No. 25-5294

IN THE

SUPREME COURT OF THE UNITED STATES

In Re MARIA DOLORES NAVARRO MARTIN - PETITIONER

V.

STATE OF FLORIDA - RESPONDENT

ON PETITION FOR WIRT OF CERTIORARI
FROM THE ELEVETH CIRCUIT COURT OF APPEALS

PETITION FOR A WRIT OF CERTIORARI

Maria Dolores Navarro Martin
Pro se – Petitioner
3455 W. 10 Ave. Apt. 208
Hialeah - Florida
33012

QUESTION(S) PRESENTED

1. Whether petitioner was afforded due process in the decisions rendered by the Eleventh Circuit Court of Appeals, since that "if the underlying judgment is void, the judgment based upon it is also void".

2. Whether the "lack of notice of the entry of judgment" and legal matter, was overlooked in the decision, upon the circuit court statements: "mail from the district court were returned as undeliverable" which was a conflict of decisions as established by the United States Supreme Court in *Jones v. Flowers*, 547 U.S. 220, 226, 126 S. Ct. 1708, 164 L. Ed. 2d 415 (2006).

3. Whether Petitioner was denied the procedural due process because the circuit court considered issues beyond the scope of the appeal which were available to the "court only", where the Circuit Court did not "afford to the appellant an opportunity to present [her] objections.

4. Whether The opinion of the Eleventh Circuit court of Appeal is in conflict with a decision of the United States Supreme Court in the light of the decision rendered in SHALALA v SCHAEFER 509 US 292, 125 L Ed 2d 239, 113 SCT 2625 (1993), which this court erred finding "the notice of appeal was untimely".

5. Whether the appellant allegations shall be accepted as true, if the government did not traversed the appellant allegation in the "Initial Brief" filed in the Eleventh Circuit Court of appeals.

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LIST OF PARTIES

[x] 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 in the proceeding in the court whose judgment is the subject of this petition is as follows:

RELATED CASES

Navarro Martin v. State of Florida, United States Eleventh Circuit Court of Appeals, decisions rendered upon the case No.: 23-12412 and U.S. District Court. Case No.: 6:22-CV-01691-PGB-DCI.

TABLE OF AUTHORITIES CITED

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STATUTES AND RULES

OTHER

IN THE

SUPREME COURT OF THE UNITED STATES

PETITION FOR WIRT OF CERTIORARI

ON PETITION FOR A WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review:

OPINIONS BELOW

[X] For cases from **Federal courts**:

The opinion of the United States court of Appeals appears at appendix_____A_____to
The petition and is
[ ] Reported at _____or,
[ ] has been designated for publication but is not yet reported; or,
[x] is unpublished.

The opinion of the United States district court of appeals appears at Appendix___B_____to
The petition and is
[ ] Reported at _____or,
[ ] has been designated for publication but is not yet reported; or,
[x] is unpublished.

[ ] For cases from **States courts**:

The opinion of the highest state court to review the merits 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 _____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.

JURISDICTION

[ ] For cases from federal courts:

The date on which the United States District Court of Appeals decided my case was January 31, 2025.

[ ] No petition for Rehearing was timely filed in my case

[X] 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: ___B___

[ ] An extension of time to file the petition for a writ of certiorari was granted to and including_____(date)on_____(date) application No._____

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

[ ] For cases from State 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 District 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) application No._____

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

CONSTITUTIONAL AND STATUORY PROVISIONS PRESENTED

Courts 757.5 - abstention doctrine

The doctrine under which a federal court should abstain from deciding the constitutionality of a state statute pending its authoritative interpretation in the state courts is inappropriate for cases in which a state statute is justifiably attacked on its face as abridging free expression, or as applied for the purpose of discouraging activities protected by federal law.

Courts 757.5 - doctrine of abstention - vagueness of criminal statute

A federal court's abstention from deciding the constitutionality of a state statute pending its authoritative interpretation in the state courts serves no legitimate purpose where a state criminal statute regulating speech is properly attacked on its face on the ground of vagueness, and the conduct charged against the plaintiffs is neither within the reach of an acceptable limiting construction readily to be anticipated as the result of a single criminal prosecution nor the sort of "hard-core" conduct that would obviously be prohibited under any construction.

Courts 757.5 - federal injunction against state criminal prosecution - abstention doctrine

A Federal District Court should not await a state court interpretation of state criminal statutes before deciding, in proceedings for injunctive relief against threatened prosecution under the statutes, whether the defendant state officials threatened to enforce the statutes solely to discourage plaintiffs from continuing their civil rights activities, and to what relief the plaintiffs may be entitled on the basis of their attacks on these statutes.

Courts 757.5 - federal injunction against state criminal prosecution - abstention doctrine

A Federal District Court should not await a state court interpretation of state criminal statutes before deciding, in proceedings for injunctive relief against threatened prosecution under the statutes, whether the defendant state officials threatened to enforce the statutes solely to discourage plaintiffs from continuing their civil rights activities, and to what relief the plaintiffs may be entitled on the basis of their attacks on these statutes.

