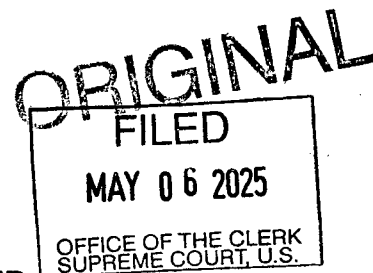


No. 24-7470

IN THE
SUPREME COURT OF THE UNITED STATES



JOSHUA ISAAC MARTINEZ — PETITIONER
(Your Name)

VS.

STATE OF FLORIDA — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

FLORIDA FIFTH DISTRICT COURT OF APPEAL
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

JOSHUA ISAAC MARTINEZ
(Your Name)

TAYLOR CORRECTIONAL INSTITUTION,
(Address)
8501 Hampton Springs Rd.
Perry, Florida 32548
(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

On Dec. 7th, 2013, petitioner signed a plea-agreement wherein probation was worded to begin consecutive to incarceration. A statute was effected the following year, § 948.012(6), Fla. Stat., which tolls probation for sex-offenders pending civil commitment proceedings.

1. Does retroactive law, § 948.012(6), Fla. Stat., unconstitutionally toll probation pending civil commitment proceedings for sex offenders.
2. Does the Florida Supreme Court's definition of a 'probationary split-sentence' in Poore v. State, 551 So. 2d 161, 164 (Fla. 1988) conflict with § 948.012(6), Fla. Stat., tolling probationary split-sentences pending civil commitment proceedings for sex-offenders?
3. Did the State of Florida set aside its contractual obligation with petitioner in Dec. 7th, 2013-signed plea-agreement when the State of Florida effected § 948.012(6), Fla. Stat., tolling probationary split-sentence which otherwise would have begun immediately after incarcerative portion?

LIST OF PARTIES

- ☒ All parties appear in the caption of the case on the cover page.
- ☐ All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

CORPORATE DISCLOSURE STATEMENT, Rule 29.6 and 14.1(b) ii
Nothing to declare.

RELATED CASES

JOSHUA ISAAC MARTINEZ v. STATE OF FLORIDA, No. SC2025-0232 (review denied Feb. 19th, 2025)

JOSHUA ISAAC MARTINEZ v. STATE OF FLORIDA, No. SD2024-0609 (per curiam affirmed order issued Aug. 27th, 2024)

JOSHUA ISAAC MARTINEZ v. STATE OF FLORIDA, No. SD2024-0274 (filed Feb. 1st, 2024)

STATE OF FLORIDA v. JOSHUA ISAAC MARTINEZ, No. 2013-102559 -CFDL (Judgment and Sentence issued Dec. 10th, 2013; Rule 3.800 Motion to Vacate denied Aug. 31st, 2021)

In re: Commitment of Joshua Isaac Martinez, No. 2018-11318 -CIDL (final judgment, adjudication and order of commitment issued Jan. 24th, 2020)

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 2022 CF000367 AXMA

IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

☐ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix _____ to the petition and is

- ☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the United States district court appears at Appendix _____ to the petition and is

- ☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

☒ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix F to the petition and is

- ☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished.

The opinion of the FIFTH APPELLATE DISTRICT court appears at Appendix A to the petition and is

- ☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

JURISDICTION

☐ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was _____.

☐ No petition for rehearing was timely filed in my case.

☐ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ____ A ____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

☒ For cases from **state courts**:

The date on which the highest state court decided my case was Aug. 27th 2024.
A copy of that decision appears at Appendix A.

☒ A timely petition for rehearing was thereafter denied on the following date: Feb 5th 2024, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ____ A ____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

§948.012(1), Fla. Stat., pertaining to tolling of probation for persons whose sentence ended on or after Oct. 1st, 2014, regardless of when the sentence was given, pending commitment proceedings pursuant §394.910 - .932, Fla. Stat., (Oct. 1st enacted 2013).

§394.910-§394.932, Fla. Stat., also called Part V of Chapter 394, Fla. Stat., "The Involuntary Civil Commitment of Sexually Violent Predator Act" (1999).

