prohibition, and other writs necessary to the complete exercise of its jurisdiction, caused irreparable harm to the Petitioner that cannot be remedied on appeal, and prohibit future prosecution and discharge the Petitioner for constitutional and statutory violations of his speedy trial rights that severely prejudiced his case and defense by violating his due process rights and right to confrontation.

The Petitioner requests staying of sentencing proceedings until the Court can receive the summary record for review and also the associated transcripts from the pre-trial hearings, but the Petitioner also desires to include the trial transcripts to demonstrate the actual prejudice suffered as a direct consequence of the State's deliberate 94 month delay. The Petitioner has requested the lower court to provide the pre-trial hearing transcripts and all pertinent trial transcripts in support of his claims and respectfully requests this Honorable Court to provide the Petitioner time to receive the transcript and record. The Petitioner initiated the writ of prohibition on September 16th, 2024 and then requested the documents necessary for the appendix in October 2024, and is still waiting to receive the requested documents.

WHEREFORE the Petitioner prays that this Honorable Court of Appeals does not view the instant petition as moot, invokes its certiorari review, prohibition, and other writs authority and jurisdiction to determine that the lower court erred and acted in excess of its jurisdiction, departed from the essential requirements of law, and violated the Petitioner's statutory and constitutional rights to a speedy trial, which resulted in irreparable harm to his due process rights, rights to confrontation, and right to a fair trial and represents a miscarriage of justice that is likely to recur in the future, unless this Honorable Court invokes its discretionary jurisdiction and certifies the questions of great public importance advanced herein.

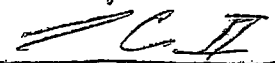
OATH

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 COLOSBOROS II, PRO SE
DEFENDANT, JAIL # 4838407

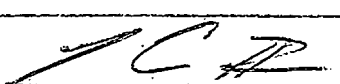
CERTIFICATIONS AND ACKNOWLEDGEMENTS

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 COLOSBOROS II, PRO SE
DEFENDANT, JAIL # 4838407

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Response to Order to Show Cause was delivered by mail to: the Clerk of Courts, 5th District Court of Appeals, 300 South Beach Street, Daytona Beach, FL 32114-5002, and The State of Florida at the Office of the Attorney General, 444 Seabreeze Blvd, 5th Floor, Daytona Beach, FL 32118 on this 16th day of DECEMBER 2024.


HARRY LEE COLOSBOROS II, PRO SE
DEFENDANT, JAIL # 4838407
BREVARD COUNTY JAIL COMPLEX
ATTN: LEGAL MAIL
830 CAMO ROAD
COCCA, FL 32927
DATE: 16 DECEMBER 2024

HARRY LEE GOLDSBORO II
PETITIONER

V.
STATE OF FLORIDA

RESPONDENT

IN THE DISTRICT COURT OF APPEAL
ORIOA, FIFTH DISTRICT

CASE NO.:
052019CF021200AXXX
5TH DCA CASE NO.:
SD2024-2579
FOR CASE NO.:
SD2023-1391

REQUEST FOR COPIES OF WRIT OF PROHIBITION AND APPENDICES A-0 DATE: 12 DECEMBER 2024

COMES NOW, on this 12th day of DECEMBER 2024, the Petitioner, HARRY LEE GOLDSBORO II, pro se, and pursuant to Fla. R. App. P. 9.220 files this Record Request For copies of writ of prohibition and appendix A-0 in case no. SD2023-1391 (lower tribunal case no. 2019-CF-021200AXXX) that was Filed by Mrs. Nancy Ohan of the Public Defender's Office on or about April 12th 2023 to the 5th DCA Clerk of Courts. The Petitioner requested the record from the 18th Judicial Circuit in and For Brevard County on November 1st, 2024, however, the clerk of courts informed the Petitioner that the writ of prohibition was Filed under Orange County case no. 2018-CF-004010, but that is the wrong case number and the clerk accidentally Filed the writ in the wrong case File. The Petitioner is working to resolve the issue, yet in the interim, the Petitioner requires the record to comply with the requirements of Rule 9.220 and the 5th DCA has granted the Petitioner an extension of time to submit the record with his currently pending writ of prohibition in case no. SD2024-2579.

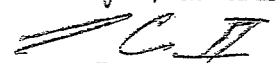
OATH

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


HARRY LEE GOLDSBORO II, Pro Se
DEFENDANT, JAIL # 4838407

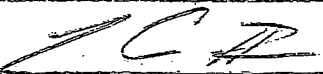
CERTIFICATIONS AND ACKNOWLEDGEMENTS

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 GOLDSBORO II, Pro Se
DEFENDANT, JAIL # 4838407

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Request for Copies of Writ of Prohibition and Appendices was delivered by mail to: The Fifth District Court of Appeals, Clerk of Court 300 South Beach Street Daytona Beach, FL 32118 on this 12th day of DECEMBER 2024.


HARRY LEE GOLDSBORO II, Pro Se
DEFENDANT, JAIL # 4838407
STEVARD COUNTY JAIL COMPLEX
ATTN: LEGAL MAIL
830 CAMP ROAD
COCOA, FL 32927
DATE: 12 DECEMBER 2024

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FIFTH DISTRICT

Harry Lee Goldsboro, II,

Case No.: 5D2024-2579

L.T. No.: 2019-CF-021200-A

Petitioner(s),

v.

State of Florida,

Respondent(s).

Date: December 9, 2024

BY ORDER OF THE COURT:

ORDERED that Petitioner shall, within **ten** days of the date hereof, show cause as to why the above-styled petition should not be dismissed as it appears that trial has concluded and Petitioner was convicted.

*I hereby certify that the foregoing is
(a true copy of) the original Court order.*

Sandra B. Williams
5D2024-2579 12/9/2024
SANDRA B. WILLIAMS, CLERK

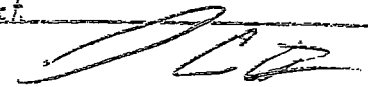


cc:

Criminal Appeals DAB Attorney General
Harry Lee Goldsboro, II
Whitney Hartless

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.

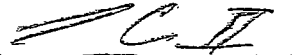


HARRY LEE COLOSABORO II, JR.

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.

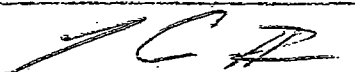


HARRY LEE COLOSABORO II, JR.

DEFENDANT, JAZL #4838407

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Motion For New Trial was delivered by mail to: the Clerk of Courts 18th Judicial Circuit in and For Brevard County, Florida 2825 Judge Fran Jamieson Way Viera, FL 32940-8006, the Office of the State Attorney For the 18th Judicial Circuit 2725 Judge Fran Jamieson Way Building D Viera, FL 32940-8006, and to the Office of Criminal Conflict and Civil Regional Counsel 5th District Mrs. Michele Campbell Assistant Regional Counsel 7165 Murrell Road, Suite 101 Melbourne, FL 32940 on this 12th day of December 2024.



HARRY LEE COLOSABORO II, JR.

DEFENDANT, JAZL #4838407
BREVARD COUNTY JAIL COMPLEX

ATTN: LEGAL MAIL
350 CANA ROAD

COCOA, FL 32927

DATE: 12 DECEMBER 2024

HARRY LEE GOLDSBOND II,

DEFENDANT/APPELLANT

v.

STATE OF FLORIDA,

PLAINTIFF/AMPELEE

IN THE CIRCUIT COURT FOR THE EIGHTEENTH

JUD. CIRCUIT IN AND FOR BREVARD COUNTY, FLORIDA

CASE NO.:

2019-CF-021200AXKXK

DATE:

20 JANUARY 2025

AMENDED/AMENDMENT TO

MOTION FOR ARREST OF JUDGMENT

1. The Court was without jurisdiction of the cause due to both statutory and constitutional speedy trial violations predicated by the State's unreasonable 44-month delay in arresting, notifying of the charges, or serving the warrant on an incarcerated inmate, which caused the defendant to lose critical evidence and witnesses due to the due process violation. The Defendant's case was severely prejudiced by this delay.

1. Information Filed on March 22nd, 2019. No warrant served until October 26th, 2022. Speedy trial expired on September 17th, 2019.

2. The Defendant has been in continuous incarceration in Florida since November 8th, 2018.

2. The Court erred in denying Defendant's Motion For Judgment of Acquittal after the State rested. The State's evidence failed to establish that a sexual battery occurred and the State failed to prove that the defendant and alleged victim did not have consensual sex, earlier that night in another location. The evidence was insufficient and cumulative error occurred.

1. The State's case was purely circumstantial and only DNA connected the defendant to the alleged victim. "In most cases, Courts classify DNA evidence as circumstantial evidence" - (Dausch v. State, 141 So.3d 513, 518 Fla. 2014; Thorpe v. State, 777 So.2d 385, 390 Fla. 2000; Washington v. State, 653 So.2d 362 Fla. 1994 - "but where DNA evidence is considered together with other circumstantial evidence which tends to exclude all reasonable hypotheses of innocence, the court may properly deny a motion for Judgment of Acquittal." "Where the only proof of guilt is circumstantial, no matter how strongly the evidence may suggest guilt, a conviction cannot be sustained unless the evidence is inconsistent with any reasonable hypothesis of innocence." - Jaramilla v. State, 417 So.2d 237 Fla. 1982, and Knight v. State, 186 So.2d 1003 Fla. 2016). In cases, in which the evidence is wholly circumstantial, a special standard of review applies - Reynolds v. State, 934 So.2d 1128 Fla. 2006 U.S. 127 S.Ct. 943, 166 L.Ed.2d 721 2007; Darling v. State, 808 So.2d 145, 155 Fla. 2002. The State is not required to rebut conclusively every possible variation of events which could be inferred from the evidence, but only to introduce competent evidence which is inconsistent with the defendant's theory of events. Once that threshold burden is met, it becomes the jury's duty to determine whether the evidence is sufficient to exclude every reasonable hypothesis beyond a reasonable doubt (Orme v. State, 677 So.2d 258, 262 Fla. 1996; State v. Loe, 554 So.2d 182, 159 Fla. 1989).

2. The Defense presents three primary cases in support of his argument: 1. Shader v. State, Case No. 2013-2712 Fla. App. Sep. 07, 2016

2. Fitzpatrick v. State, 900 So.2d 495 Fla. 2005 and 3. McDuffie v. State, 970 So.2d 312, 330 Fla. 2007.

2A. Shrader: Shrader claimed case was wholly circumstantial, but he denied knowing the victim and having sex with her, said he's never been to the scene of the crime, and gave multiple inconsistent statements concerning his injured hands. The State provided DNA evidence that tied Shrader to the scene and sexual contact and was direct evidence he had sex with the victim and was at the crime scene, and his roommate testified he did not receive the wounds in the manner he explained. The State presented evidence that contradicted his version of events, therefore, the motion for JOA was properly denied.

2B. Fitzpatrick: The State argued the evidence was sufficient on the sexual battery charge to create a jury issue. The Defendant denied having sex with the victim until DNA evidence was presented and he tried to get his sister to steal blood samples to submit to police. Two witnesses also saw the defendant with the victim. The State met its burden and the case was not wholly circumstantial.

2C. McDuffie: The only physical evidence was a palm print on duct tape on one victim, but McDuffie also worked at the store and used the tape. An eyewitness placed him at the scene; however, there were no hairs, fibers, or DNA and no gun linking him to the crime. The Florida Supreme Court found that the trial court properly denied the motion for JOA, but numerous cumulative errors required reversal because they were harmful.

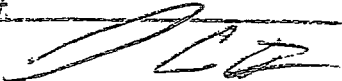
3. In Goldsboro's case, the State presented DNA evidence only, along with testimony from police officers and witnesses who did not testify to witnessing any crime or to seeing the Defendant at any time that night, nor did any witness see the defendant with the alleged victim. The SANE nurse indicated there was no trauma to the victim's vagina or anus, which does not exclude sexual battery, but it also does not exclude consensual sex. The crime scene technician presented no evidence connecting the defendant to the crime scene, and no DNA, fibers, or hair was found at the crime scene. The DNA analyst testified that DNA was only found in the victim's cervical swabs, but conceded that the failure to test or quantify the other samples could not exclude other male donors and that the presence of DNA does not exclude consent, nor can a DNA test determine the time and location the DNA was transferred. The State's case-in-chief included testimony from the alleged victim who failed to identify the defendant as her attacker in a photo lineup, testified she could not remember specific details, and she did not recognize the defendant's voice as the attacker's. The State never presented evidence that the Defendant denied having sex with the victim, or presented any inconsistent statements from the Defendant. Consequently, the State failed to meet its initial threshold burden to produce competent and substantial evidence which was inconsistent with the Defendant's theory of event. As a result, the Defendant's motion for JOA should have been granted. The Defendant challenges the sufficiency of the evidence to

not only sustain the verdict, but also to challenge the court's denial of the JOA at the conclusion of the State's case.

4. The Defendant also asserts that the court made multiple reversible errors that were also cumulative. The Defendant argues that the court committed fundamental error by prohibiting standby-counsel to be present during trial and then for discharging standby-counsel completely when the Defendant requested to reinstate counsel. The court erred in failing to hold the required Richardson hearing when the Defendant presented evidence of the State's multiple discovery violations. The court erred in admitting evidence over the Defendant's objection, including the DNA expert's testimony as outlined in the Defendant's approved motion in limine, and also the video surveillance from the Running Zone. The court erred in forcing the Defendant to subpoena two critical defense witnesses, who were listed on the State's witness list, and refusal to grant a continuance to ensure their presence at trial.