STATEMENTS OF THE CASE

COMES NOW, the plaintiff Maria Navarro Martin, pro se, and respectfully request to this honorable court, this petition for relief granting this writ of certiorari since that (1) A material factual or legal matter was overlooked in the decision; (2) The opinion is in conflict with a decision of the United States Supreme Court, this Court, or another court of appeals and the conflict is not addressed in the opinion, and (3) The proceeding involves one or more questions of exceptional importance, if the court believes it would be in the "interest of justice", to the issuance of this writ since that exceptional circumstances warrant the exercise of the Court's discretionary powers, and that adequate relief cannot be obtained in any other form or from any other court, and in support of this petition allege as follow:

I. Jurisdiction:

A litigant generally may raise a federal court's lack of subject-matter jurisdiction at any time in the same civil action, even initially at the highest appellate instance. Here, the jurisdiction of the Circuit Court fails and the United States Supreme Court had jurisdiction to consider whether the judgment and relief entered by the District Court were proper, and agreed with the court that the (Florida) statute was invalid" Edgar v. Mite Corp. 457 US 624 102 SCT 2629, 73 LED2D 269(1982). When "the statute, was invalid on the ground of vagueness... it was improper for the District Court to abstain from a decision pending authoritative state court interpretation of the statutes... alleged sufficient irreparable injury to justify equitable relief" Dombrowski v. Pfister, 380 U.S. 479, 85 S. Ct. 1116, 14 L. Ed. 2d 22 (1965).

> ."[E]very federal appellate court has a special obligation to 'satisfy itself not only of its own jurisdiction, but also that of the lower courts in a cause under review,' even though the parties are prepared to concede it. Mitchell v

Maurer, 293 US 237, 244 [79 L Ed 338, 55 S Ct 162] (1934). See Juidice v Vail, 430 US 327, 331-332 [51 L Ed 2d 376, 97 S Ct 1211] (1977) (standing). 'And if the record discloses that the lower court was without jurisdiction this court will notice the defect, although the parties make no contention concerning it. [When the lower federal court] lack[s] jurisdiction, we have jurisdiction on appeal, not of the merits but merely for the purpose of correcting the error of the lower court in entertaining the suit.' United States v Corrick, 298 US 435, 440 [80 L Ed 1263, 56 S Ct 829] (1936) (footnotes omitted)." Id., at 541, 89 L Ed 2d 501, 106 S Ct 1326 (brackets in original)"

"Every federal appellate court has a special obligation to satisfy itself of not only its own jurisdiction, but also that of the lower courts in a cause under review" *Arizonians for Official English v. Ariz.*, 520 U.S. 43, 64, 117 S. Ct. 1055, 137 L. Ed. 2d 170 (1997).

II. The case-or-controversy requirement:

Article III, Section 2 of the United States Constitution limits the subject matter jurisdiction of the federal courts to those cases that present a "case or controversy." *Spencer v. Kemna*, 523 U.S. 1, 118 S. Ct. 978, 983, 140 L. Ed. 2d 43 (1998). "The expiration of the petitioner's sentence before (her) application for habeas corpus was finally adjudicated and while it was awaiting appellate review did not terminate federal jurisdiction with respect to the application" Carafas v. LaVallee, 391 U.S. 234, 237-240, 88 S. Ct. 1556, 20 L. Ed. 2d 554 (1968). *See also id. Sibron v. New York*, 392 U.S. 40, 55-56, 20 L. Ed. 2d 917, 88 S. Ct. 1889 (1968). The case-or-controversy requirement "subsists through all stages of federal judicial proceedings, trial and appellate." *Id.* (internal quotation marks omitted). And "presents a justiciable case or controversy even after the expiration of the sentence that was imposed as a result of the conviction. *See id.*; *see also Sibron v. New York*, 392 U.S. 40, 55-56, 20 L. Ed. 2d 917, 88 S. Ct. 1889 (1968). The reason for this is the

"obvious fact of life that most criminal convictions do in fact entail adverse collateral legal consequences." *Spencer*, 118 S. Ct. at 985 (internal quotation marks omitted).

Here the petitioner remain facing an adverse collateral legal consequences, since that the immigration proceedings were imposed as result of the conviction under an unconstitutional state statute of conviction under the section 914.22(1)(a) Fla. Stat., which the petitioner has established the case-or-controversy requirement. The petitioner ended her sentence on December 30, 2024 and was detained in immigration proceedings, by the Agency, Immigration and Custom Enforcement, Department of Homeland Security, and is actually under the custody of the United States Attorney General, upon immigration proceedings. where "the Secretary's decision is subject to review under the Administrative Procedure Act's standards for agency decision making" See Also, *Jean* v. *Nelson*, 727 F.2d 957 (11th Cir. 1984)(in banc).