Art. I, S. 10, Cl. 2, Fla. Const., pertaining to the law of obligation of contract

Amend. V, U.S. Const., pertaining to due process in criminal proceedings

Amend. VI, U.S. Const., pertaining to fair and impartial trial and court-appointed counsel

STATEMENT OF THE CASE

The judgment sought to be reviewed is the Aug. 27th, 2024 Per Curiam Affirmed decision in the Fifth District Court of Appeal in case no. SD2024-0609, (~~EXHIBIT A~~) without opinion. The Dec. 7th, 2023 Final Order, (~~EXHIBIT C~~), Denying Defendant's Motion to Vacate - Fla. R. Crim. P. 3.800 issued by the Hon. Randall H. Rowe III in the Seventh Judicial Circuit for Volusia County, Florida.

Petitioner on Aug. 30th, 2021, had moved to vacate the Dec. 7th, 2013 signed plea Agreement, (~~EXHIBIT D~~) alleging that it violated the law of the obligation of contracts set forth in Art. I, § 10, Fla. Const., reasoning that § 948.012(8), Fla. Stat., pertaining to "tolling" split sentence of consecutive probation for persons who are subject to the Involuntary Civil Commitment of Sexually Violent Predator Act, § 394.014 V, Fla. Stat. (1999), is unconstitutional and retroactive.

On Dec. 7th, 2013, petitioner had agreed to a combined sentence of 78 months incarceration to be followed consecutively by twenty years of probation, with the understanding that the probation would begin immediately, Monday one, after the incarceration portion was completed. However, the following year, Oct. 1st, 2014, a law was enacted retroactively tolling probation for persons with sex offenses until they were no longer subject to commitment proceedings, § 948.012(8), Fla. Stat., and on Mar. 1st, 2019, upon reaching the end of the incarceration portion, rather than beginning the probationary portion of his sentence petitioner's probation was tolled pending commitment proceedings in case no. 2018 11318 CED, for which final judgment, adjudication, and order of commitment occurred on Jan. 24th, 2020, (~~EXHIBIT E~~) (criminal criminal charge was for violation of § 774.011(2)(b), Fla. Stat., Sexual Battery on a Minor Under Twelve, in case no. 2015-102539-CFDL (~~EXHIBIT B~~)).

Motion for Rehearing was filed Sept. 11th, 2024 but not ruled on until February 5th, 2025 (~~EXHIBIT G~~). Rehearing was denied, and the Florida Supreme Court denied Discretionary Review on Feb. 19th, 2025, in case no. SC2025-0232. (~~EXHIBIT F~~).

REASONS FOR GRANTING THE PETITION

The State of Florida must follow the law of the obligation of contracts by honoring the plea agreements that it makes with its constituents who are tried in accordance with the Fifth and Sixth Amendments of the United States Constitution, Amend. V & VI, U.S. Const., pertaining to protection against double-jeopardy, ex post facto provisions, and fair and impartial trial with opportunity to be represented by court-appointed counsel who is adequate and zealous to represent defendants. The notion of Due Process as defined by the United States provides for prior notice and a meaningful opportunity to be heard.

In the order on review below, Appendix B, the Honorable Judge Rowe provided explanation as to why he was denying the Aug. 30th, 2021 Motion to Vacate filed by pro se defendant, petitioner here before the Supreme Court. Petitioner had moved to vacate the Dec. 10th, 2013 plea agreement in that motion, alleging that it violated the law of obligation of contracts set forth in that Art. I, Sec. 10, Cl. 2, Fla. Const., reasoning that § 948.01(2)(c), Fla. Stat., pertaining to "falling" split-sentences of consecutive probation for persons who are subject to the Involuntary Civil Commitment of Sexually Violent Predator Act, § 394, Part II, Fla. Stat. (1999), is unconstitutionally retroactive. The plea agreement is included as App. D. However, the Honorable Judge Rowe, who sentenced petitioner, then defendant, on Dec. 10th, 2013 to seventy-eight months incarceration to be followed consecutively by twenty years of probation did not reference in his denial order the statute presented in the Aug. 30th, 2021 Motion, referencing merely to

REASONS FOR GRANTING THE PETITION (Cont.)