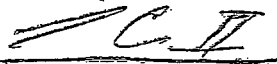
OATH

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 COLOSBOROS II, JR.
DEFENDANT, JAZL #4838407

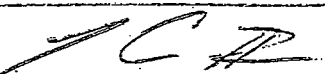
CERTIFICATIONS AND ACKNOWLEDGEMENTS

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 COLOSBOROS II, JR.
DEFENDANT, JAZL #4838407

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Amended/Affidavit to Motion For Arrest of Judgment was delivered by mail to the Clerk of Courts 18th Judicial Circuit in and For Brevard County, Florida 2825 Judge Fran Jamieson Way Viera, FL 32940-8006, and the Office of the State Attorney For the 18th Judicial Circuit 2725 Judge Fran Jamieson Way Building D Viera, FL 32940-8006 by hand on this 28th day of JANUARY 2025.


HARRY LEE COLOSBOROS II, JR.
DEFENDANT, JAZL #4838407
BREVARD COUNTY JAZL COMPLEX
ATTN: LEGAL MAIL
830 CAMP ROAD
COCOA, FL 32927
DATE: 28 JANUARY 2025

HARRY LEE GOLDSBORO II,
DEFENDANT/APPELLANT

IN THE CIRCUIT COURT FOR THE EIGHTEENTH
JUDICIAL CIRCUIT IN AND FOR BREVARD COUNTY, FLORIDA

CASE NO.:
2019-CF-021200-AXXX
DATE: 09 DECEMBER 2024

v.
STATE OF FLORIDA,
PLAINTIFF/APPELLEE

MOTION FOR ARREST OF JUDGMENT

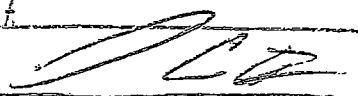
COMES NOW, on this 9th day of DECEMBER 2024, HARRY LEE GOLDSBORO II, pro se, submits this Notice of Appeal from the 18th Judicial Circuit Court's Final order of a verdict of GUILTY following a trial by jury and moves this Honorable Court to Arrest Judgment in this cause pursuant to FL R. Crim. P. 3.610 (b) because the court was without jurisdiction of the cause.

The State's unreasonable delay of 44 months in serving the copies, executing the warrant, and notice of charges on the Defendant and arresting him while he was incarcerated during the entire speedy trial period, in the state of Florida, violated his statutory and constitutional rights to a speedy trial, caused undue prejudice to his case, violated his 6th Amendment right to the compulsory process to obtain witnesses in his defense and unfairly prejudiced his ability to prepare a defense. The State filed the Information in this cause on March 22nd, 2019, but did not arrest the Defendant until October 26th, 2022, and the Defendant had been incarcerated in Florida since November 2018. The Defendant's statutory speedy trial period expired on September 17th, 2019, and the State failed to execute the warrant and arrest the Defendant until 44-months later. Consequently, the State lacked jurisdiction to prosecute the Defendant and the Court acted in excess of its jurisdiction in holding a trial in this cause.

The Defendant is humbly requesting that this Honorable Court arrests the judgment in this cause and vacates or reverses the conviction.

OATH

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


HARRY LEE GOLDSBORO II, JR.

DEFENDANT, JAIL # 4838407

CERTIFICATIONS AND ACKNOWLEDGEMENTS

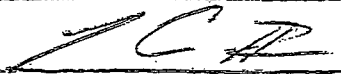
I certify that the motion is filed in good faith, that I have a reasonable belief that the motion is timely filed, has potential merit, and does not duplicate previous motions that have been disposed of by the court. I certify that I understand English and have read the foregoing motion or had the motion 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 GOLDSBORO II, JR.

DEFENDANT, JAIL # 4838407

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Motion For Arrest of Judgment was delivered by mail to: the Clerk of Courts 18th Judicial Circuit in and For Brevard County, Florida 2825 Judge Fran Jamieson Way Building D Viera, FL 32940-8006 and the Office of the State Attorney for the 18th Judicial Circuit 2725 Judge Fran Jamieson Way Building D Viera, FL 32940-8006 on this 9th day of DECEMBER 2024.


HARRY LEE GOLDSBORO II, JR.

DEFENDANT, JAIL # 4838407
BREVARD COUNTY JAIL COMPLEX

ATTN: LEGAL MAIL
830 CANAL ROAD

COCOA, FL 32927

DATE: 09 DECEMBER 2024

HARRY LEE GOLDSBORO II,
DEFENDANT/APPELLANT

IN THE CIRCUIT COURT FOR THE EIGHTH
JUDICIAL CIRCUIT IN AND FOR BREVARD CO., FLORIDA

CASE NO.:
2019-CF-021200-AXXXX
DATE: 09 DECEMBER 2024

v.
STATE OF FLORIDA,
PLAINTIFF/APPELLEE

MOTION FOR ARREST OF JUDGMENT

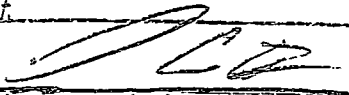
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The Defendant is humbly requesting that this Honorable Court arrests the judgment in this cause and vacates or reverses the conviction.

OATH

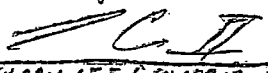
Under penalties of perjury, I declare that I have read the foregoing motion or had it read to me, that I understand its motion's content, and that all of the facts alleged in the motion are true and correct.


HARRY LEE COLOSBOROS II, PRO SE

DEFENDANT, JAIL # 4838407

CERTIFICATIONS AND ACKNOWLEDGEMENTS

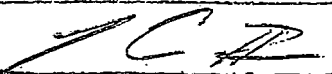
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HARRY LEE COLOSBOROS II, PRO SE

DEFENDANT, JAIL # 4838407

CERTIFICATE OF SERVICE

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HARRY LEE COLOSBOROS II, PRO SE

DEFENDANT, JAIL # 4838407
BREVARD COUNTY JAIL COMPLEX

ATTN: LEGAL MAIL
360 CANAL ROAD

COCOA, FL 32927
DATE: 09 DECEMBER 2024



Brevard County Sheriff's Office
Brevard County Jail Complex

Inmate Account Affidavit

(Inmate Accounts Only)

I hereby certify that as of the below signed date, Harry Lee Goldsboro,

Name of Inmate

an inmate at the Brevard County Jail Complex, has the sum of \$ 0.00 in his inmate account.

I further certify that the above-named inmate has the following securities to his credit according to the records of this Institution.

Christine Grose

Authorized Employee of Brevard County Sheriff's Office

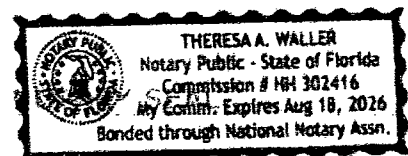
12/09/2024

Date

**State of Florida,
County of Brevard.**

Sworn to (or affirmed) and subscribed before me by means of Physical Presence ☐ or Online Notarization ☐, this 09 day of December, 2024, by Christine Grose who is personally known ☒ OR who produced valid identification ☐. Type of Identification produced _____

Theresa A. Waller
Signature of Notary Public OR Law Enforcement Officer
As provided in FSS 117.10



Print, Type or Stamp Commissioned name of Notary Public
Or Law Enforcement Officer

Inmate Balance History Report - Simple

Created: 12/9/2024 9:49:16AM

Between: 6/1/2024 12:00:00AM - 12/9/2024 11:59:59PM

Number: 4838407

Secondary: FL0050000

Location: 300 300 Delt 357 Bed

Name: Goldsboro, Harry Lee

<u>Transaction</u>	<u>Date</u>	<u>Transaction Amount</u>	<u>Running Balance</u>	<u>Running Owed</u>	<u>Running Other</u>
Beginning Totals:	06/01/2024 12:00:00AM		14.85	0.00	0.00
ORDER DEBIT	06/02/2024 09:30:32PM	(13.36)	1.49	0.00	0.00
TOUCHPAY WEB DEPOSIT	06/05/2024 06:56:19PM	35.00	36.49	0.00	0.00
TOUCHPAY WEB DEPOSIT	06/05/2024 09:46:19PM	30.00	66.49	0.00	0.00
ORDER DEBIT	06/05/2024 10:51:34PM	(50.26)	16.23	0.00	0.00
TOUCHPAY WEB DEPOSIT	06/05/2024 10:56:19PM	50.00	66.23	0.00	0.00
TOUCHPAY WEB DEPOSIT	06/09/2024 12:56:26AM	20.00	86.23	0.00	0.00
ORDER DEBIT	06/09/2024 04:16:24PM	(85.92)	0.31	0.00	0.00
TOUCHPAY WEB DEPOSIT	06/12/2024 01:30:13PM	50.00	50.31	0.00	0.00
ORDER DEBIT	06/12/2024 09:44:56PM	(50.16)	0.15	0.00	0.00
TOUCHPAY WEB DEPOSIT	06/16/2024 11:40:21AM	100.00	100.15	0.00	0.00
ORDER DEBIT	06/16/2024 10:09:06PM	(93.46)	6.69	0.00	0.00
TOUCHPAY WEB DEPOSIT	06/19/2024 06:30:28PM	40.00	46.69	0.00	0.00
ORDER DEBIT	06/19/2024 09:03:00PM	(45.84)	0.85	0.00	0.00
TOUCHPAY WEB DEPOSIT	06/23/2024 01:50:36PM	40.00	40.85	0.00	0.00
TOUCHPAY WEB DEPOSIT	06/23/2024 07:30:36PM	120.00	160.85	0.00	0.00
ORDER DEBIT	06/23/2024 09:45:23PM	(149.92)	10.93	0.00	0.00
TOUCHPAY WEB DEPOSIT	06/25/2024 03:30:40PM	80.00	90.93	0.00	0.00
TOUCHPAY WEB DEPOSIT	06/26/2024 01:30:42PM	60.00	150.93	0.00	0.00
ORDER DEBIT	06/26/2024 09:13:22PM	(145.76)	5.17	0.00	0.00
TOUCHPAY WEB DEPOSIT	06/30/2024 12:50:52PM	40.00	45.17	0.00	0.00
TOUCHPAY WEB DEPOSIT	07/03/2024 06:40:58PM	50.00	95.17	0.00	0.00
ORDER DEBIT	07/03/2024 09:17:57PM	(95.04)	0.13	0.00	0.00
TOUCHPAY WEB DEPOSIT	07/03/2024 10:30:58PM	91.50	91.63	0.00	0.00
ORDER DEBIT	07/03/2024 10:50:03PM	(91.38)	0.25	0.00	0.00
TOUCHPAY WEB DEPOSIT	07/10/2024 06:42:20PM	50.00	50.25	0.00	0.00
ORDER DEBIT	07/10/2024 09:24:44PM	(49.91)	0.34	0.00	0.00
ORDER CREDIT	07/11/2024 09:09:03AM	8.74	9.08	0.00	0.00
TOUCHPAY WEB DEPOSIT	07/14/2024 09:32:29PM	80.00	89.08	0.00	0.00
ORDER DEBIT	07/14/2024 10:19:53PM	(88.83)	0.25	0.00	0.00
TOUCHPAY WEB DEPOSIT	07/17/2024 07:12:35PM	30.00	30.25	0.00	0.00
ORDER DEBIT	07/17/2024 08:41:25PM	(30.25)	0.00	0.00	0.00
TOUCHPAY WEB DEPOSIT	07/23/2024 05:52:48PM	60.00	60.00	0.00	0.00
MISC CHARGE	07/24/2024 06:03:38PM	(1.00)	59.00	0.00	0.00
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ORDER DEBIT	07/24/2024 09:00:29PM	(138.57)	0.43	0.00	0.00
TOUCHPAY WEB DEPOSIT	07/31/2024 04:23:04PM	50.00	50.43	0.00	0.00
ORDER DEBIT	08/02/2024 05:19:16PM	(50.35)	0.08	0.00	0.00
TOUCHPAY WEB DEPOSIT	08/10/2024 06:33:25PM	60.00	60.08	0.00	0.00
ORDER DEBIT	08/10/2024 08:13:52PM	(60.07)	0.01	0.00	0.00
TOUCHPAY WEB DEPOSIT	08/11/2024 05:03:28PM	14.50	14.51	0.00	0.00
ORDER DEBIT	08/11/2024 05:21:03PM	(14.23)	0.28	0.00	0.00
MEDICAL	08/12/2024 04:49:38PM	(10.00)	0.00	(9.72)	0.00
TOUCHPAY WEB DEPOSIT	08/17/2024 09:38:48AM	110.00	100.28	0.00	0.00
ORDER DEBIT	08/17/2024 11:35:28AM	(99.81)	0.47	0.00	0.00
TOUCHPAY WEB DEPOSIT	08/19/2024 10:08:55PM	50.00	50.47	0.00	0.00
TOUCHPAY WEB DEPOSIT	08/20/2024 02:28:56PM	50.00	100.47	0.00	0.00
ORDER DEBIT	08/21/2024 08:27:57PM	(100.41)	0.06	0.00	0.00
TOUCHPAY WEB DEPOSIT	08/21/2024 09:48:59PM	31.00	31.06	0.00	0.00
ORDER DEBIT	08/21/2024 10:04:35PM	(30.21)	0.85	0.00	0.00
TOUCHPAY WEB DEPOSIT	08/28/2024 07:39:15PM	40.00	40.85	0.00	0.00