BACKGROUND

On February 7, 2017, the Petitioner was falsely imprisoned upon Two Charges of Medicaid Fraud which were found by the prosecution "Nolle Prosequi" on February 14, 2024, upon the case No. 2017-CF-001585-B-O which was executed an affidavit for Search warrant for the DHS Agent Jose Gonzales upon the use of perjured testimony gave in the affidavit which the search and where the seizures: (1) Had been previously executed (2) were executed in different locations and to different persons not described in the warrant and (3) the Agent failed to return the properties to the court as described in the search warrant. "It may become unlawful if "the police act with unreasonable delay in securing a warrant." *United States v. Mitchell*, 565 F.3d 1347, 1350 (11th Cir. 2009) (quotations omitted). There was an egregious violation of the Petitioners' constitutional rights as guarantee by the Fourth and Fourteenth Amendments of the U.S. Constitution, as follow:

a) The office of the Florida Attorney General Pam Bondi, at time, submitted to my family false letter as Search warrant to his properties (SEE Pag 1-4)

b) The Medicaid Fraud Control Unit (MFCU) was an unit of the Office of the Attorney General (OAG) and executed numerous seizure of properties which were not returned to the court, Seven Ford Van Transit seized which were not described in the inventory receipt, and was transported my husband by the MFCU to the Well Fargo Bank upon coercion by officials armed to withdraw all the money that had the corporation's bank account, in the amount of $150.000,00 and was not returned to the court as ordered the warrant. (See Pag. 5-11)

c) The MFCU, was entitle to a 50% of the properties seized, as "a reward", and where the OAG had obtained more of 500 million in settlements (See Pag. 12-14).

d) After investigations in different cases of Medicaid Providers, the plaintiff found that the it was a retaliatory practice by the OAG, where were affected more of 165 provider, where first they imposed a payment restriction and if the provider no go out-of business, charges of fraud were filed. After my arrest and charges I loses all my clear background check and my licenses as provider upon false statements gave in the affidavit of arrest omitting my licenses to perform group therapy. As result the children were obligated to found another school and therapy center, in a News-post in the Web of Orlando Sentinel, was recommended the enrollment of the children in the "UCP CENTERS", when I executed my searches this centers, was discovered that the former governor Rick Scott was a director and the former State Secretary Elaine Chao a member of the direction, which was used the retaliation with the providers as mean to obtain children enrolled in this schools. (See pag.15-20).

e) The on-site Search and record inspection was executed, after I send a twitter to the elected president Trump, adverting of this practice by the MFCU, by a non- Law

enforcement official the analyst John DiMaria, whom change the amount of the billing information that was used to the execution of the warrants, as result of this tweet the response was "SEND NUDE". (See Pag. 21-26).

f) The plaintiff had suffered until today numerous unlawful access to my emails accounts, after this, My emails were accessed by the MFCU without a warrant, deleting all my information in my email account angelstherapycenter@gmail.com, (See Exhibits of the information submitted by Google related to my Gmail account, filed in the Motion to Dismiss on December 18, 2023 in the case NO. 2017-CF-0001585-B-O of the Ninth Judicial Circuit Court of Orlando Florida) where was filed a Notice by Google indicating to the investigators that my emails were deleted. Depriving to the plaintiff of exculpatory evidences in her case still pending at time. which casually were found by the prosecution "Nolle Prosequi" on February 14, 2024. (See pag. 27-31).

g) The petitioner was entrapped by a State's witness, where was requested information by Candy Reyes a friend of my Co-defendant. I send this information which contained the post of the President trump and a News-post which was described as was paid the Florida Attorney General Pam Bondi at time, before that his charges related to the Trump University were dropped, and where had investigative notes related to the false Affidavit for Search Warrant to the access to our corporative emails, which had been previously accessed according to the Google notice submitted by the plaintiff. (See pag. 32-34).

h) By this news that contained the information shared with a friend of my co-defendant at time, On August 15, 2017, the Petitioner was charged with two counts of Witness of Tampering (Count 1) and Conspirator to commit Witness Tampering (Count 2). During the arrest incident the plaintiff's cell-phone was seized which contained the messages and evidences exculpatory of the state's witness, upon the use of an usurpation of power, where the agent of the MFCU acted as a Homeland

security agent (see Narrative of ICJIS Affidavit). As the plaintiff refused to take a plea in exchanges of the properties unlawfully seize, (See email where was offered "Forfeit all the property seized"), numerous evidences were concealed to the defense including the payment executed to the state's witness, by their perjured testimony. According to the transcripts the MFCU obtained access to my emails through the embezzlement commit by the state's witness, (see pag-32-43).

i) On March 13, 2019 the Court Acquitted the Petitioner in the (Count 2) and a jury found the Petitioner guilty of the Count 1 of the information. On September 20, 2019 the Petitioner was sentenced to 7 years of imprisonment, which had currently served. The information charged in the case No. 2017-CF-010498-A-O, contained the case No. 2017-CF-001585-B-O, which had been "Void Ab Initio" as the "Official Proceeding" and presented to the jury. Information directly or indirectly derived of the compelled testimony which the Petitioner had been granted immunity, where the conviction was obtained upon the use of perjured evidence.

j) As the plaintiff state under the ground five of the Postconviction Motion, the scheme of the MFCU and the UCP Center where the former governor was director. The States' exhibits 1, 2 and 3, were concealed of the record on appeal, and which until now are not in possession of the clerk of court. Upon the case No.: 6:22-CV-01691-PGB-DCI (See Doc #1, was explained as the evidence were concealed in her appeal proceedings and related to the sons of President). (See pag. 44-46)

Petitioner, contend she was unlawfully prosecuted by unauthorized people based on their assertion of "extrinsic fraud" upon the court, in violation of rights guaranteed to her under Florida and Federal law and the 5, and 14th Amendments to the Constitution of the United States. However, perjury may constitute fraud on the court if it involves, or is suborned by, an officer of the court.