§ 948.012, Fla. Stat., generally, pertaining to split-sentences, rather than § 948.012 (1), Fla. Stat., specifically, pertaining to tolling of split-sentences for persons subject to proceedings under the Act. It is of note that the Hon. Judge Rowe also provided over petitioner's civil commitment trial (Jan. 21st - 23rd, 2020, case no. 2018-1138 CIDL, in the Seventh Judicial Circuit for Volusia County, Florida) wherein petitioner, as respondent, was committed as a sexually violent predator Jan. 24th, 2020; see App. E. In that case, petitioner had been found to have met criteria to be committed as a sexually violent predator and consequently was committed to the Florida Civil Commitment Center located at 13019 S.E. Hwy. 70, Arcadia, Florida 38266. This information is pertinent because it was the ~~case~~ while undergoing treatment for mental illness, that petitioner wrote the Aug. 31st, 2021 Motion to Vacate. Presently, however, petitioner is incarcerated on unrelated charges, serving a sentence for an April 17th, 2023 adjudication in the Twelfth Judicial Circuit of Florida (case no. 2022 CF00013674 MMA). Yet it is of importance for the Honorable Supreme Court to understand that once petitioner is released from the Florida Department of Corrections he will be returned to the Florida Civil Commitment Center absent a finding of rehabilitation, and should he ever be permitted to re-enter society it will be THEN AND ONLY THEN that the probation stipulated on the Dec. 7th, 2013-nipped plea agreement, App. D, will be allowed to begin, due to § 948.012(1), Fla. Stat. (2014) having been effective Oct. 1st, 2014. The petitioner has begged the Honorable Judge Rowe in the Seventh Judicial Circuit for Volusia County, Florida to take judicial notice of his alleged violation of his constitutional right to not have an obligation set forth

REASONS FOR GRANTING THE PETITION (Cont.)

in the Dec. 10th, 2013 plea agreement, App. D, to begin probation immediately consecutively to the incarceration term of sentence tolled due to a law put into effect after the plea-agreement was signed.

§ 948.012 (b), Fla. Stat., is an unconstitutional law violating the law of obligation of contract clause set forth in Art. I, Section 10, Cl. 2, Fla. Const. The law was passed October 1st, 2013 in order to toll split-sentences of probation ordered by courts for persons subject to proceedings under § 394, Part IV, Fla. Stat., "the Involuntary Civil Commitment of Sexually Violent Predators Act" (1999). However, it was not made effective until Oct. 1st, 2014, the following year. The plea agreement, App. D, to which both petitioner as defendant below and respondent as plaintiff below, had agreed was made on December 10th, 2013, before the law was to become effective, *supra*. Yet, when petitioner was released from the Florida Department of Corrections after having completed the incarceration portion of his sentence in the 2013 case, no. 2013-102539 CFDL, App. B, the law in question was made to pertain to him as well, and consequently his probationary sentence did not begin when his incarceration sentence ended, March 1st, 2014, but rather was "tolled" by the retroactive law, § 948.012(b), Fla. Stat.

In Ground Two of the ~~December 2013~~ Order Denying Defendant's Motion to Vacate in the Seventh Judicial Circuit for Volusia County, Florida, Case No. 2013-102539 CFDL, App. C, the Honorable Judge Rona stated: "the defendant's assertion fails as a matter of law," citing *Morse v. Stephens*, 804 So.2d 575, 577 (Fla. 2002) (citing *Paare v. State*, 531 So.2d 161, 164 (Fla. 1988),

REASONS FOR GRANTING THE PETITION (Cont.)