Inmate Balance History Report - Simple

Created: 12/9/2024 9:49:28AM

Between: 6/1/2024 12:00:00AM - 12/9/2024 11:59:59PM

Number: 4838407

Secondary: FL0050000

Location: 300 300 Delt 357 Bed

Name: Goldsboro, Harry Lee

<u>Transaction</u>	<u>Date</u>	<u>Transaction Amount</u>	<u>Running Balance</u>	<u>Running Owed</u>	<u>Running Other</u>
Beginning Totals:	06/01/2024 12:00:00AM		14.85	0.00	0.00
ORDER DEBIT	08/28/2024 09:24:22PM	(40.41)	0.44	0.00	0.00
TOUCHPAY WEB DEPOSIT	08/30/2024 07:29:18PM	80.00	80.44	0.00	0.00
ORDER DEBIT	09/01/2024 09:23:34AM	(80.09)	0.35	0.00	0.00
TOUCHPAY WEB DEPOSIT	09/04/2024 05:29:38PM	50.00	50.35	0.00	0.00
ORDER DEBIT	09/04/2024 09:02:41PM	(50.22)	0.13	0.00	0.00
TOUCHPAY WEB DEPOSIT	09/08/2024 09:19:37AM	25.00	25.13	0.00	0.00
ORDER DEBIT	09/08/2024 09:40:56AM	(24.54)	0.59	0.00	0.00
TOUCHPAY WEB DEPOSIT	09/11/2024 12:59:55PM	60.00	60.59	0.00	0.00
ORDER DEBIT	09/11/2024 08:18:54PM	(60.57)	0.02	0.00	0.00
TOUCHPAY WEB DEPOSIT	09/13/2024 09:10:01PM	65.00	65.02	0.00	0.00
TOUCHPAY WEB DEPOSIT	09/14/2024 11:40:00AM	50.00	115.02	0.00	0.00
ORDER DEBIT	09/15/2024 10:37:21PM	(60.72)	54.30	0.00	0.00
TOUCHPAY WEB DEPOSIT	09/18/2024 04:06:04PM	50.00	104.30	0.00	0.00
ORDER DEBIT	09/18/2024 09:43:03PM	(56.37)	47.93	0.00	0.00
ORDER DEBIT	09/18/2024 10:07:59PM	(47.93)	0.00	0.00	0.00
TOUCHPAY WEB DEPOSIT	09/25/2024 02:06:28PM	30.00	30.00	0.00	0.00
ORDER DEBIT	09/25/2024 08:33:56PM	(29.90)	0.10	0.00	0.00
TOUCHPAY WEB DEPOSIT	10/02/2024 07:16:50PM	55.00	55.10	0.00	0.00
ORDER DEBIT	10/02/2024 08:50:59PM	(55.06)	0.04	0.00	0.00
TOUCHPAY WEB DEPOSIT	10/06/2024 07:36:46PM	40.00	40.04	0.00	0.00
ORDER DEBIT	10/06/2024 08:28:04PM	(39.45)	0.59	0.00	0.00
TOUCHPAY WEB DEPOSIT	10/16/2024 06:14:51PM	55.00	55.59	0.00	0.00
ORDER DEBIT	10/16/2024 09:18:17PM	(55.42)	0.17	0.00	0.00
TOUCHPAY WEB DEPOSIT	10/19/2024 09:27:23PM	50.00	50.17	0.00	0.00
TOUCHPAY WEB DEPOSIT	10/19/2024 10:47:23PM	18.00	68.17	0.00	0.00
ORDER DEBIT	10/20/2024 02:29:55PM	(67.98)	0.19	0.00	0.00
TOUCHPAY WEB DEPOSIT	10/23/2024 03:47:27PM	40.00	40.19	0.00	0.00
ORDER DEBIT	10/23/2024 08:40:24PM	(39.77)	0.42	0.00	0.00
TOUCHPAY WEB DEPOSIT	10/29/2024 10:57:36AM	50.00	50.42	0.00	0.00
TOUCHPAY WEB DEPOSIT	10/30/2024 03:37:37PM	30.00	80.42	0.00	0.00
ORDER DEBIT	10/30/2024 09:22:17PM	(80.37)	0.05	0.00	0.00
MISC CHARGE	11/05/2024 09:53:30AM	(1.00)	0.00	(0.95)	0.00
TOUCHPAY WEB DEPOSIT	11/06/2024 04:07:47PM	60.00	59.05	0.00	0.00
ORDER DEBIT	11/06/2024 05:15:26PM	(58.95)	0.10	0.00	0.00
ORDER CREDIT	11/07/2024 09:51:49AM	2.88	2.98	0.00	0.00
ORDER DEBIT	11/10/2024 10:15:58PM	(2.88)	0.10	0.00	0.00
TOUCHPAY WEB DEPOSIT	11/13/2024 01:57:53PM	35.00	35.10	0.00	0.00
ORDER DEBIT	11/13/2024 08:34:23PM	(34.87)	0.23	0.00	0.00
TOUCHPAY WEB DEPOSIT	11/20/2024 07:28:14PM	65.00	65.23	0.00	0.00
ORDER DEBIT	11/20/2024 08:29:33PM	(64.79)	0.44	0.00	0.00
TOUCHPAY WEB DEPOSIT	11/24/2024 01:58:45PM	35.00	35.44	0.00	0.00
ORDER DEBIT	11/24/2024 08:45:13PM	(35.23)	0.21	0.00	0.00
TOUCHPAY WEB DEPOSIT	12/04/2024 02:33:19PM	50.00	50.21	0.00	0.00
ORDER DEBIT	12/04/2024 09:37:17PM	(49.76)	0.45	0.00	0.00
TOUCHPAY WEB DEPOSIT	12/08/2024 03:13:17PM	50.00	50.45	0.00	0.00
ORDER DEBIT	12/08/2024 04:36:01PM	(45.64)	4.81	0.00	0.00
Ending Totals:			4.81	0.00	0.00



Clerk of the Circuit Court & Comptroller, Brevard County, Florida

700 S. Park Avenue, P.O. Box 2767, Titusville, Florida 32781

Telephone: (321) 637-2004 · Facsimile: (321) 264-5246 · www.brevardclerk.us

Rachel M. Sadoff, CFCC

DATE: 12/03/2024		REQUEST ID 232480
TO: HARRY LEE GOLDSBORO II #4838407 PO BOX 9145 SEMINOLE, FL 33775		CASE NUMBER(S): 05-2019-CF-021200-AXXX-XX
IN REFERENCE TO YOUR INQUIRY, PLEASE SEE BELOW:		
☐ Due to the case being closed, the Order for Indigent Status is no longer in effect. Pursuant to section 28.24, Fla. Stat., we charge \$1.00 per page for copies of documents filed in the Public Records of Brevard County, Florida and pursuant to section 28.24, \$2.00 to certify each document. Please remit payment to the P.O. Box address above. ☒ Additional money is required prior to completing your request for: <u>Motion to Dismiss(4pg), Notice of Exp.of Speedy Trial(2Pg) Faretta Inquiry (4Pg)</u>. Please remit \$ <u>10.00</u> ☐ Register of Actions information is attached. ☐ As of this date, no ruling has been entered in your case as to _____ ☐ For information regarding discovery, contact the Office of State Attorney at 2725 Judge Fran Jamieson Way, Building D, Viera, Florida, 32940. ☒ Upon review of the case number provided, no transcripts were found. To have a hearing transcribed, please contact Court Administration's Digital Recording office at the Moore Justice Center, 2825 Judge Fran Jamieson Way, Viera, Florida 32940. Please see the remarks below for additional information. ☐ Please contact your attorney or Public Defender for further assistance. For assistance regarding Domestic Relations cases, you may wish to contact the Pro Se Coordinator at 2825 Judge Fran Jamieson Way, Viera, Florida 32940. ☐ Your request has been forwarded to the following department for response: _____ ☐ Please provide our office with a copy of the Clemency Application for one free certified copy of the Judgment, Sentence, and Information pursuant to section 940.04, Fla. Stat. ☐ Pursuant to section 28.24, Fla. Stat., the Clerk charges \$2.00 per year, per name to conduct a search of our records. Copies of said documents are \$1.00 per page pursuant to section 28.24, Fla. Stat. A \$7.00 fee is required for preparation of a certificate pursuant to section 28.24, Fla. Stat. Please remit payment to the P.O. Box address above. ☐ Your request did not include a case number. For future reference, please include the case number(s) and/or date and charge(s) to expedite review and response.		
REMARKS THE WRIT OF PROHIBITION AND APPENDICIES A-O HAVE BEEN FILED IN ORANGE COUNTY, CASE NUMBER 2018-CF-004010 (11 PAGES). NO TRANSCRIPTS HAVE BEEN LOCATED FOR THIS CASE, PLEASE CONTACT DIGITAL RECORDING TO REQUEST TRANSCRIPTS. ADDITIONAL MONEY IS REQUIRED TO OBTAIN THE PRO SE MOTION TO DISMISS, NOTICE OF EXPIRATION OF SPEEDY TRIAL, AND PRO SE MOTION FARETTA		



RACHEL M. SADOFF, CFCC

By: 

As Deputy Clerk

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FIFTH DISTRICT

Harry Lee Goldsboro, II,
Petitioner(s),

Case No.: 5D2024-2579
L.T. No.: 2019-CF-021200-A

v.

State of Florida,

Respondent(s).

Date: November 26, 2024

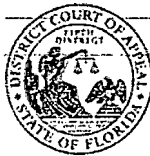
BY ORDER OF THE COURT:

ORDERED that Respondent shall, within **ten** days of the date hereof, file a Response to Petitioner's "Request for Extension to File Appendix," filed November 1, 2024 (certificate of service).

*I hereby certify that the foregoing is
(a true copy of) the original Court order.*

5D2024-2579 11/26/2024

SANDRA B. WILLIAMS, CLERK



CC:

Criminal Appeals DAB Attorney General
Harry Lee Goldsboro, II

HARRY LEE GOLDSBORO II

PETITIONER

V.

STATE OF FLORIDA

RESPONDENTS

THE DISTRICT COURT OF APPEAL OF THE
STATE OF FLORIDA, FIFTH DISTRICT

CASE NO.: SD2024-2579

L.T. NO.: 2019-CF-021200-A

DATE: 01 NOVEMBER 2024

REQUEST FOR EXTENSION TO FILE APPENDIX

COMES Now, on this 1st day of November 2024, the Petitioner, HARRY LEE GOLDSBORO II, pro se, Files this timely request for an extension to file an Appendix to the Petitioner's Writ of Prohibition, filed on September 16th, 2024, in accordance with FL R. App. P. 9.220. The Petitioner is requesting a 30-day extension in order to receive the requested and required portions of the record from the lower tribunal's clerk of court. The Petitioner received the 5th DCA's order to file the Appendix within 20 days of October 28, 2024, which would require the Petitioner to receive and file the documents from the record no later than November 16th, 2024. The Petitioner respectfully requests a 30-day extension to ensure that he has enough time to receive the record and timely and correctly file all required documents in compliance with the court's order and Rule 9.220. In addition, the Petitioner has a hearing scheduled for November 8th, 2024 and November 14th, 2024 to address issues related to the State's failure to comply with demands for discovery, which contains evidence directly related to some of the Petitioner's claims; therefore, the Petitioner is requesting sufficient time to receive these documents and to include them as part of the required Appendix. The hearing was originally scheduled for September 27th, 2024; however, due to Hurricane Helene, the hearing was cancelled and was not able to be rescheduled until November 8th, 2024. The delay of this hearing prevented the Petitioner from being heard on his Demand for Discovery (filed August 12th, 2024) and his subsequent Motion to Compel (filed September 9th, 2024) which demanded the State to provide discovery, particularly the transcript for the Motion to Dismiss that the State referenced comments/statements made at the hearing in supplemental discovery that the Petitioner still has not received. The State's delay and failure to provide the demanded discovery is now impacting the Petitioner's ability to timely comply with the 5th DCA's order to provide the required Appendix. Therefore, the Petitioner is requesting an extension to file the Appendix of at least 30 days from November 1st, 2024, not to exceed 60 days; however, the Petitioner will file the Appendix before these time periods if the clerk of courts and State Attorney provides the requested documents pursuant to the record sooner.

WHEREFORE, the Petitioner prays that this Honorable Court of Appeals grants the instant Request for Extension to File Appendix and provides the Petitioner with 30 to 60 days to receive the necessary transcripts, documents, and record related to the Petitioner's Writ of Prohibition.

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 content, and that all of the facts alleged in the motion are true and correct.


HARRY LEE GOLOSBOROS II, PRO SE

DEFENDANT, JAIL # 4838407

CERTIFICATIONS AND ACKNOWLEDGEMENTS

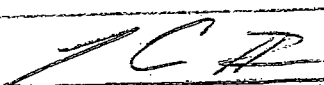
I certify that the motion is filed in good faith, that I have a reasonable belief that the motion is timely filed, has potential merit, and does not duplicate previous motions that have been disposed of by the court. I certify that I understand English and have read the foregoing motion or had the motion 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 GOLOSBOROS II, PRO SE

DEFENDANT, JAIL # 4838407

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing REQUEST FOR EXTENSION TO FILE APPENDIX was delivered by mail to the Fifth District Court of Appeal 300 South Beach Street Daytona Beach, FL 32114-5002, and the State of Florida at the Office of the Attorney General 444 Seabreeze Blvd 5th Floor Daytona Beach, FL 32119 on this 1st day of November 2024.


HARRY LEE GOLOSBOROS II, PRO SE

DEFENDANT, JAIL # 4838407
BREVARD COUNTY JAIL COMPLEX

ATTN: LEGAL MAIL
860 CAMP ROAD

COCOA, FL 32927

DATE: 01 NOVEMBER 2024

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FIFTH DISTRICT

Harry Lee Goldsboro, II,

Case No.: 5D2024-2579

L.T. No.: 2019-CF-021200-A

Petitioner(s),

v.

State of Florida,

Respondent(s).

Date: October 28, 2024

BY ORDER OF THE COURT:

ORDERED that Petitioner shall, within **twenty** days of the date hereof, file an Appendix **containing** supporting documents that **complies** with Florida Rule of Appellate Procedure 9.220.