ARGUMENTS

The Underlying offence was reviewed by the District Court of Appeal under the case No.: 6:22-CV-01691-PGB-DCI in a petition for writ of habeas corpus, since that being the Petitioner confined in the FWRC of Ocala, the case was transferred to Orlando Division, and denied in a court that lacked jurisdiction. In determining whether a district court possesses the power to serve a writ of habeas corpus, the critical principle is that the writ is served not upon the prisoner, but upon the custodian. under *Rumsfeld v. Padilla,* 542 U.S. 426, 159 L. Ed. 2d 513, 124 S. Ct. 2711, 2722 (2004), the District Court Orlando Division Acted without jurisdiction, rendering the judgment void. "A judgment is Void ...if the court that rendered it lacked of jurisdiction and ...acted in a manner inconsistent with due process of law." *Burke v. Smith*, 252 F.3d at 1260, 1263 (11th Cir. 2001) (quotation marks omitted). "If the underlying judgment is void, the judgment based upon it is also void" *Austin v. Smith*, 114 U.S. App. D.C. 97, 312 F.2d 337, 343 (D.C. Cir. 1962).

> "The district court abused its discretion by denying the inmate's motion to reconsider the denial of his ...petition because the State was procedurally required, by R. Governing ... Cases U.S. Dist. Cts. 5 and Fed. R. Civ. P. 10(c), to serve the inmate with the exhibits included in the appendix and referenced in its answer to the petition and it failed to do so" Rodriguez v. Fla. Dep't of Corr. 748 F.3d 1073 (11th Cir 2014) cert. denied 574 US 1122, 135 S Ct 1170, 190 L Ed 2d 913(2015.

On January 31, 2025, the Circuit court found: "the record that we received included the documents associated with these entries, which were labeled as "court only". These entries simple show that two pieces of mail from the district court were returned as undeliverable". Which this court had acknowledgment that the notice of such dismissal had not in fact been sent to plaintiffs, which the petitioner did not received the entry of a final judgment in compliance with Fed. R. Civ. P. 58 and 79(a).), and in support thereof states the previous Scheme of fraud on the court, as follows:

Ground One

A material factual or legal matter was overlooked in the decision; since that "if the underlying judgment is void, the judgment based upon it is also void".

Statements of the case and facts:

1.- On September 2, 2022, was filed the petition for Writ of habeas Corpus under the provisions of the section 28 U.S.C. 2241 to the "undisputed facts" alleged regarding to the case No. 2017-CF-001585-B-O. which were found "Nolle Prosequi" by the prosecution in the State Trial Court on February 14, 2024. There was a reasonable probability that the state courts would have reversed the inmate's conviction if the "Undisputed" facts alleged in the petition regarding to the case No. 2017-CF-001585-B-O, were allowed be reviewed by the federal court under the provisions heard under the provisions of the section 28 U.S.C. 2241(5), if it is necessary to bring her into court to testify or for trial and to a "persons in custody in violation of the Constitution or laws or treaties of the United States" 28 U.S.C.S. 2241(c)(3).

2.- Here, the petitioner was in custody "in violation of the Constitution or laws or treaties of the United States" as established by The Florida Supreme court, which held: "the Statute 914.22(1)(a) was unconstitutional...the portions of the statute at issue today violate due process. Art I, 9 Fla. Cons. Accord U.S. Const. amend. XIV... Florida Statute 914.22 defines the phrase "influence the testimony of any person". Specifically, the statute leaves ambiguous whether it is criminal to influence to testify falsely, or truthfully, or both... the statute at issue today violate due process Art I, 9 Fla. Accord U.S. Const. amend. XIV... we also conclude that subsection 914.22(1)(a) is unconstitutionally vague because it fails to distinguish lawful from unlawful conduct in a way adequate to give notice as to the requirements of the law" State v. Cohen, 5685 So.2d 49 (Fl. 1990), which were applicable the provisions 28 U.S.C.S. 2241(c)(3) in her application for writ of habeas corpus.

3.- On September 9, 2022, the petitioner was currently in custody of the warden of Fla. Dpt. of Correction located in the Florida Woman Reception Center of Ocala, Florida.(See Doc # 1 and Doc. # 5) which the District Court with statutory jurisdiction was the Middle District Ocala Division.

4.- On September 12, 2022, the Middle District Ocala Division changed the respondent's address of confinement upon fraud practiced in the court, stating that petitioner was confined in Hernando Correctional, an institution closed at time for

women population. Had been a violation of *federal* law, either constitutional and statutory. (See Doc # 9).

5.- On September 15, 2022, the Middle District Ocala Division transferred the case to the Middle District Orlando Division and "exceed their "respective jurisdictions" established by Congress under 2241(a). Which had been a violation of *federal* law, either constitutional and statutory. (See Doc # 10).