Wherein the Honorable Judge Rane quoted, "A 'probationary' split sentence involves a period of incarceration followed by a period of probation." Petitioner agrees with the Florida Supreme Court's definition. However, it is the immediacy, or rather, the lack thereof, caused by billing due to §948.012(1), Fla. Stat., that is being attacked here, not the period itself. Wherein a probationary split sentence ought to occur throughout the Dec. 7th, 2023 Order, App. C, the Honorable Trial Judge, referenced Fla. Stat. §948.012, pertaining to split sentences generally rather than §948.012(6) Fla. Stat., pertaining to billing the probationary period wherein persons with re-offenses would presently serve their probationary split sentences until after they are released from the custody of the Department of Children and Families pending civil commitment proceedings pursuant §594.910-932, Fla. Stat., the Involuntary Civil Commitment of Sexually Violent Predator Act. The December 7th, 2023 Final Order App. C, fails to acknowledge that petitioner, as defendant in the lower court proceeding, stated as his basis of relief that the December 10th, 2023 plea agreement had been violated due to the imposition of §948.012(6) Fla. Stat., having been made to retroactively effect persons before the effecting of it, because it states that persons will be subject to it whom or which may be subject to proceedings under the Involuntary Civil Commitment of Sexually Violent Predator Act, §594, Fla. Stat., regardless of whether the date such persons were sentenced occur before or after the date the law was put into effect. And therefore, it is an illegal law, violating Art. I, sec. 10, d. 2, Fla. Const., pertaining to the law of the obligation of contracts, which is understood by petitioner to mean that the law as it stands understood by both parties at the time that a contract is executed is the law that continues to remain in force concerning such an instrument absent an agreement between the parties to revise the contract.

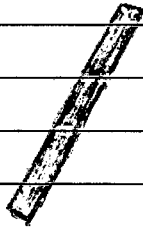
REASONS FOR GRANTING PETITION (CONT.)

Wherefore, in contradiction to what was stated in Ground One of the December 7th, 2013 Final Order, App. C, petitioner ~~was~~ ~~correctly~~ ~~as~~ ~~in~~ that, ~~very~~ the agreement was that the twenty years of probation would ~~immediately~~ follow the incarceration term, and the effect of any law made thereafter would be irrelevant, thus meaning that twenty-six and a half years after having signed the December 7th, 2013 plea agreement, App. D, twenty-six and a half years being the total combined sentence time encapsulated therein, would have been the maximum amount of time absent additional charges that petitioner would have to ~~wait~~ before his sentence had been completely served, when and because the twenty year probationary service is stipulated to begin "consecutive" to the seventy-eight months incarceration, as per the December 10th, 2013 Judgment and Sentence, App. B. This meant that when petitioner signed the December 7th, 2013 plea agreement, App. D, he anticipated an earliest possible end of total combined sentence date between 2037 and 2038, provided no additional criminal charges had impinged on that possibility.

Wherefore, petitioner prays that the Honorable Supreme Court will relieve him of the obligation to perform the twenty year probation stipulated in the December 7th, 2013 Plea Agreement, App. D, and in the December 10th, 2013 Judgment and Sentence, App. B, and acknowledge that such an obligation has been set aside when the State of Florida, ~~illegally~~ ~~fulled~~ it via an unconstitutional law, to wit, §948.012(6), Fla. Stat., that is unconstitutionally retroactive in violation of the law of the obligation of contracts, Art. I, §10, cl. 2, Fla. ~~Constitution~~. And, the petitioner prays that the Honorable Supreme Court will recognize that by the passing and effecting of §948.012(6), Fla. Stat., the Florida Supreme Court's ruling in *Boore v. State*, 531 So.2d 161/164 (Fla. 1988) has been compromised due to the statutory sub-section "a 'probationary' split-sentence" no longer "invokes a period of ~~incarceration~~ followed by

REASONS FOR GRANTING THE PETITION (Cont.)

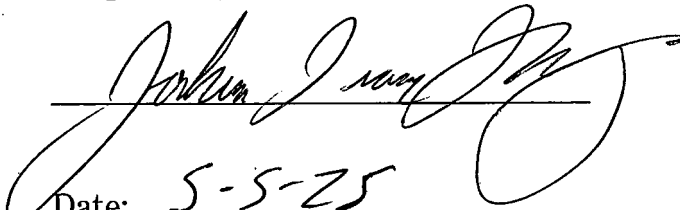
a period of probation," in all cases, §948.01(2)(b), Fla. Stat. makes an unconstitutional and unwarranted exception in contradiction to the ruling made therein concerning the word "followed".



CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,


Date: 5-5-25