*I hereby certify that the foregoing is
(a true copy of) the original Court order.*

5D2024-2579 10/28/2024

SANDRA B. WILLIAMS, CLERK



CC:

Criminal Appeals DAB Attorney General
Harry Lee Goldsboro, II

HARRY LEE GOLDSBORO II,
PETITIONER

IN THE DISTRICT COURT OF APPEAL OF THE
STATE OF FLORIDA, FIFTH DISTRICT

CASE NO.: SD2024-2579
L.T. NO.: 2019-CF-021200-A

v.
STATE OF FLORIDA
RESPONDENTS

PETITIONER'S RESPONSE TO
ORDER TO SHOW CAUSE

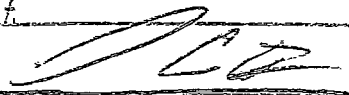
DATE: 04 OCTOBER 2024

COMES NOW, on this 4th day of October, 2024, the Petitioner, HARRY LEE GOLDSBORO II, PRO SE, Files this Response to Order to Show Cause in case no. SD2024-2579 to show cause explaining why the petition for writ of prohibition filed on September 16th, 2024 should not be dismissed inasmuch as [Mr. Steven Rice, Public Defender] it appears that Petitioner is represented by counsel. The Petitioner was represented by counsel until August 7th, 2024 when he discharged counsel following a Foretta Inquiry on the same date. The Petitioner discharged counsel more than 40 days prior to filing the petition of writ of prohibition to the 5th DCA; therefore, the Petitioner's status as a pro se litigant/defendant should have been updated with the clerk of courts. The court [Regional Conflict Office] appointed Mrs. Michele Campbell as standby counsel on case no. 2019-CF-021200-A; however, Mrs. Campbell is assigned as counsel on case no. 22-CF-053161A ONLY. I do not know how the 18th Judicial Circuit Clerk of Court labeled the cases, but I definitely had a Foretta hearing on August 7th, 2024 and unequivocally discharged counsel and I am pro se on case no. 2019-CF-021200-A, the case in which I filed the writ of prohibition.

WHEREFORE the Petitioner prays that this honorable court is able to verify the Petitioner's pro se status as he has been granted self-representation since August 7th, 2024, and rules on the writ of prohibition based on the merits.

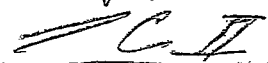
OATH

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 COLOSBOROS II, PRO SE
DEFENDANT, JAZL #4838407

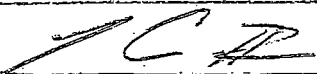
CERTIFICATIONS AND ACKNOWLEDGEMENTS

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 COLOSBOROS II, PRO SE
DEFENDANT, JAZL #4838407

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Response to Order to Show Cause was delivered by mail to: the 5th District Court of Appeal ATTN: Clerk of Courts 300 South Beach Street Daytona Beach, FL 32114-5002 and the State of Florida at the Office of the Attorney General 444 Seabreeze Blvd 5th Floor Daytona Beach, FL 32118 on this 4th day of October 2024.


HARRY LEE COLOSBOROS II, PRO SE
DEFENDANT, JAZL #4838407
BREVARD COUNTY JAZL COMPLEX
ATTN: LEGAL MAIL
860 CANNAL ROAD
COCCOA, FL 32927
DATE: 04 OCTOBER 2024

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FIFTH DISTRICT

Harry Lee Goldsboro, II,

Case No.: 5D2024-2579

L.T. No.: 2019-CF-021200-A

Petitioner(s),

v.

State of Florida,

Respondent(s).

Date: September 30, 2024

BY ORDER OF THE COURT:

ORDERED that Petitioner shall show cause, within **ten** days of the date hereof, why the petition should not be dismissed inasmuch as it appears that Petitioner is represented by counsel in the underlying circuit court case.

See Logan v. State, 846 So. 2d 472 (Fla. 2003).

I hereby certify that the foregoing is
~~*(a true copy of) the original Court order.*~~

5D2024-2579 9/30/2024
Sandra B. Williams
SANDRA B. WILLIAMS, CLERK



CC:

Criminal Appeals DAB Attorney General
Harry Lee Goldsboro, II

HARRY LEE GOLDSBORO II
DEFENDANT/PETITIONER

V.
STATE OF FLORIDA

THE DISTRICT COURT OF APPEALS
FLORIDA, FIFTH DISTRICT

CASE NUMBER:
Lower Tribunal No.:
052019CF021200-AXXX
DATE: 06 SEPTEMBER 2024

PLAINTIFF/RESPONDENT PETITION FOR WRIT OF PROHIBITION

Pursuant to Article V, 4(b)(3) of the Florida Constitution and Florida Rule of Appellate Procedure 9.030(b)(3) and 9.100, the Petitioner, HARRY LEE GOLDSBORO II, pro se, respectfully petitions this Court for a Writ of Prohibition restraining the 18th Judicial Circuit from acting without jurisdiction or in excess of its jurisdiction in this case.

I

BASIS FOR INVOKING THE JURISDICTION OF THE COURT

This Court has jurisdiction to issue a Writ of Prohibition under Article V, 4(b)(3) of the Florida Constitution and Florida Rule of Appellate Procedure 9.030(b)(3). Prohibition is the proper remedy to address a speedy trial violation (see Sherrod v. Franza, 427 So.2d 161, 163 Fla. 1983).

II

NATURE OF RELIEF SOUGHT

Petitioner respectfully requests this Honorable Court (1) quash the Trial Court's Order dated August 23rd, 2024, denying Petitioner's Motion For Discharge as violative of Petitioner's statutory right to a speedy trial, due process of law under the 5th and 14th Amendments of the United States Constitution, and the compulsory process to obtain witnesses in his defense protected by the Sixth Amendment and (2) discharge the Petitioner based on the violation of Fla. R. Crim. P. Rule # 3.19(k) established by the ruling in State v. Williams, 791 So.2d 1088, Fla. 2001.

III

STATEMENT OF FACTS

1. On January 29 2018 a sexual battery allegation was reported to the Melbourne Police Department. The complainant spoke to officers and said she was sexually assaulted by an unknown black male whose face she did not see, recited a few statements the attacker made, stated she pretended to enjoy it to avoid being hurt, but she could not remember many details including the location, time and duration of the attack, what he did to her, or any physical description due to having a "big buzz". DNA was collected from the sexual assault nurse examiner exam (SANE).

2. On May 14, 2018, the Petitioner was identified by the Melbourne Police Department based on a CODIS hit.

The Petitioner was placed on probation under the Florida Department of Corrections in Orange County, when he received probation in case number 2018-CF-004010-A-O.

3. On November 5, 2018, the Petitioner was arrested, detained, and taken into custody to the Orange County Jail for a violation of probation in the previously mentioned case, and has been incarcerated in the State of Florida from November 5, 2018 to the present.

4. On March 22, 2019, the Office of the State Attorney for the 18th Judicial Circuit in Brevard County filed an Information against the Petitioner alleging one count of sexual battery on January 29, 2018, requested a capias be issued, and placed a detainer on him, then the State took no further action to serve the capias or warrant, notice of charges, or arrest the Petitioner until October 26, 2022. Speedy trial clock started on 3/22/2019 and expired on 9/17/2022.

5. On September 23, 2022, the Petitioner sent a "Notice of Inquiry" to Brevard County after he was informed that he was ineligible for work release in prison. The Petitioner stated DOC informed him that Brevard County had a detainer on him for a case that "has been pending since August 2019, but [he has] never been arraigned, made a first appearance, been appointed a public defender, nor notified of the pending charge."

6. On October 26, 2022, the Petitioner was served with the capias at the Brevard County Jail, informed of the charges against him, and appointed an attorney. The State served the capias: 1,725 days after the allegation, 1,620 days after the DNA match, and 1,310 days after the Information was filed.

7. On November 15, 2022, Petitioner filed a Motion to Dismiss based on the statute of limitations, which was subsequently withdrawn, only after the State declared on the record, twice, that the motion was well-taken, and the judge abused his discretion and over the defense's objection gave the State additional time. The judge made improper comments and recused himself from the case, and the Petitioner's counsel never reinstated his original Motion to Dismiss based on statutory speedy trial being violated. The Petitioner filed a prose Motion to Dismiss on February 16, 2023.

8. On January 25, 2023, the Petitioner through undersigned counsel filed a Motion to Dismiss based on constitutional speedy trial violation of Petitioner's Sixth Amendment right. The Petitioner instructed counsel to adopt his motion that also included a claim of statutory speedy trial violation, due process of law, and the compulsory process to obtain witnesses in his own defense, which counsel refused to adopt.

9. On March 10, 2023, the Petitioner testified at the Motion to Dismiss Hearing to describe the evidence post as a

result of the State's delay in serving the capias, which would have notified him of the pending charge in Brevard County.

10. On March 30, 2023, the Court issued an Order Denying Motion to Dismiss, and trial was set for April 10th, 2023.

11. On April 4th, 2023, the State filed a Notice of Intention to present Williams Rule evidence and the defense requested its permissible 10 days to review the motion and trial was set for April 17th, 2023.

12. On April 12th, 2023, the Court held a pretrial conference at which the defense stated it was ready for trial, but the State admitted on the record that it was not ready for trial and gave no valid justification for requesting an extension of speedy trial time as the Petitioner had not waived his right to speedy trial. The defense objected, but the Court overruled the objection and granted the State an extension because "this is a big case and we [the State] needs more time." The State presented no valid exceptional circumstance provided in Fla. R. Crim. P. Rule 3.191(c)(1).

13. On April 12th, 2023, Petitioner's counsel filed a Writ of Prohibition to the 5th DCA, whom entered an order for the State to Show Cause on April 15th, 2023, which caused a delay in the case, but since the State requested and received an unauthorized continuance, trial was not set; therefore, the stay did not delay trial as defined by Rule 3.191(m).

14. From April 15th, 2023, until June 1, 2024 the 5th DCA took no action on the writ of prohibition. On June 1, 2024 the Petitioner filed a pro se Motion for Amended Writ of Prohibition and Motion to Set Aside Stay to be adopted by counsel. On June 11, 2024, the 5th DCA issued an order per curiam affirming the lower tribunal's ruling without an opinion. Counsel misadvised Petitioner that he could not appeal ruling and file a Notice of Expiration.

15. On June 18th, 2024 the Petitioner filed a Notice of Expiration of Speedy Trial Time based on the Court's State's, and former counsel's incorrect assertion that the speedy trial clock did not start until October 26, 2022 when the Petitioner was taken into custody in Brevard County, and expired on April 18th, 2023. The Court held a hearing on the motion on June 24th, 2023 and scheduled trial for July 22nd, 2024 during the 30-day recapture period, also which was unauthorized.

16. On July 22nd, 2024, the day set for jury trial, the Petitioner's counsel was ill and standby counsel appeared for the Petitioner and informed him that he would be waiving his right to speedy trial. The Petitioner adamantly refused. At the hearing, counsel waived the Petitioner's right, but the Petitioner objected and explained that he

The Court stated it had no one available and said it could not appoint another attorney. The Petitioner explained that he was ready for trial and did not wish to waive speedy trial, but the Court said it would be waiving speedy trial. At no point did the Court or Counsel advise the Petitioner of his right to request an extension of speedy trial time as per Rule 3.191(L)(1) for exceptional circumstances, nor did the Court or counsel advise the Petitioner of his right to proceed pro se as jury trial is a critical stage of the trial proceedings. The Petitioner then stated on the record that he was requesting a Faretta Inquiry. The Court stated that he could submit a motion in writing. The Petitioner again stated that he was submitting an oral request for a Faretta Inquiry, to which the Court again denied and restated that he could submit a request in writing. Neither counsel nor the State advised the Court that it was required to hold the Faretta Inquiry once the Petitioner made an unequivocal request twice. The Petitioner asserts that the State Failed to bring him to trial within the 30-day recapture period as required by Rule 3.191(p) and the Petitioner is entitled to discharge (see *Balcount v. State*, 214 So.3d 714 Fla. App. 2017).

17. On July 22, 2024, the Petitioner Filed a Motion For Faretta Inquiry and was heard on the motion on August 7th, 2024, and he decided to proceed with self-representation.

18. On August 8th, 2024, the Petitioner Filed a Motion For Discharge to the lower tribunal asserting that the Court violated his right to a speedy trial, twice; his constitutional speedy trial right was previously violated and the 5th DCA departed from the essential requirements of the law in affirming the lower court's ruling; and the State's unreasonable delay of 44 months in arresting the Petitioner caused significant, irreversible prejudice in violation of his 5th and 14th Amendment rights of due process of law and the 6th Amendment right to the compulsory process to obtain witnesses in his defense. The Petitioner asserted that the Court Failed to hold the required Faretta Inquiry at a critical stage of the trial proceedings when the Petitioner unequivocally requested to represent himself and proceed to trial. The Petitioner asserted that the State Failed to bring him to trial during the 30-day recapture period.

19. On August 23rd, 2024, the Court issued an Order Denying Defendant's Motion For Discharge based solely on its assertion that the Defendant waived his right to speedy trial without addressing any of the Petitioner's

20. The Petitioner now submits this timely writ of prohibition to prevent the Court from acting in excess or without jurisdiction in this case.