6.- On September 27, 2022, the Middle District Orlando Division dismissed the petition for writ of habeas corpus when the district court Middle District Orlando Division lacked jurisdiction to consider the petition for Writ of habeas corpus because she was confined outside of the Orlando District of Florida. *See Rumsfeld v. Padilla*, 542 U.S. 426, 443, 124 S. Ct. 2711, 159 L. Ed. 2d 513 (2004) (explaining jurisdiction for 2241 petitions lies only in the district of confinement). At time, the petitioner was confined in the Florida Women reception center of Ocala. The district court of confinement was the Middle District Ocala Division. (See Doc. No 12). All the subsequent proceedings in the District and Circuit Court were Void, where the District Court had previously acted without jurisdiction.

Assignment of error:

Here, the decision rendered by this circuit court constitute "the application of Supreme Court precedent was unreasonable", since that as was established in *Rumsfeld v. Padilla*, 542 U.S. 426, 434-35, 124 S. Ct. 2711, 159 L. Ed. 2d 513 (2004). "Under 28 USCS 2241(a), writs of habeas corpus may be granted by various federal courts or judges "within their respective jurisdictions." Also, (1) 28 USCS 2242 in effect refers to the respondent to a 2241 petition as "the person who has custody"; and (2) 28 USCS 2243 refers to "the person having custody... The proper respondent to this petition had been ...the individual's immediate custodian...Even though the merits of the case at hand were of profound importance, it was just as necessary in important cases, as in unimportant ones, that federal courts took care not to exceed their "respective jurisdictions" established by Congress under 2241(a)." Here, the individual's immediate custodian was the warden of the Florida Women Reception Center located in Ocala, Florida which the Middle District Ocala Florida was the court with it "respective jurisdictions". "The prisoner's petition was governed by 28

U.S.C.S. 2241 and 2254 because he was in custody pursuant to the judgment of a state court" *Medberry v. Crosby*, 351 F.3d 1049, 1060 (11th Cir. 2003).

The Middle district Ocala Division "exceed their respective jurisdictions" transferring the petition to the Middle District Orlando Division. (see Doc # 1). "The Supreme Court had not made exceptions to the immediate-custodian and district-of-confinement rules whenever "exceptional," "special," or "unusual" cases had arisen" *Rumsfeld v. Padilla*, 542 U.S. 426, 434-35, 124 S. Ct. 2711, 159 L. Ed. 2d 513 (2004). Which the order rendered by the Middle District Orlando division the Middle district Ocala Division "exceed their respective jurisdictions". "It would be void as to the attainder, because in excess of the authority of the court, and forbidden by the Constitution.... In other words, in a case where it had full jurisdiction to render one kind of judgment, operative upon the same property, it rendered one which included that which it had a right to render and something more, and this excess was held simply void" Ex parte Lange, 21 LED 872, 85 US 163. "A judgment is Void ...if the court that rendered it ...acted in a manner inconsistent with due process of law." *Burke v. Smith*, 252 F.3d at 1260, 1263 (11th Cir. 2001) (quotation marks omitted). And "if the underlying judgment is void, the judgment based upon it is also void" *Austin v. Smith*, 114 U.S. App. D.C. 97, 312 F.2d 337, 343 (D.C. Cir. 1962). And "is not discretionary; sole function of registering court is to decide whether earlier judgment is void because rendering court lacked jurisdiction over parties; if voidness is found, relief is mandatory. Morris v. Peterson (D. Colo. Oct. 4, 1983), 573 F Supp 341, 38 Fed R Serv 2d (Callaghan) 470, rev'd, (10th Cir. Colo. Apr. 17, 1985), 759 F.2d 809.

Here, the federal Circuit courts had erred in refusing appellant's requests to review the question of the lower court's jurisdiction. If the record discloses that the lower court was without jurisdiction this court will notice the defect, since that every federal appellate court has a special obligation to satisfy itself of not only its own jurisdiction, but also that of the lower courts in a cause under review...

."[E]very federal appellate court has a special obligation to 'satisfy itself not only of its own jurisdiction, but also that of the lower courts in a cause under review,' even though the parties are prepared to concede it. Mitchell v Maurer, 293 US 237, 244 [79 L Ed 338, 55 S Ct 162] (1934). See Juidice v Vail, 430 US 327, 331-332 [51 L Ed 2d 376, 97 S Ct 1211] (1977) (standing). 'And if the record discloses that the lower court was without jurisdiction this court will notice the defect, although the parties make no contention concerning it. [When the lower federal court] lack[s] jurisdiction, we have jurisdiction on appeal, not of the merits but merely for the purpose of correcting the error of the lower court in entertaining the suit.' United States v Corrick, 298 US 435, 440 [80 L Ed 1263, 56 S Ct 829] (1936) (footnotes omitted)." Id., at 541, 89 L Ed 2d 501, 106 S Ct 1326 (brackets in original)" *Arizonians for Official English v. Ariz.*, 520 U.S. 43, 64, 117 S. Ct. 1055, 137 L. Ed. 2d 170 (1997).

"The appeal from a final judgment draws in question all prior non-final orders and rulings which produced the judgment" Mickles v. Country Club, Inc., 887 F.3d 1270, 1278 (11th Cir. 2018). "Federal courts have an independent obligation to ensure that they do not exceed the scope of their jurisdiction, and therefore they must raise and decide jurisdictional questions that the parties either overlook or elect not to press... Jurisdictional bars, however, ``may be raised at any time'' and courts have a duty to consider them sua sponte" Henderson v. Shinseki, 562 U. S. 428, 435, 131 S. Ct. 1197, 179 L. Ed. 2d 159 (2011)."It had not only had the power but also the obligation to inquire into jurisdiction whenever there was a possibility that jurisdiction did not exist.... it is well settled that a federal court is obligated to inquire into subject matter jurisdiction *sua sponte* whenever it may be lacking. *See Fitzgerald v. Seaboard Sys. R.R.*, 760 F.2d 1249, 1251 (11th Cir. 1985) (per curiam).

