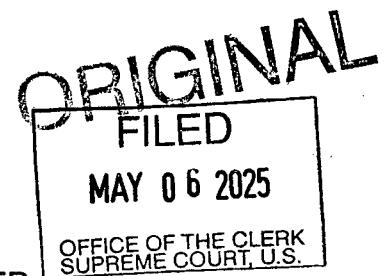


No. 24-7470

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 ordered 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., unconstitutional-ally 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, 531 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 incarceration 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)(1)
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. 30th, 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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APPENDIX A *(Omitted)	Aug. 27 th , 2024 Per Curiam Affirmed Opinion and Order in the FIFTH DISTRICT COURT OF APPEAL FOR THE STATE OF FLORIDA in No. 5D2024-0609
APPENDIX B	Dec. 18 th , 2013 Final Order Adjudication and Sentence by the Circuit Court for the Seventh Judicial Circuit for Volusia County, Florida, in No. 2013-102539(CPD)
APPENDIX C	Dec. 7 th , 2023 Final Order Denying Defendant's Motion to Vacate in the Seventh Judicial Circuit for Volusia County, Florida, in No. 2013-102539(CPD)
APPENDIX D	Dec. 7 th , 2023 Plea Agreement in the Seventh Judicial Circuit for Volusia County Florida in Case No. 2013-102539(CPD)
APPENDIX E	Jan. 24 th , 2020 Order Committing Defendant as a Sexually Violent Predator in the Seventh Judicial Circuit for Volusia County, Florida in Case No. 2018-11318(CZDL)
APPENDIX F	Febr. 19 th , 2025 Order Denying Discretionary Review in the Supreme Court of Florida in Case No. SC2025-0232
APPENDIX G *(Omitted)	Feb. 5 th , 2025 Order Denying Rehearing in the Fifth District Court of Appeal for Volusia County Florida in Case No. 5D2024-0609.

TABLE OF AUTHORITIES CITED

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STATUTES AND RULES

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OTHER

Padovano's Standards of Review in Criminal Cases, at 5 (Feb. 17, 1999) * omitted
 2022 CFC00367 AMMA

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_____.
S

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: Aug. 27th, 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_____.
S

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

§948.012(6), 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 (sentencing 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, § 10, 11.2, Fla. Const., pertaining to the law of obligation of contracts

Amend. IV, 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. 5D2024-0609, (EXHIBIT A) without opinion of 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, S. 10, Fla. Const., reasoning that § 948.012(6), Fla. Stat., pertaining to "filling" of a sentence of consecutive probation for persons who are subject to the Involuntary Civil Commitment of Sexually Violent Predators Act, § 394.40 et seq., 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, from day one, after the incarceration portion was completed. However, the following year, Oct. 1st, 2014, a law was effected retroactively following probation for persons with sex offenders until they were no longer subject to commitment proceedings, § 948.012(6), 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 (CDL) for which final judgment adjudication and order of commitment occurred on Jan. 24th, 2020, (EXHIBIT E) (original criminal charge was for violation of § 794.011(2)(b), Fla. Stat., Sexual Battery on a Minor (Under Ten), in case no. 2015-107539 - 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. SC2025-02320 (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 Amendment of the United States Constitution, Amend. V & VI, U.S. Const., pertaining to protections against double jeopardy, ex parte facts 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 is defined by the United States provider for prior notice and a meaningful opportunity to be heard.

In the order on review below, Appendix B, the Honorable Judge Rose 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. 101, Ch. 2, Fla. Const., reasoning that § 948.012(6), Fla. Stat., pertaining to "tolling" 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 unconstitutional retroactive. The plea agreement is included as App. D. However, the Honorable Judge Rose, who entered petitioner, the defendant, on Dec. 10th, 2013 to seventy-eight month incarceration to be followed consecutively by twenty year 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, pertains to split sentence, rather than § 948.012(1), Fla. Stat., specifically, pertaining to taking of split sentence for person subject to proceedings under the Act. It is of note that the Hon. Judge Rose also presided over petitioner's civil commitment trial (Jan. 21st-23rd, 2020), case no. 2018-11318 (IDC, in the Seventh Judicial Court for Volusia County, Florida) which 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~~ ^{be} committed to be committed as a sexually violent predator and consequently was committed to the Florida Civil Commitment Center (located at 13019 Hwy. 70, Avon Park, Florida 33826). This information is pertinent because it was the case while undergoing treatment for mental illness, that petitioner wrote the Aug. 30th, 2021 Motion to Vacate. Presently, however, petitioner is incarcerated as undischarged danger, serving a sentence for an April 17th, 2023 adjudication in the Twelfth Judicial Circuit of Florida (case no. 2022CF0013674MM). 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 ~~THAT~~ ^{AND} ~~ONLY~~ ^{NOT} THAT that the probation stipulated on the Dec. 7th, 2013-ripened agreement, App. D, will be allowed to begin, due to § 948.012(1), Fla. Stat. (2014) having been effected Oct. 1st, 2014. The petitioner has brought the Honorable Judge Rose in the Seventh Judicial Circuit for Volusia County, Florida to take judicial notice of the alleged violation of her 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 consecutive to the incarceration term of 4 years less "tossed" due to a low part 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-reinforcement probation ordered by court for person subject to probation under § 948. Part II, Fla. Stat., "the Involuntary Civil Commitment of Sexually Violent Predator Act" (1999). However it was not made effective until Oct. 1st, 2014, the following year. The plea agreement, App. D, to which both petitioner and 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 brush when his incarceration sentence ended, March 1st, 2014, but rather was "tossed" by the retroactive law, § 948.012 (b), Fla. Stat..