IV

ARGUMENT IN SUPPORT OF PETITION

A. The Petitioner's first claim is that his statutory right to a speedy trial was violated by the State's unreasonable 44-month delay in serving the capias, warrant, notice of charges, and arresting the Petitioner when the State was aware that he was in custody in Florida the entire time from November 5th, 2018 until present. The Petitioner asserted to the Court that he has been incarcerated in Florida since November 5th, 2018 and he was in custody of the State in March 22nd, 2019 when the State filed its Information. The State failed in its obligation to serve the capias, warrant, notice of charges, or arrest the Petitioner during the 175-day speedy trial period, which expired on September 17th, 2019. The State's 44-month delay was unreasonable, unjustifiable, and unlawfully prevented the Petitioner from timely asserting his right to a speedy trial as per Rule 3.191. The speedy trial clock begins upon arrest when the defendant is taken into custody, and speedy trial is violated when the State fails to notify the defendant of the charges until well after speedy trial expires. (See *Robinson v. State*, 5023-0330 Fla. App. Feb. 2, 2024; *State v. McCullers*, 932 So.2d 373 Fla. 2d DCA 2006; *State v. Christian*, 442 So.2d 988, 989 Fla. 2d DCA 1983; *Melton v. State*, 75 So.2d 291 Fla. 1954; *Bulgin v. State*, 917 So.2d 307 Fla. 2005; *Singleton v. State*, 382 So.2d 551 Fla. 1975; *Born-Suniga v. State*, 256 So.3d 283 Fla. 2018; *State v. Jimenez*, 44 So.3d 1230 Fla. 5th DCA 2010; *Puccio v. State*, 969 So.2d 1197 Fla. App. 2007; *State v. Drake*, 209 So.3d 650 Fla. 2d DCA 2017; *Cordero v. State*, 686 So.2d 737 Fla. 3d DCA 1997; *State v. Gantt*, 688 So.2d 1012 Fla. 3d DCA 1997; *State v. Williams*, 791 So.2d 1088 Fla. 2001; *Jones v. State*, 573 So.2d 185 16 Fla. L. Weekly 291 Fla. App. 1991; *Pilgrim v. Swanson*, 538 So.2d 176 Fla. 2d DCA 1990; *Carter v. State*, 509 So.2d 1126 Fla. 5th DCA 1987; *Robbins v. State*, 453 So.2d 877 Fla. 2d DCA 1984; *Tirado v. Reese*, 978 So.2d 883 Fla. 2d DCA 1985; *Gastin v. State*, 433 So.2d 27 Fla. 1st DCA 1983; *Murphy v. State*, 351 So.3d 242 Fla. App. 2021); (See also *Morreale v. State*, 5023-657 Fla. App. Mar. 15, 2024).

B. The Petitioner's second claim is that the lower court also lacks jurisdiction due to the State's failure to bring the Petitioner to trial during the 30-day recapture period. Despite the Petitioner's assertion that the Court already

State with an entire second 175-day, speedy trial period, beginning on October 26, 2022 and expiring on April 18th, 2022; however, the 14-month stay delayed the case and speedy trial expiration until June 17th, 2024. On June 18th, 2024 the Petitioner Filed a Notice of Expiration of Speedy Trial Time and after the requisite hearing, trial was set for July 22nd, 2024. The Petitioner and the State had multiple pre-trial motions pending, but had not been set for hearings. On July 22, 2024, the day set for jury trial, the Petitioner's counsel was ill unexpectedly and standby counsel appeared for the Petitioner. Standby counsel did not know the Petitioner or the case and informed the Petitioner that he would be waiving speedy trial. The Petitioner adamantly refused. At the hearing, counsel moved to waive speedy trial, but the Petitioner objected. The Petitioner explained that he was ready for trial, but he was limited in his resources if he went pro se; therefore, the Petitioner requested a new attorney to be appointed. The Court declared that it had no one else available and waived the Petitioner's right to speedy trial. The Petitioner requested to have a Faretta Inquiry, to which the Court replied "You can submit a motion in writing," then the Petitioner again stated that he was orally submitting a request for a Faretta Inquiry, and the Court again denied the request. The Petitioner asserts that the Court abused its discretion by not holding the required Faretta Inquiry when the Petitioner made an unequivocal request specifically for a Faretta Inquiry to allow self-representation. The Petitioner also asserts that the Court, State, and standby counsel failed to advise the Petitioner of his right to request an extension of speedy trial due to the exceptional circumstances of his counsel's unexpected illness. The Petitioner and State both had pre-trial motions pending that could have been heard and set for a hearing and pushed trial back to allow counsel to return as no one knew how long counsel would be ill. Furthermore, neither the Court, the State, nor counsel advised the Petitioner of his right to proceed pro se as his only option if he wanted to start trial on July 22nd. The Petitioner even filed the motion for Faretta Inquiry before the last day of the recapture period, but the Court did not hold the hearing before the recapture period expired. (See *Patino v. State*, 3023-1702 Fla. App. Apr 10, 2024).

The Petitioner asserts that the Court and State violated his 5th and 14th Amendment rights to due process of law, standby counsel violated his 6th Amendment right to effective counsel, and his statutory right

during the 30-day recapture period in violation of Fla. R. Crim. P. Rule # 3.191(L)(1) and (p). The Court also violated the Petitioner's right to due process when it failed to hold the required Faretti Inquiry when the Petitioner made two unequivocal requests, (see *Balcount v. State*, 214 So.3d 714 Fla. App. 2017; *Eib v. State*, 191 So.3d 977, 979 Fla. 2d DCA 2016; *Faretti v. California*, 422 U.S. 806, 835 95 S. Ct. 2525, 45 L. Ed. 2d 562 1975;

Tennis v. State - "Defendants in a criminal trial have a constitutional right to self-representation, and thus once a defendant makes an unequivocal request for self-representation, the trial court must hold a hearing to determine whether the defendant is knowingly and intelligently waiving his right to court appointed counsel";

Capetta v. State, 204 So.2d 913 Fla. App. 1967; *Lewis v. State*, 766 So.2d 288 Fla. App. 2000; *Ewing v. State*, 996 So.2d 871 Fla. App. 2008; *Jones v. State*, 658 So.2d 122 Fla. App. 1995; *McKinley v. State*, 261 So.3d 339 Fla. App. 2019; *Laramie v. State*, 90 So.3d 341, 345 Fla. 5th DCA 2012; "Florida law is clear that a trial court's

Failure to hold a Faretti Inquiry is not subject to a harmless error analysis, and is per se reversible error,";

Deshazor v. State, 320 So.3d 333 Fla. App. 2021 - "A trial court is still obligated to advise defendant (1) attorney could be discharged, (2) state not required to appoint substitute counsel, and (3) defendant had right to represent himself," (see also *Perkins v. State*, 585 So.2d 390 Fla. 1st DCA 1991)). The Court stated that the defendant could submit a motion in writing, but Florida Rule of Judicial Administration 2.085(d) states that all motions for continuance shall be in writing, unless made at trial, and shall be heard and resolved by a judge (*Hajal v. State*, 864 So.2d 1167 Fla. App. 2004). The Court denied the defendant's oral requests for a Faretti Inquiry, but entertained and granted co-counsel's misguided oral waiver of speedy trial and motion for continuance, (see also *Graves v. State*, 642 So.2d 142 Fla. App. 1994; *Vallieres v. Grossman*, 573 So.2d 196, 16 Fla. L. Weekly 249 Fla. App. 1991).

C. The Petitioner's third claim is that the lower court abused its discretion and departed from the essential requirements of law when it denied the Petitioner's Motion for Discharge without addressing his claims of due process violations under the 5th and 14th Amendments, and the 6th Amendment right to the compulsory process to obtain witnesses in his defense. The Petitioner filed a Writ of Prohibition for a violation of constitutional speedy trial that demonstrated multiple due process violations related to lost evidence including a cellphone that contained text messages, photos, a video, and geolocational data that were exculpatory in nature on April 12th, 2023, but the 5th DCA denied the writ. The writ is currently pending certiorari review by the United States Supreme Court. The Petitioner asserted

in his Motion to Discharge to the lower court that the Court, State, and ^{substitute} ~~standby~~ counsel made multiple errors that violated his rights to effective assistance of counsel, speedy trial, and due process of law. The Petitioner explained that the unreasonable 44-month delay directly contributed to lost evidence that was exculpatory and could have been used as impeachment evidence. Not only was the Petitioner's phone unable to be preserved due to the delay, but the State Failed to preserve the alleged victim's phone to preserve text messages, videos, pictures, web browsing history, and her geolocational data. The information contained on her phone is extremely significant and relevant as investigators conducted only a cursory review of her web search history and found searches for violent porn, rape porn, rape fantasy, and date rape drugs only two days prior to the alleged attack and she instructed the investigators that they did not have her permission to view her personal pictures, videos, or text messages. The State's Failure to preserve this evidence combined with the loss of exculpatory evidence would severely prejudice the defense by prohibiting the defense from asking material fact relevant questions pertaining to consent, the perpetrator's identity, and evidence that the victim and defendant met online through one of the websites that she was caught visiting and establishes that they knew each other, which contradicts the State's claim that the attacker was unknown and undermines the State's accusation that the defendant is the perpetrator. The victim's whereabouts are unknown for two hours, and she admittedly does not remember where she was at, and the State's Failure to preserve her geolocational data prevents the defense from producing evidence related to the time and location of the alleged attack to prove that the defendant was not present. The Petitioner explained that he lost contact information for his alibi witness due to the State's delay in arresting him and notifying him of the pending charges when he still had his phone in his property in jail. Despite the obvious constitutional deprivations of due process of law in this case, the Petitioner still tried to proceed to trial twice; however, the State continues to deprive the Petitioner of his constitutional rights and prejudice his case which gives the State an unfair advantage and makes a trial proceeding unfavorable to the defendant. For these reasons, the Petitioner ~~is~~ seeks a writ of prohibition to prevent the State and Court from acting in excess of its jurisdiction.

WHEREFORE, the Petitioner prays that this Honorable Court grant the Petitioner's Writ of Prohibition, quash the Court's Order Denying Petitioner's Motion for Discharge, and discharges the Petitioner of the crime.

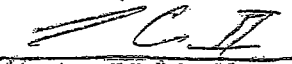
OATH

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 content, and that all of the facts alleged in the motion are true and correct.


HARRY LEE GOLDSBORO II, AKA SE
DEFENDANT, JAZL #4838407

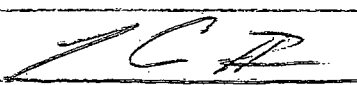
CERTIFICATIONS AND ACKNOWLEDGEMENTS

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 GOLDSBORO II, AKA SE
DEFENDANT, JAZL #4838407

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Writ of Prohibition was delivered by mail to: The Fifth District Court of Appeals 300 South Beach Street Daytona Beach, FL 32114-5002, the State of Florida at the Office of the Attorney General 444 Seabreeze Blvd 5th Floor Daytona Beach, FL 32118, the Brevard County Clerk of Court for the 18th Judicial Circuit 2825 Judge Fran Jamieson Way Building D Viera, FL 32940-8006, and the Office of the State Attorney for the 18th Judicial Circuit 2725 Judge Fran Jamieson Way Building D Viera, FL 32940-8006, on this 6th day of September 2024.


HARRY LEE GOLDSBORO II, AKA SE
DEFENDANT, JAZL #4838407
BREVARD COUNTY JAZL COMPLEX
ATTN: LEGAL MAIL
830 CANA ROAD
COCOA, FL 32927
DATE: 06 SEPTEMBER 2024

APPENDIX C

1. DEFENDANT'S MOTION FOR DISCHARGE TO 18TH JUDICIAL CIRCUIT 08/08/2024 ... 44
2. DEFENDANT'S DEMAND FOR DISCOVERY TO 18TH JUDICIAL CIRCUIT 08/08/2024 ... 59
3. DEFENDANT'S MOTION FOR FARETTA INQUIRY TO 18TH JUDICIAL CIRCUIT 07/22/2024 ... 61

HARRY LEE GOLDSBORO II,

DEFENDANT

v.

STATE OF FLORIDA,

PLAINTIFF

THE CIRCUIT COURT OF THE EIGHTH
JUDICIAL CIRCUIT IN AND FOR BREVARD COUNTY,
FLORIDA

CASE NO.:

052019CF021200AXXXXX

DATE:

08 AUGUST 2024

MOTION FOR DISCHARGE

COMES NOW, on this ^{8th} ~~25th~~ day of ^{August} ~~July~~ 2024, the defendant, ^{Pro Se,} ~~by and through his undersigned and counsel~~ pursuant to
Fl. R. Crim. P. 3.191(h)(1)(n)(p)(1-3) hereby moves this Honorable Court to grant the instant Motion For Discharge
based on the State's Failure to bring the defendant to trial during the 30-day recapture period, which
expired on 7/24/2024. The defendant claims that his statutory right to a speedy trial was violated, twice,
as well as his Constitutional right to a speedy trial, right to due process under the 5th and 14th Amendments
of the U.S. Constitution, and his Sixth Amendment right to have the compulsory process to obtain witnesses
in his defense. The State's Failure to bring the defendant to trial during this period entitles him to discharge under State v. Williams.

A. The defendant first claims that the trial court lacks jurisdiction due to the State's initial Failure to timely
arrest, serve the warrant, and notice of charges on the defendant before the speedy trial period expired, while the
defendant was already in custody in Orange County when the State filed the information. The defendant was
arrested on November 8th, 2018 and remained in custody in Orange County through all pertinent dates. The
State filed its information on March 22, 2019 and placed a detainer on the defendant on March 26, 2019, and from
that point, the State took no further action in the case until the defendant submitted a Notice of Inquiry to the court on
September 23, 2022. In the Notice, the defendant explained that he has been informed that a case in Brevard has been
pending since August 2019, but he has never been arraigned, made a first appearance, been appointed a public defender nor
notified of the pending charges; subsequently, the State transported the defendant from the Department of Corrections
to Brevard County on October 26, 2022. The defendant asserts that he was in custody when the information was
filed on March 22, 2019 and the speedy trial period began on that day, and speedy trial expired on or about
September 19, 2019, and the State failed to serve the warrant, notification of charges, or arrest the defendant
prior to the expiration of speedy trial. According to State v. McCullers, 932 So.2d 373 Fla. 2d DCA 2006, the State's right to
recapture must be understood as linked to the defendant's ability to exercise the right to file a notice of expiration when
the speedy trial period has run, (State v. McCullers, 932 So.2d 373 Fla. 2d DCA 2006). In assessing speedy trial claims, courts
are to determine when the arrest occurred to start the speedy trial statutory time period, and when it expired by using the Melton
Test (Robinson v. State, 5023-0330 Fla. App. Feb. 02, 2024). Florida's speedy trial rule provides that "The time periods established
by this subdivision shall commence when the person is taken into custody as a result of the conduct or criminal episode that gave rise to
the crime charged." (Fla. R. Crim. P. 3.191(c)). State v. Christian, 942 So.2d 983, 989 (Fla. 2d DCA 1983) states that "A formal arrest

complete with fingerprinting and formal charges, is not always necessary to start the running of the speedy trial time."