WHEREFORE, This honorable court, should grant this writ of certiorari since that a material factual or legal matter was overlooked in the decision rendered by the Eleventh Circuit Court; since that "if the underlying judgment is void, the judgment based upon it is also void, since that the opinion is in conflict with a decision of the United States Supreme Court as established in *Rumsfeld v. Padilla*, 542 U.S. 426, 434-35, 124 S. Ct. 2711, 159 L. Ed. 2d 513 (2004).

Ground Two

A material factual as the " lack of notice of the entry of judgment" and legal matter, was overlooked in the decision, upon the circuit court statements: "mail from the district court were returned as undeliverable" which was a conflict of decisions as established by the United States Supreme Court in *Jones v. Flowers*, 547 U.S. 220, 226, 126 S. Ct. 1708, 164 L. Ed. 2d 415 (2006).

Statements of the case and facts:

1.- On September 9, 2022, the petitioner was currently in custody of the warden of Fla. Dpt. of Correction located in the Florida Woman Reception Center of Ocala, Florida.(See Doc # 1 and Doc. # 5) which the District Court with statutory jurisdiction was the Middle District Ocala Division.

2.- On September 12, 2022, the Middle District Ocala Division changed the respondent's address of confinement upon fraud practiced in the court, stating that petitioner was confined in Hernando Correctional, an institution closed at time for women population. Had been a violation of *federal* law, either constitutional and statutory. (See Doc # 9).

3.- On September 27, 2022, the Middle District Orlando Division dismissed the petition for writ of habeas corpus finding the petitioner was confined in "Hernando correctional institution". At time, the petitioner was confined in the Florida Women reception center of Ocala. (See Doc. No 12). Which the petitioner did not received a final order of the entry of the judgment in her place of confinement as to provide 'notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford her an opportunity to present her objections

4.- On January 31, 2025, the Circuit court found: "the record that we received included the documents associated with these entries, which were labeled as "court only". These entries simple show that two pieces of mail from the district court were returned as undeliverable". Which this court had acknowledgment that the notice of such dismissal had not in fact been sent to plaintiffs, which the petitioner did not

received the entry of a final judgment in compliance with Fed. R. Civ. P. 58 and 79(a).

Assignment of error:

The opinion is in conflict with a decision of the United States Supreme Court as established in *Jones v. Flowers*, 547 U.S. 220, 226, 126 S. Ct. 1708, 164 L. Ed. 2d 415 (2006). "[D]ue process requires the [state] to provide 'notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections.'" *Jones v. Flowers*, 547 U.S. 220, 226, 126 S. Ct. 1708, 164 L. Ed. 2d 415 (2006).

Also, the Fed. R. Civ. P. 5(a) and ed. R. Civ. P. 12(a) require service of an answer and service of papers filed with the court. Under the Due Process clause the circuit court erred finding that "these entries simple show that two pieces of mail from the district court were returned as undeliverable", without find that the appellant's due process rights had been violated. "The information provided must be `` reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections....appellants were entitled to due process and, at a minimum, was required to give notice of termination and an opportunity to be heard at a meaningful time and in a meaningful manner."' Memphis Light, Gas & Water Div. v. Craft, 436 U.S. 1, 9 (1978). (quoting Mullane v. Central Hanover Trust Co., 339 U.S. 306, 314 (1950) (holding that ``(a)n elementary and fundamental requirement of due process in any proceeding... is notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections").

Ground Three

Petitioner was denied the procedural due process because the circuit court considered issues beyond the scope of the appeal which were available to the "court only", where the Circuit Court did not "afford to the appellant an opportunity to present [her] objections.

The appellant asserts she was denied procedural due process because the circuit court considered issues beyond the scope of the appeal which were available to the "court only". This court did not "afford to the appellant an opportunity to present [her] objections." Which the judgment rendered on January 31, 2025, was premised on certain jurisdictional errors or due process violations depriving notice or opportunity to be heard. "The prisoner was entitled to a hearing on his second motion because the second motion made factual allegations which might entitle the prisoner to relief and which were neither decided adversely to him on the merits on the first motion nor conclusively shown by the files and records of the case not to entitle the prisoner to relief" Sanders v United States, 373 US 1, 20-21, 10 L Ed 2d 148, 83 S Ct 1068 (1963). "A hearing must now be held on the merits of the allegation in question.... If the court eventually determines that... the allegation of the knowing use of false testimony should be decided as to its sufficiency and its merits" Price v Johnston, 334 US 266, 292, 92 L Ed 1356, 68 S Ct 1049 (1948), resulting in "an error that is plain and indisputable, and that amounts to a complete disregard of the controlling law or the credible evidence in the record." Black's Law Dictionary 243-44 (11th ed. 2019) as follow:

(1) The evidence is newly discovered; since that this court's statements in the opinion: "the record that we received included the documents associated with these entries, which were labeled as "court only", were evidences considered beyond the scope of the appeal, by raising this issue and ruling upon it without give the parties an opportunity to brief it.