In Ground Two of the ~~December 10, 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 Rosa Hartley "the defendant's assertion fails as a matter of law, *citino Muñoz v. Stephens*, 804 So.2d 575, 577 (Fla. 2002) (citing *Poor v. State*, 531 So.2d 161, 164 (Fla. 1988))

REASONS FOR GRANTING THE PETITION (Cont.)

Wherein the Honorable Judge Rose granted, "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 immediate, or rather, the ~~and~~ thereof, caused by filing date to §948.012(6), Fla. Stat., that is being attacked here, not the period itself. When 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 filing the probationary period wherein person with re-offense 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 pursuant 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, 2013 plea agreement had been violated due to the imposition of §948.012(6), Fla. Stat., having been made to retroactively effect person before the effecting of it, because it states that person will be subject to it whom of 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 person were sentenced occurs before or after the date the law was put into effect. And therefore, it is an illegal law, violating Art. I, sec. 10, cl. 2, Fla. Const., pertaining to the law of the dissolution of contracts, which is understood by petitioner to mean that the law as if stands understood by both parties at the time that a contract is executed or the law that continues to remain in force concerning such an instrument absent an agreement between the parties to revise the contract.

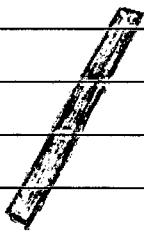
REASONS FOR GRANTING PETITION (Cont.)

Wherefore, in contradiction to what was stated in Ground One of the December 7th, 2023 Final Order, App. C, petitioner ~~hopes~~ ~~anticipates~~ ~~now~~ ~~knows~~ that, yes, the agreement was that the twenty year of probation would immediately follow the incarceration term, and the effect of any break thereafter would be ~~irrelevant~~, ~~meaning~~ meaning that twenty-six and a half year after having signed the December 7th, 2013 Plea Agreement, App. D, twenty-six and a half year being the total combined sentence time encapsulated thereby, 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 "concurrent" to the twenty-eight months incarceration, as per the December 10th, 2013 Judgment and Sentence, App. B. ~~That means 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 failed it via an unconstitutional law, to wit, §948.012(6), Fla. Stat., that is unconstitutional retroactively in violation of the law of the obligation of contract, Art. I, §. 10, cl. 2, Fla. Const. And, the petitioner prays that the Honorable Supreme Court will recognize that by the parity and effect of §948.012(6), Fla. Stat., the Florida Supreme Court's ruling in Poore v. State, 531 So.2d 161 (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.)

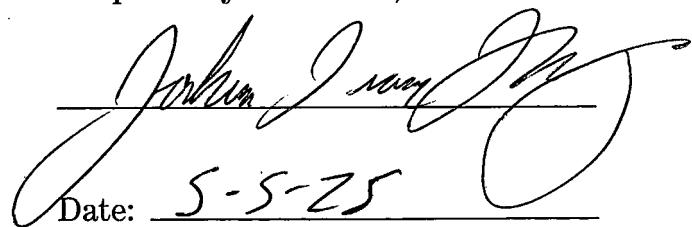
"a period of probation," in all cases, § 948.07(1), Fla. Stat. making an unconstitutional and unenforced exception in contradiction to the failing made therein concerning the word "followed".



CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



A handwritten signature in black ink, appearing to read "John J. Murray". The signature is fluid and cursive, with a horizontal line underneath it.

Date: 5-5-25