In Melton, the supreme court explained: "It is uniformly held that an arrest, in the technical and restricted sense of the criminal law, is the apprehension or taking into custody of an alleged offender in order that he [or she] may be brought into the proper court to answer for a crime. When used in this sense, an arrest involves the following elements:

(1) A purpose or intention to effect an arrest under a real or pretended authority; (2) An actual or constructive seizure or detention of the person to be arrested by a person having present power to control the person arrested; (3) A communication by the arresting officer to the person whose arrest is sought, of an intention or purpose then and there to effect an arrest; and (4) An understanding by the person whose arrest is sought that it is the intention of the arresting officer then and there to detain him." (Melton v. State, 75 So. 2d 291 Fla. 1954; Robinson v. State, 2024). All four Melton

elements must be present to conclude that an arrest has occurred (Id.). The first element is satisfied because the Melbourne Police Department had the authority to arrest the defendant on November 8, 2018; the second element is satisfied because the M.P.D. had the power to control the defendant after his arrest; the third element is satisfied because the officer informed the defendant that he had a warrant for a violation of probation and he was being arrested; the fourth element is satisfied because the defendant knew that he had a warrant pending and the officer informed him that the warrant had been signed and was active and the defendant understood that he was being arrested then and there.

The defendant was taken to Brevard County Jail then transported to Orange County Jail where he spent the next 32 months before being transferred to DOC, and it was another 16 months before Brevard County arrested him.

The defendant was in the state of Florida and incarcerated the entire time. In Bulgin v. State, 917 So. 2d 307 Fla. 2005, the court insisted that "The Florida Supreme Court has consistently held that the speedy trial period begins upon a defendant's initial arrest. The date of the original arrest is the focal point for speedy trial considerations, irrespective of changes made in charges" (Bulgin v. State, 2005; Weed v. State, 411 So. 2d 863, 865 Fla. 1982). "Where a person is arrested pursuant to a warrant issued by a magistrate, numerous cases have held that the person is in custody within the meaning of the speedy trial rule" (Singleton v. State, 322 So. 2d 551 Fla. 1975). "A detainer placed on a defendant is not considered custody." (State v. Bassham, 352 So. 2d 55 Fla. 1977). The defendant was incarcerated in the state's custody and the state failed to serve the warrant, notice of charges, or arrest him before the speedy trial period expired, which prevented him from filing a notice of expiration in September 2019. Therefore, the state is not entitled to the recapture period.

The right of an accused to a speedy trial in Florida is guaranteed by both the 6th Amendment to the US Constitution and Article I, Section 16 of the Florida Constitution, and in accordance with Fla. R. Crim. P. 3.190 and 3.191(p) (Robinson v. State, 2024). In Born-Suniaga v. State, 256 So.3d 283 Fla. 2018, the Florida Supreme Court ruled that the State violated the speedy trial rule pursuant to Fla. R. Crim. P. 3.191 when the State charged the defendant within the speedy trial time period, but failed to notify him of the charges until well after its expiration. The trial court dismissed the charges without affording the State the recapture period set forth in the rule. The Florida Supreme Court disapproved the 5th DCA's decision in State v. Jimenez, 44 So.3d 1230 Fla. 5th DCA 2010, and approved the 1st DCA's decision in Puzio v. State, 969 So.2d 1197 Fla. App. 2007, the 2nd DCA's decision in State v. McCullers, 932 So.2d 373 Fla. 2d DCA 2006, State v. Drake, 209 So.3d 650 Fla. 2d DCA 2017, and the 3rd DCA's decisions in Cordero v. State, 686 So.2d 737 Fla. 3d DCA 1997, and State v. Gantt, 688 So.2d 1012 Fla. 3d DCA 1997. In Puzio v. State, 2007, the defendant did not have the ability to assert his right to speedy trial. This was due to the actions of the state and the courts have held that the State forfeits the right to the recapture period. When the State's actions have deprived the defendant of the ability to assert his right to a speedy trial, it would thwart the purpose of the rule to allow the State to pursue charges by means of the recapture period. The State may not toll the running of speedy trial by arresting the defendant and then simply doing nothing until after the speedy trial period has run (State v. Williams, 791 So.2d 1088 Fla. 2001). He could not have known he needed to file a notice of expiration because the State failed to notify him that it filed charges. "Notifying a defendant that charges have been filed against him is essential, not only to his due process rights, but to his ability to exercise his speedy trial rights." (State v. McCullers, 2006). In Cordero v. State, 1997, the court issued an arrest warrant on August 20, 1993, but the State took no action and 345 days elapsed between Cordero's arrest and when the warrant was executed. In Gantt, 1997, the 3rd DCA granted the defendant's motion for discharge because the State failed to notify him of the charges during the 175-day, speedy trial window. The defendant was in jail, captive, immobile, and in the State's control. He could not respond to a charge he did not know about. Because the defendant was in the State's control for the entire period in question, the State should have notified the defendant in jail and arranged to have him present for arraignment (State v. Gantt, 1997). Granting the State the recapture period and more time to bring defendant to trial would disembowel the rule (Id.). In Jones v. State, 573 So.2d 185 16 Fla. L. Weekly 291 Fla. App. 1991, the 1st DCA ruled that Jones was improperly denied discharge under Rule 3.191 because the

State denied him of his right to speedy trial. A defendant incarcerated by the State is not ^{unavailable} ~~available~~ such that his speedy trial rights are waived. (*Pilgrim v. Jackson*, 538 So.2d 176 Fla. 2d DCA 1990). When the defendant is incarcerated within the jurisdiction of the State of Florida, the State bears the burden of producing him (*Id.*). If the charging county has knowledge that the defendant is incarcerated in another county, the defendant is not considered unavailable for trial in the charging county, no real effort to obtain the defendant from the place of incarceration in another county was made by the charging county (*Id.*; *Carter v. State*, 509 So.2d 1126 Fla. 5th DCA 1987; *Robbins v. State*, 453 So.2d 877 Fla. 2d DCA 1984; *Tirado v. Reese*, 978 So.2d 883 Fla. 2d DCA 1985; and *Gaskin v. State*, 433 So.2d 27 Fla. 1st DCA 1983). In *Murphy v. State*, 351 So.3d 242 Fla. App. 2022, the court ruled that a hold or detainer does not have the same effect as an arrest and provided no notice of the charges filed, and the State failed to timely serve the warrant. The court dismissed the State's excuse that the COVID-19 pandemic impeded the State's ability to serve a *capias* warrant on an incarcerated defendant, provided no evidence, and the State was simply negligent, which was unexcusable (*Murphy v. State*, 2022).

Finally, in *Robinson v. State*, 5023-0330 Fla. App. Feb 02, 2024, the 5th DCA made the following judgment: Accordingly, we find that on November 2, 2015, when FOLE agents arrested Robinson in Suwanee County under authority of the Duval County warrant, the speedy trial time began to run. The fact that he was charged and convicted in Suwanee County for crimes that were based on contraband discovered incident to or following that initial arrest did not stop the speedy trial clock. As he was neither charged or tried within 175 days from that date, he was entitled to have his motion for discharge granted. We are compelled to reverse the trial court's order denying that motion. We remand for entry of an order granting Robinson's motion for discharge, vacating the related judgment and sentence, and for any further proceedings related to terminating his imprisonment on the underlying charges." (*Robinson v. State*, 2024). In the case at bar, the State actually filed the information, but failed to take any other action to either give the defendant notice of the charges, serve him with the warrant, or transfer him to Brevard County to be arraigned at any time between the filing of the information on March 22, 2019 until the speedy trial period expired on September 17, 2019, while he was in custody in Orange County the entire time. Consequently, as per the Florida Supreme Court's ruling in *State v. Williams*, 791 So.2d 1083 Fla. 2001, the State's inaction forfeits its right to the recapture period, and the defendant is entitled to discharge." The Florida Supreme Court interpreted rule 3.191 to mean that the

State is not entitled to the recapture period if it fails to act until after the 175-day speedy trial period has expired," (State v. Williams, 2001). The court in Williams held that the speedy trial time begins to run when an accused is taken into custody and continues to run even if the State does not act until after the expiration of that speedy trial period. (Cdu

B. The defendant's second claim is that the trial court now lacks jurisdiction due to the State's failure to bring the defendant to trial during the 30-day recapture period. ^[see Almodovar v. State, No. 9019-620 Fla. App. 1st DCA 2020; Massey v. Arzoo, 564 So.2d 282, 288 Fla. 5th DCA 1990; Arzoo v. Gogmanick, 548 So.2d 304, 305 Fla. 5th DCA 1989] Despite the defendant's assertion that the Court lacked jurisdiction because of the State's initial statutory speedy trial rule violation in 2019, the defendant provided the State with an entire second 175-day + speedy trial period, beginning on October 26, 2021 when the State finally transferred him from DOC until June 17, 2024 when the defendant filed his second Notice of Expiration of Speedy Trial Time in this case. The defendant has never waived speedy trial, which expired on or about April 19th, 2023 according to the State's incorrect assertion that the speedy trial clock did not begin until October 26, 2022 when the defendant was finally arrested after 1,310 days after the information was filed, despite the defendant being in the State's custody the entire time. The defendant filed a Motion to Dismiss for Violation of Constitutional Speedy Trial on January 25th, 2023, which the Court denied at a hearing on March 30th, 2023. The Court set trial for April 10th, 2023. On Friday, April 7th, 2023, the State filed a Motion for Williams Rule evidence and the defense exercised its right to have 10 days to review the motion, despite the State's untimely filing, and trial was set for April 17th, 2023. However, at the final pretrial hearing on April 12th, 2023, the defense stated that it was prepared for trial, and the State admitted it was not prepared for trial because "this is a big, important case, and we need more time." The State failed to provide any justifiable reasons provided under Rule 3.191(L)(1) for

exceptional circumstances, and over the defense's objection, the Court granted the State's continuance and cancelled trial. [Since trial was cancelled due to the State's request for a continuance, the "appeal" in the form of the writ of prohibition did not delay trial as per 3.191(c), see Patisso v. State, 3023-1702 (Fla. App. Apr. 10, 2024)].

↑ The defense submitted a Writ of Prohibition based on the Court's denial of the Motion to Dismiss on April 15th, 2023, and the 5th DCA ordered the State to respond and placed a stay on the case. The stay remained in effect from April 19th, 2023 until June 11th, 2024, a full 14 months on a writ of prohibition. [In Butler v. State, 2017 So.2d 1 Fla. App. 2018, the State filed its Motion to Stay Trial on the day set for trial, which caused a delay when the denial was appealed, but in the instant case, the State delayed trial and trial was not set when appeal occurred.] On June 1st, 2024, the defendant submitted two process motions to the 5th DCA: the first was an Amended Writ of Prohibition, and the second was a Motion to Set Aside the Stay. In the Amended Writ of Prohibition, since the 5th DCA had not yet ruled on the case, the defendant sought to include the statutory speedy trial violation from 2019, a due process claim under the 5th and 14th Amendments, and a 6th Amendment claim for being prohibited from obtaining witnesses in his defense to be considered along with the pending

Constitutional speedy trial violation. The defendant mailed this pro se motion to the 5th DCA, Attorney General, the 18th Judicial Circuit Clerk of Courts, the State Attorney's Office, and his attorney, Mr. Steven Rice to be adopted by counsel. However, after a 14-month delay in not hearing from the 5th DCA the 5th DCA suddenly responded, and Per Curiam Affirmed the trial court's ruling without an opinion on June 11th, 2024. The defendant ^{decided} to not appeal the decision and instead proceed to trial, and on June 17th, 2024 the defendant filed his second Notice of Expiration of Speedy Trial Time. The trial court held a hearing on the motion on June 24th, 2024 and set trial for Monday, July 22nd, 2024, which was two days prior to the 30-day recapture period expiring.