(2) The evidence is material, and not merely cumulative or impeaching; it was overlooked in the decision, since that the decision is in conflict with the records in appeal and the evidence filed by the appellant, where the U.S. District Court Southern District of Florida clearly stated: "Doc.# 13, Not Document attached". (See Record attached and previously filed). And If "not document is attached", this court should not rely in "the documents associated with these entries, which were labeled as "court only". "the nondisclosure of this evidence affecting the coconspirator's credibility violated due process..., irrespective of the government's good faith or bad faith" *Giglio v. United States*, 405 U.S. 150, 92 S. Ct. 763, 31 L. Ed. 2d 104 (1972), and "knew that this testimony was false but did nothing to correct it... under the circumstances described above, the conviction violated the due process clause of the Fourteenth Amendment" *Napue v. Illinois*, 360 U.S. 264, 79 S. Ct. 1173, 3 L. Ed. 2d 1217 (1959). "Plaintiff's... record contained false information which they relied upon in denying his requests.... inmate was entitled to have false information expunged from (her) ...records, because ...reliance on it, when they knew it was false, was a flagrant abuse of their discretion" *Monroe v. Thigpen*, 932 F.2d 1437, 1442 (11th Cir. 1991) (finding a due-process violation where relied on false information). Which according to the Court statements gave by the U.S. District Court Southern District of Florida clearly stated: "Doc.# 13, Not Document attached", this court knew that the testimony gave "the documents associated with these entries, which were labeled as "court only", was false.

There is a reasonable probability that if the (court) had disclosed the evidence, the result of the proceeding would have been different since that was more likely than not the appellant would have been acquitted had the new evidence been admitted, since that the statements gave by U.S. District Court Southern District of Florida clearly stated: "Doc.# 13, Not Document attached", and it should show that the opinion is in conflict with a decision of this Court of appeals as was held in Tessmer v. Walker, 833 F.2d 925 (11th Cir 1987), which the conflict is not addressed in the opinion, since that this court found: "Appellant... exercised due

diligence in trying to determine the date judgment was entered, should have been able to rely on the clerk's information, and had no duty to personally inspect the court's file to verify the accuracy of the clerk's information.... This is not simply a case of the clerk's failure to advise counsel of the entry of the judgment as required by Rule 77(d). The clerk gave inaccurate information...Even if (appellant) had looked at the clerk's available records, (appellant) could not have learned of the critical date upon which judgment was entered until the lost docket sheet was found. Finding the docket sheet was the clerk's responsibility, not appellant's.... The court held that the... court should have vacated and reentered its judgment on the merits to restart the period for filing a notice of appeal" Tessmer v. Walker, 833 F.2d 925 (11th Cir 1987), which the appellant's procedural due process was violated.

The evidence was material because the appellant was prejudiced since that the "withholding-of-evidence rest on ground barred federal habeas corpus review... and there is a reasonable probability that, had the evidence been disclosed, the result of the proceeding would have been different." *Cone* v. *Bell*, 556 U. S. 449, 469-470, 129 S. Ct. 1769, 173 L. Ed. 2d 701 (2009). The Doc # 13 and Doc. # 14 should show that the appellant did not received the service of the entry of a final judgment which deprived the appellant her right to present objections.

Under this court statement: "These entries simple show that two pieces of mail from the district court were returned as undeliverable" can show that the appellant was deprived of her rights to appeal which are the basis of her detention now in immigration proceedings; "the deportation proceedings could not be used to support a criminal conviction, and the dismissal of the indictments was proper" *United States v. Mendoza-Lopez*, 481 U.S. 828, 837-38, 107 S. Ct. 2148, 95 L. Ed. 2d 772 (1987).

(3) The evidence will probably produce an acquittal; since that the lack of service of the entry of a final judgment was not according to "The "separate document" provisions of Rule 58 of the Federal Rules of Civil Procedure were to be mechanically applied to all judgments" *United States v. Indrelunas,* 411 U.S. 216,

221, 93 S. Ct. 1562, 1564, 36 L. Ed. 2d 202 (1973) (per curiam). "F.R.A.P. 4(a)(6) requires that, to be appealable, a judgment must be entered in compliance with Fed.R.Civ.P. 58 and 79(a). Fed.R.Civ.P. 58 requires that "every judgment shall be set forth on a separate document. A judgment is effective only when so set forth". The appellant procedural due process had been denied where the clerk of court allegedly failed to provide the notice of the entry of a final judgment as required by Federal law. A "Motion for reconsideration was granted, and the court again found that respondents had to serve petitioner with copies of the record documents that were attached to the answer and filed with the clerk. PINDALE v. NUNN, 248 F. Supp. 2d 361; 2003 U.S. Dist. LEXIS 3166 (D.C. N.J. 2003).