On the morning of July 22nd, 2024, jury trial was scheduled, but co-counsel appeared and spoke to the defendant 5 minutes prior to his appearance in the courtroom and informed him that Mr. Rice was ill and would not be present and that he would be waiving the defendant's right to speedy trial. The defendant adamantly refused to waive his right to speedy trial and co-counsel advised him of the dangers of not seeking a continuance, but the defendant remained steadfast and determined to not waive his constitutional right. In the courtroom, the Court was informed that counsel was ill and the defense would be seeking a continuance and the Court asked the defendant if he understood that he would be waiving his right to speedy trial. The defendant explained that he wholeheartedly disagreed and explained that he has been ready for trial, he did not want to give the State any more time, he is the one who filed the motion to set aside stay so that he could go to trial and he wanted to go to trial. He explained that he would go pro se, but the jail's law library is extremely limited and he does not have the resources that he needs and he requested the court to appoint another attorney. The Court said that it had no one available and said that the Court was waiving speedy trial. The defendant clearly and unequivocally stated "I am requesting a Faretta Inquiry" to which the Court replied "You can submit a motion in writing," and the defendant again stated "I am submitting an oral motion for a Faretta Inquiry," to which the Court again denied and stated "You can submit a motion in writing." The defendant twice made an unequivocal request to seek self-representation, which is a constitutionally protected right, which cannot be infringed upon, and he never vacillated or changed his mind, and very specifically requested a Faretta Inquiry. "Failure to hold a proper Faretta hearing at a critical stage of the proceedings is reversible error," (Balzourt v. State, 214 So.3d 714 Fla. App. 2017; Eib v. State, 191 So.3d 977, 979 Fla. 2d DCA 2016; Faretta v. California, 422 U.S. 806, 835 95 S. Ct. 2525, 45 L. Ed. 2d 562 1975; "Defendants

in a criminal trial have a constitutional right of self-representation, and thus once a defendant makes an unequivocal request for self-representation, the trial court must hold a hearing to determine whether the defendant is knowingly and intelligently waiving his right to court-appointed counsel." *Tennis v. State*, 997 So.2d 375, 378 Fla. 2009; *Capetta v. State*, 204 So.2d 943 Fla. App. 1967; *Lewis v. State*, 766 So.2d 288 Fla. App. 2000; *Ewing v. State*, 986 So.2d 871 Fla. App. 2009; "IF a defendant has demanded speedy trial and wishes to waive counsel, the trial court may want to conduct a further inquiry." *Jones v. State*, 658 So.2d 122 Fla. App. 1995; *McKinley v. State*, 261 So.2d 589 Fla. App. 2019 - made requests to represent himself, but the court did not conduct a *Faretta* Inquiry, which resulted in reversible error; "A defendant need not articulate a reason to invoke his right to self-representation." *Laramie v. State*, 90 So.3d 341, 345 Fla. 5th DCA 2012; "Florida law is clear that a trial court's failure to hold a *Faretta* hearing is not subject to a harmless error analysis, and is per se reversible error," (*Id.*) *Destazior v. State*, 320 So.3d 333 Fla. App. 2021 - request must be unequivocal and court must give defendant option of self-representation. "A trial court is still obligated to advise defendant (1) attorney could be discharged, (2) state not required to appoint substitute counsel, and (3) defendant had right to represent himself," *Perkins v. State*, 585 So.2d 390 Fla. 1st DCA 1991. The Court, the State, and co-counsel made multiple errors that violated the defendant's rights to effective assistance of counsel, speedy trial, and due process of law under the 5th, 6th, and 14th Amendments of the U.S. Constitution. First, co-counsel failed to advise the defendant that due to the exceptional circumstance of counsel being ill, rule 3.191(L)(1) provides that an extension for the speedy trial period may be granted due to unforeseeable illness of a person whose presence is required at trial. Co-counsel did not even ask for an extension and moved immediately for a waiver of speedy trial and a defense continuance against a defendant's will who was not his client, in a case in which he was completely unfamiliar. The defendant immediately vocalized his disagreement with waiving speedy trial expressing that he's waited 15 months for a decision on the writ of prohibition and requested to set aside the stay and to proceed to trial and that his lawyer being ill was an exceptional circumstance. Neither the Court, State, nor co-counsel made any mention that an extension of speedy trial was an option to which the defendant would have agreed to have even three weeks if necessary, but instead, speedy was waived without his consent by an attorney who knew nothing about the case. Unfortunately, counsel, even substitute counsel represents a defendant and can waive their right to speedy trial, but failure to advise the defendant of his option to request an extension is ineffective assistance.

Second, the Court failed in its obligation to advise the defendant of his legal options. The Court could have offered to extend the speedy trial period; the Court was required to inform the defendant that he could proceed pro se and seek self-representation; and the Court was required to hold the necessary Faretta Inquiry when the defendant requested it twice. The Court stated that the defendant could submit a motion in writing, but Florida Rule of Judicial Administration 2.085(d) states that all motions for continuance shall be in writing, unless made at trial, and shall be heard and resolved by a judge (*Hajal v. State*, 864 So.2d 1167 Fla. App. 2004). The Court denied the defendant's oral request for a Faretta Inquiry, but entertained and granted co-counsel's misguided oral waiver of speedy trial and motion for continuance. Once the defendant unequivocally requested to have a Faretta Inquiry, the Court was required to hold the necessary inquiry to protect the defendant's constitutional right to self-representation.

Third, the State stood idly by. In *Graves v. State*, 642 So.2d 1492 Fla. App. 1994, the Fourth DCA reversed the defendant's conviction and remanded the case for a new trial based on the court's failure to conduct the required Nelson and Faretta Inquiries. The 4th DCA explained that "We think that the interest of the State in avoiding repeat criminal trials for the kinds of reasons involved here strongly suggests that the prosecutor should not stand mute in such matters. Instead, the State's Attorney should speak up and join in the request for a Nelson Inquiry to help the trial judge avoid an obvious reversible error. It does not serve the system well for the prosecutor to stand silently in the background when it begins to appear that the trial judge is about to bypass holding a necessary inquiry, the lack of which may result in reversal. This is especially true on pre-trial matters... and the needed inquiry may take but a few minutes." (*Graves v. State*, 1994).

The defendant's co-counsel informed the State and the court that the defendant's counsel was ill and he would be requesting a continuance, which gave the State the advantage of knowing what the defense was intending to do. Co-counsel should have consulted the defendant first, and only requested a continuance if the State had first stated it was ready for trial, and if co-counsel was not prepared, he could have then advised the Court that the defendant desired to proceed pro se and represent himself. The defendant asserts that the State was not in fact ready for trial as indicated by the State's intentional silence and failure to voice any objection to a defense continuance. First, the State previously announced on the record in open court that it was not ready for trial on April 12th, 2023, and nothing has changed in the case since then. When the defendant stated that he was prepared for trial and

he did not... the State... after... for six

years to go to trial, the State never informed the court that it would permit and agree to a reasonable extension to allow time for defense counsel to return. The State never offered to agree to a short extension to allow the defendant time to be reassigned counsel and to give any new counsel a couple of days or maybe two weeks to prepare for trial and represent the defendant. The State never offered to reschedule the hearing or jury selection until July 24th, 2024, which was the last day of the recapture period to give original counsel a chance to return as no one knew how ill he was. Finally, when the defendant unequivocally invoked his constitutional right to self-representation by clearly asking for a Faretta Inquiry, twice the court twice denied him of this right and the State said nothing. When the State is ready for trial, and it has coordinated for its witnesses to be present which in this case is over 20 witnesses, including several police officers who have to take time off from their jobs to be at court; when the court has a jury pool ready to proceed; and when the State has a case that it is ready to prosecute and win, the State in any other case has been defiantly adamant and insistent on going forward with trial, even when the defendant might be prejudiced. Both the State and defense had multiple pre-trial motions pending hearings, which could have been delayed via a speedy trial extension to be heard within the next week or two, but the State failed to remind the court that the defense could seek an extension of time based on the exceptional circumstances. Furthermore, the State filed a motion in limine seeking to exclude evidence from the victim's cell phone from two days prior to the alleged attack, which contained evidence that she was searching for and viewing violent porn, rape porn, rape fantasy, and date rape drugs. The fact that this evidence is documented by the investigator's own report, combined with the State's failure to preserve the victim's phone for extraction, would severely prejudice the defense by prohibiting it from asking material fact relevant questions pertaining to consent, the perpetrator's identity, and evidence that the victim and defendant met online through one of the websites that she was caught visiting, and establishes that they knew each other when the State claims that the attacker was unknown to the victim, and she never identified the defendant as the perpetrator. All of these scenarios indicate deficiencies in the State's preparedness and readiness for trial, and the State made a false representation to the court to avoid going to trial as the defendant insisted. A state prosecutor who is ready for trial does not balk at the opportunity to prosecute a case, especially when the defense would be disadvantaged. The prosecutor in this case admitted on the record that she would be out of the country the week prior to trial, and two weeks prior to that was the 4th of July holiday, which left the State with only 12 business days to prepare to timely hold trial during the 30-day recapture period. The State made no effort to hold trial because the State was frankly unprepared and the defense continuance provides the State with at least another 60 days to prepare for trial and find other ways to continue to deprive the defendant of his right to due process.

In *Morreale v. State*, SD23-697 (Fla. App. Mar 15, 2024), the 5th DCA ruled that the trial court erred when it denied the defendant's motion to dismiss based on the State's failure to execute and complete service on the defendant while she was incarcerated in another county (*Morreale v. State* 2024). While the information was filed within the three-year statutory period, there is no indication in the record that a capias, summons, or other process was executed pursuant to section 775.14(4)(b) (Id.); (*State v. Miller*, 581 So. 2d 641, 642 (Fla. 2d DCA 1991) - the mere filing of an information does not commence a prosecution; a detainer and information were timely filed does not support denial of a motion to dismiss); (*Kidd v. State*, 985 So. 2d 1180 Fla. 4th DCA 2008 - holding denial of motion to dismiss was error where defendant was not arrested on warrant and was never served with information, and only a detainer was issued while he was serving another sentence). These are the exact issues that the defendant raises in Section A of the instant motion and revisits the issues here to demonstrate that, despite the fact that the defendant informed the Court and the State that this occurred in open court and on the record, he still provided the State with an additional 466 days to bring the defendant to trial within the 30-day recapture period that the State was not entitled. As a result, the defendant is providing examples that although he knows that the Court lacks jurisdiction from the State's failure to service the defendant and timely arrest him during the initial speedy trial period in 2019, he still gave the State additional yet unauthorized time to bring him to trial through a second speedy trial period that lasted over 466 days, and even gave the State a 30-day recapture period to which it was never entitled. Through it all, and after the case has been pending since 2018, over 2,190 days has passed since the alleged incident occurred, and the defendant has been incarcerated for over 2,065 days and still has not been brought to trial through no fault of his own. Yet, still, the defendant intends to submit a demand for speedy trial to finally proceed to trial in the event that the Court dismisses the Motion for Discharge and any timely filed Writ of Prohibition is either denied or undecided by the end of the recaptured speedy trial period.

C. The defendant's third claim is that the trial court erred in denying the defendant's Motion to Dismiss based on a constitutional speedy trial violation. This issue has been appealed to the 5th DCA and the defendant will not re-litigate the issue in the instant motion; however, since speedy trial has been waived, the defendant will seek a belated appeal for rehearing, rehearing en banc, certification, and written

opinion to the 5th DCA before proceeding with a writ of prohibition and habeas corpus.

D. The defendant's final claim is that the State's unreasonable delay in serving the warrant, notice of charges, and arresting the defendant violated his 5th and 14th amendment rights to due process, and his 6th amendment right to have the compulsory process to obtain witnesses in his defense.

On February 10th, 2023, the defendant filed a pro se Motion to Dismiss based on a claim of the State's violation of statutory speedy trial, constitutional speedy trial, and due process of law and for a deprivation of the right to the compulsory process to obtain witnesses in his defense, to be adopted by counsel. To provide content, the defendant's first attorney, Mr. Ray Hornstein, filed a Notice of Expiration of Speedy Trial Time on November 4th, 2022; however, the day before the hearing on the Notice, the State Attorney contacted Mr. Hornstein, informed him that the statute of limitations had expired, and that the case was barred from prosecution. At the hearing on November 9th, 2022, Mr. Hornstein said that he was orally rescinding the Notice of Expiration and Motion to Dismiss based on a violation of statutory speedy trial and entered a Motion to Dismiss based on an expiration of the statute of limitations. The State Attorney stated on the record that the motion was well taken and prosecution was barred; however, Judge Koenig stated that he wanted to give the State more time to ensure that prosecution was barred; and rescheduled the hearing for November 16th, 2022. At the hearing on November 16th, 2022, the State Attorney once again stated on the record that the Motion to Dismiss was well taken and that "we'll [the State] will have to take this one on the chin." Judge Koenig then asked if the victim had been contacted and said that he wanted to give the State more time to contact the victim, and Mr. Hornstein objected arguing that the State said the motion was well taken, but Judge Koenig overruled his objection and rescheduled the hearing for November 28, 2022. At that hearing, a different State Attorney was present and stated that the statute of limitations had not expired as per FL ST 775.15 (14)(b), which the defense did not contest; however, the defense only rescinded its Notice of Expiration because the State repeatedly agreed that the motion was well taken, and Mr. Hornstein failed to request to reinstate the Notice. Most disturbing of these facts of events was when Judge Koenig leaned back in his chair, smiled, and said "The State sows the day." This comment, that was clearly partial to the State, caused Judge Koenig to voluntarily recuse himself. As a result, the defendant was reassigned to the Honorable Judge Bookhardt's courtroom and reassigned counsel in January 2023. However, between November 28, 2022 and

and December 6, 2022, the defendant mailed multiple requests to Mr. Hornstein to reinstate the Notice, but received no response. A hearing was pending on February 16th, 2023 and the defendant had not yet heard from his new lawyer; therefore, he filed a pro se Motion to Dismiss based on violations of statutory and constitutional speedy trial, due process of law, and the compulsory process to obtain witnesses in his defense. However, counsel refused to adopt the motion because of her errant belief that custody for the purposes of the speedy trial rule did not begin until he was arrested in Brevard County, despite being in custody in Florida during the speedy trial period. The defendant addresses this issue in his first claim in the instant motion.

The defendant's present and final claim is that he was never permitted to raise his claim that his 5th and 14th amendment rights to due process of law and his 6th amendment right to the compulsory process to obtain witnesses in his defense was violated. The State's unreasonable 43 month delay in serving the warrant, notice of charges, and arresting the defendant prevented the defendant from having the opportunity to ^{preserve} access to critical cell phone text messages, pictures, a video, and geolocation data that would have provided exculpatory evidence in his favor and undermined the State's assertions and victim's statements. At the hearing on the motion to dismiss on March 10th, 2023, the defendant took the stand and provided extensive testimony and was subjected to over an hour of cross-examination by the State. The State solely focused on attempting to prove, without any substantial or competent evidence, that the defendant did not have a cell phone or that it would not have been charged or still functional after all this time. The defendant had property receipts from Brevard County, Osceola, and Orange County jails that clearly listed that he had a cell phone in his property, and a property receipt was signed by the defendant and the property clerk when he released the phone and his military I.D., driver's license, and clothing to a family member in January 2021. The defendant testified on the stand that he could have released his cell phone to his lawyer, if he had one in the case at bar, if only the State had served him the warrant back in March 2019. The defendant testified repeatedly that he was nowhere near the alleged crime scene, especially during the time period of the alleged attack, and that geolocation data from his phone would prove his testimony was true. The State never asked about his whereabouts or if he had an alibi; therefore, the State cannot challenge an issue that it failed to raise during the hearing, and if the State does not even attempt to solicit this critical material fact, how is the defendant supposed to introduce this testimony at trial without infringing upon his right to remain silent? The State never

challenged the defendant's credibility, but instead kept talking in circles about the defendant's possession of two cell phones, when he clearly explained that he purchased two cell phones from Verizon as part of a packaged deal that came with one free Samsung Galaxy S7 with the purchase of one at full price, plus a Samsung Galaxy Smartwatch, and a mail-in rebate for a 50-inch Samsung Smart TV. The defendant clearly stated that he and the alleged victim met earlier that night between as early as 7pm and as late as 10-10:30pm, after meeting online on a dating website, sent text messages and photos, met at her apartment complex, and had sex that was 100% consensual and several minutes of which the defendant recorded on his cell phone, then they went their separate ways. The State never cross-examined the defendant on any facts related to these essential material facts of the case. The State never asked what happened in the vehicle, what was the content of the text messages or photos, the name and information concerning the dating website, or any other relevant questions. The defendant admitted in his February 10th, 2023 prosecution that he had a video recording that conclusively proved that the two had consensual sex, but the State failed to ask about this material fact. The State never presented or asked for a timeline of events, which would have revealed that after the defendant left R.M.'s apartment complex, he returned home, showered, and then was contacted by another acquaintance to meet up with her. This acquaintance was Jenn (as stored in his cellphone) and he went to her house between 11-11:30pm and was there with her until around 2am. Had his phone been preserved, he could have provided time-stamped text messages, and geolocation data to show his activity, combined with evidence from Jenn's phone and her own testimony that would have corroborated his alibi and whereabouts between 11pm-2am. The alleged attack occurred around 1am. The State's discovery indicates that the victim went home from work at 8pm, then took an Uber to Gator's Dockside at 9pm and was there until 11pm. The State has offered no witnesses or evidence to confirm R.M.'s whereabouts. At 11:03pm, R.M. is seen on gas station surveillance purchasing a six-pack of beer and a coffee. Between 11:03pm and 1:15am, when the police were called, the victim's own statements reveal that she does not know where she was at, what she was doing, or what happened to her for over 2 hours. The victim's apartment is about a 10-15 minute walk from Gator's, but she was attacked within a 2-minute walking distance from the gas station. The State's discovery indicates that R.M. was attacked by a black male, who fled on foot, she did not see a vehicle or his face. R.M.'s cellphone was missing and was recovered in the possession of a black male, who was not the defendant. The police asked R.M. if they could go through her phone, but she forbade them.

from reviewing any personal photos, messages, videos, etc. This fact is significant because just off the only a brief and cursory

review of the contents of her search history from two days prior, the police found web history searches to unnamed

violent porn sites, rape fantasy sites, Google searches for "why do women have rape fantasies", date rape drugs, and

Kluge, and Closeup. This information is relevant because her own search history challenges the veracity of her

story and her refusal to relinquish her phone prevented the defense from extracting additional evidence and obtaining

exculpatory evidence that would corroborate the defendant's testimony. None of these facts were admitted during the hearing

and the State failed to preserve R.M.'s phone, which would have contained evidence proving the defendant was not

the perpetrator. In a case such as this in which there are no witnesses and one person's word against the other, a "silent

witness" could be the linchpin that sheds light on material facts bearing innocence on the part of the accused, and any

absence of physical evidence that is tangible and presentable to the jury will undoubtedly prejudice the defense, even

if the defendant intends to testify again, because now he has provided testimony and the State has the advantage

of anticipating his answers and attempting to avoid certain questions or material facts that do not align with the State's

characterization of the incident. As evident in the State's Filing of Williams Rule evidence including cases that the

State not passed, and also over the State's motion in limine to exclude the evidence of the sexually explicit web

searches conducted by the victim, the State is already taking advantage of testimony that the defendant had to provide

to show prejudice, but is now being used by the State to help its case. This only adds to the defendant's assertion that

his case has been significantly prejudiced even more.

WHEREFORE the defendant prays that this Honorable Court will consider the facts contained in the petition

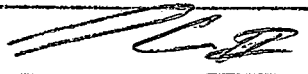
motion, grant the motion for discovery, and discharge the defendant based on the violations of his statutory and constitutional

rights, to speedy trial, due process of law, and the compensatory process to obtain witnesses in his defense as guaranteed

under the 5th, 6th, and 14th Amendments of the U.S. Constitution

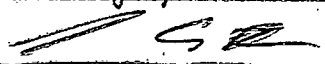
OATH

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 content, and that all of the facts alleged in the motion are true and correct.


HARRY LEE COLASANTO 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 COLASANTO II, PRO SE
DEFENDANT JAIL # 4838407

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Motion For Discharge was delivered by mail to the Brevard County Clerk of Court for the 18th Judicial Circuit Rachael SadoFF 2825 Judge Fran Jamieson Way, Viera, FL 32940-8006, the Office of the State Attorney for the 18th Judicial Circuit ²⁷²⁵ Judge Fran Jamieson Way Building D, Viera, FL 32940-8006, and Mr. Steven Rice, for adoption of motion, at the Office of the Public Defender 2725 Judge Fran Jamieson Way Building E, Viera, FL 32940-8006 on this ^{8th} ^{August} day of ~~July~~ 2024.


HARRY LEE COLASANTO II, PRO SE
DEFENDANT JAIL # 4838407
BREVARD COUNTY JAIL COMPLEX
ATTN: LEGAL MAIL
860 CAMP ROAD
COCOA FL 32927
28 JULY 2024
8 AUGUST 2024

DEMAND FOR DISCOVERY

COMES Now on this 8th day of August 2024, the Defendant, HARRY LEE GOLDSPORE II, pro se, pursuant to Fla. R. Crim. P. 3.220(a)(b), Files this Demand For Discovery to the State of Florida, Plaintiff. The Defendant demands that the State discloses the following witnesses, or tangible papers or objects which are available for inspection, copying, testing, and photographing Filed in the following causes:

1. CASE No. 052019CF021200AXXXX

2. CASE No. 2018-CF-004010-A-O (Supplemental Discovery under Williams Rule)

3. CASE No. 2018-CF-11482 (Supplemental Discovery under Williams Rule)

4. CASE No. 48-2019-MM-000357-E (Supplemental Discovery under Williams Rule)

In CASE No. 052019CF021200AXXXX, the Defendant has not received the Witness List. The Defendant has not received any photographs of the crime scene, victim's injuries, physical evidence, or any surveillance video referenced in the State's original discovery. The Defendant is demanding all multimedia discovery, including photos, videos, and audio files, and updated Witness Lists.

The State Filed Supplemental Discovery under Williams Rule in Case No. 2018-CF-004010-A-O, but has not provided any of the victim's sworn statements. The Defendant is demanding the sworn statements from 1. J.B. 2. C.B. 3. J.L. 4. B.U. and S.M.A.

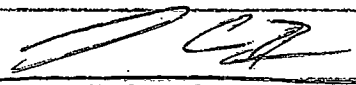
The State Filed Supplemental Discovery under Williams Rule in Case No. 2018-CF-11482, but has not provided a transcript of the controlled phone call between victim S.L. and suspect S.L. The State has not provided Corporal Helm's supplemental report.

The State Filed Supplemental Discovery under Williams Rule in Case No. 2018-CF-004010-A-O which includes police reports related to Case No. 48-2019-MM-000357-E, but the State has not provided any associated discovery, specifically victim J.B.'s sworn statement and photo lineup. The State has not provided the photo lineups for victims J.L. and B.U. in case no. 2018-CF-004010-A.

Failure to provide discovery will result in the Defendant seeking to exclude any evidence of the Formerly mentioned material not disclosed, so as to secure and maintain Fairness in the just determination of the case, in accordance with Rule 3.220(b)(3).

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 content, and that all of the facts alleged in the motion are true and correct.


HARRY LEE GOLDSBORO II, Pro Se
DEFENDANT, JAIL # 4838907

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 GOLDSBORO II, Pro Se
DEFENDANT, JAIL # 4838907

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Demand For Discovery was delivered by mail to the Brevard County Clerk of Courts for the 18th Judicial Circuit 2825 Judge Fran Jamieson Way, Viera, FL 32940-8006, the Office of the State Attorney for the 18th Judicial Circuit 2725 Judge Fran Jamieson Way, Building D, Viera, FL 32940-8006 on the 8th day of August 2024.


HARRY LEE GOLDSBORO II
DEFENDANT, JAIL # 4838907
BREVARD COUNTY JAIL COMPLEX
ATTN: LEGAL MAIL
980 CAMP ROAD
COCOA, FL 32927
8 AUGUST 2024

HARRY LEE GOLDSBORO II,
DEFENDANT

IN THE 18TH JUDICIAL CIRCUIT IN AND FOR
BREVARD COUNTY, FLORIDA

CASE NO.:
05-2019-CF-00200-AXXX-XX

STATE OF FLORIDA
PLAINTIFF

DATE: 22 JULY 2024

MOTION FOR FARETTA INQUIRY

COMES NOW, on this 22nd day of July 2024, the defendant, HARRY LEE GOLDSBORO II, files this pro se motion to unequivocally request to discharge Mr. Steven Rice as counsel, and to proceed pro se, and request a Faretta inquiry. At a pre-trial hearing on the day trial was scheduled, the defendant's counsel, Mr. Rice, was ill and co-counsel appeared in his place. Five minutes prior to the hearing co-counsel informed the defendant that his counsel was ill and that they would seek a continuance. The defendant adamantly stated to not waive his right to speedy trial, but co-counsel informed the court that speedy trial needed to be waived. The defendant declared that he disagreed, and explained the difficulties of proceeding pro se and asked if he could have another attorney appointed. The Court declared they had no one to appoint to him. The defendant expressed his opposition to waiving his right to a speedy trial. Finally, the defendant requested a Faretta Inquiry, to which the Court replied that he could put in a motion. The defendant then asked if he could submit an oral motion for a Faretta Inquiry, but the Court denied the request. The Court ^{then} gave the defendant the option to choose self-representation or to be heard on a Faretta Inquiry to determine whether he was competent to waive his right to counsel. Furthermore, neither the Court nor co-counsel suggested or requested to extend the speedy trial period because the State conceded that speedy trial would expire by 7/24/2024, which would give the court time to hold hearings on the pre-trial motions that are pending. The Court could have allowed the defense to request an extension of speedy trial by a few days to see if counsel could continue, or allow the defendant to be heard on his Faretta Inquiry, but it failed to do so. Once a defendant unequivocally requests to represent himself, the trial court is obligated to hold a hearing to determine whether the defendant is knowingly and intelligently waiving his right to court-appointed counsel (*Hicks v. State*, 113 So.3d 852, 859 Fla. 2d DCA 2012; *Balcourt v. State*, 214 So.3d 714 Fla. App. 2017; *Tennis v. State*, 987 So.2d 375, 378 Fla. 2008 - A defendant need not articulate a reason to invoke his right of self-representation.) "We note that contrary to the implied assertion of the trial court's written motion to proceed pro se is not required. Oral invocations of the right to self-representation are sufficient to warrant a Faretta Inquiry provided the request is unequivocal" (*Conley v. State*, 133 So.3d 564 Fla. App. 2014; *Vollmer v. State*, 101 So.3d 383, 384 Fla. 2d DCA 2012).

The defendant is submitting this motion for a Faretta Inquiry to preserve his rights to self-representation and to hold the hearing before the State's recapture period expires on 7/24/2024.

Case # 05-2019-CF-021200-AXXX-XX
Document Page # 127

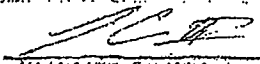


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Divic
8/14/24

OATH

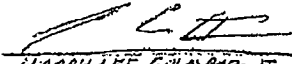
Under penalties of perjury, I declare that I have read the foregoing motion, or had it read to me, that I understand the motion's content, and that all of the facts alleged in the motion are true and correct.


HARRY LEE COLOSBARO II

DEFENDANT JAIL # 4838407

CERTIFICATIONS AND ACKNOWLEDGEMENTS

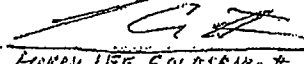
I certify that the motion is filed in good faith, that I have a reasonable belief that the motion is timely filed, has potential merit, and does not duplicate previous motions that have been disposed of by the court. I certify that I understand English and have read the foregoing motion, or had the motion read to me. I understand that I am subject to judicial or administrative sanctions including but not limited to forfeiture of bail, 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 COLOSBARO II

DEFENDANT JAIL # 4838407

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Motion for Further Inquiry was delivered by mail to the Broward County Clerk of Courts for the 18th Judicial Circuit, 2825 Judge Fran Jamieson Way, Viera, Florida 32940-8006, the Office of the State Attorney for the 18th Judicial Circuit, 2725 Judge Fran Jamieson Way, Viera, Florida (Building D) 32940-8006, and Mr. Steven Ritz, Office of the Public Defender, 2725 Judge Fran Jamieson Way, Building E, Second Floor, Viera, Florida 32940-8006, by mail on this 22nd day of July, 2024.


HARRY LEE COLOSBARO II

DEFENDANT JAIL # 4838407
BROWARD COUNTY JAIL COMPANY

ATTORNEY AT LAW
1100 CAMP ROAD

CAVANA, FL 32927
22 July 2024