(4) The defendant did not fail to learn of the evidence due to his lack of diligence, since that were labeled as "court only", in the opinion rendered on January 31, 2025. The judgment was a manifest injustice since that this court erred by raising the issue *sua sponte* and then ruling on it without giving the parties an opportunity to be heard. Thus, "manifest error" is defined as)... not cure manifest injustice (and nor did it claim to) by raising this issue and ruling upon it without give the parties an opportunity to brief it". Western Ref. Southwest, Inc. v. United States DOI, 450 F. Supp. 3d 1214 (D.C. N.M. 2020).

This court applied an improper constitutional test, since that this court finding that: "the record that we received included the documents associated with these entries, which were labeled as "court only". These entries simple show that two pieces of mail from the district court were returned as undeliverable", were newly discovered evidence which should be available to the "court only", which had been denied the appellant's procedural due process.

"Absent such frivolity, the failure to state a proper cause of action calls for a judgment on the merits and not for a dismissal for want of jurisdiction.". Shapiro v. McManus,577 U.S. 39, 136 S. Ct. 450, 455, 193 L. Ed. 2d 279 (2015) Id. at 456.

Bell v. *Hood*, 327 U. S. 678, 682-683, 66 S. Ct. 773, 90 L. Ed. 939. (the failure to state a proper cause of action calls for a judgment on the merits and not for a dismissal for want of jurisdiction." *Id.,* at 682, 66 S. Ct. 773, 90 L. Ed. 939). "Jurisdiction ... is not defeated as respondents seem to contend, by the possibility that the averments might fail to state a cause of action on which petitioners could actually recover. For it is well settled that the failure to state a proper cause of action calls for a judgment on the merits and not for a dismissal for want of jurisdiction. Whether the complaint states a cause of action on which relief could be granted is a question of law and just as issues of fact it must be decided after and not before the court has assumed jurisdiction over the controversy. If the court Does later exercise its jurisdiction to determine that the allegations in the complaint do not state a ground for relief, then dismissal of the case would be on the merits, not for want of jurisdiction." Id., at 682, 90 L Ed 939, 13 ALR2d 383 (citations omitted)." Hagans v. Lavine, 94 SCT 1372, 39 LED2D 577, 415 US 528 (1974).

WHEREFORE, this honorable court should find that the circuit court erred finding: : "the record that we received included the documents associated with these entries, which were labeled as "court only" which fail to state a cause of action before the court has assumed jurisdiction over the controversy.

Ground Four

The opinion is in conflict with a decision of the United States Supreme Court in the light of the decision rendered in SHALALA v SCHAEFER 509 US 292, 125 L Ed 2d 239, 113 SCT 2625 (1993), which this court erred finding "the notice of appeal was untimely".

A judgment or order was not entered within the meaning of Fed. R. App. P. 4(a) when it was not entered in compliance with Fed. R. Civ. P. 58 and 79(a). According to the Fed. R. App. P. 4(a)(1) provides that a notice of appeal shall be filed within 30 days after the date of entry of the judgment or order appealed from. The appellate rules do not define "judgment" or "order," but Fed. R. Civ. P. 54(a) defines "judgment" to include a decree and any order from which an appeal lies. Fed. R. App. P. 4(a)(6) instructs that a judgment or order is entered within the meaning of Fed. R. App. P. 4(a) when it is entered in compliance with Fed. R. Civ. P. 58 and 79(a).

Fed. R. Civ. P. 58 requires in part that every judgment shall be set forth on a separate document. A judgment is effective only when so set forth and when entered as provided in Fed. R. Civ. P. 79(a). Fed. R. Civ. P. 79(a) requires that all papers filed in each case, including judgments and orders, be entered on the civil docket kept by the clerk of the district court. The import of the appellate and civil procedure rules, taken together, is that to be appealable, any decree or order must be set forth in a separate document and entered on the clerk's civil docket.

"The "separate document" provisions of Rule 58 of the Federal Rules of Civil Procedure were to be mechanically applied to all judgments, whether simple or complex, and that the government's appeal in the instant action thus was timely" *United States v. Indrelunas,* 411 U.S. 216, 221, 93 S. Ct. 1562, 1564, 36 L. Ed. 2d 202 (1973) (per curiam). "F.R.A.P. 4(a)(6) requires that, to be appealable, a judgment must be entered in compliance with Fed.R.Civ.P. 58 and 79(a).

Fed.R.Civ.P. 58 requires that "every judgment shall be set forth on a separate document. A judgment is effective only when so set forth".

Here, the "separate document" provisions of Rule 58 of the Federal Rules of Civil Procedure were not mechanically applied to the judgment.(see Doc #12, #13, #14). On January 31, 2025 this Eleventh Circuit court found:

> (a) "The record that we received included the documents associated with these entries, which were labeled as "court only". These entries simple show that two pieces of mail from the district court were returned as undeliverable"
> (b) "Navarro-Martin did not file her notice of appeal until July 2023. Because the notice of appeal was untimely to challenge the dismissal of the action, we conclude that we lack of jurisdiction to review it", which under Statements gave by this Court order on January 31, 2025:

1.- The district court did not clearly established its intent that the opinion represented the final decision in the case; since that false facts were presented as that "the petitioner was confined in Hernando Correctional institute" clearly in conflict with court order recorded in the Doc # 5 and upon perjured evidence stating "filing fee were not paid" clearly in conflict with the statements gave in the Doc # 1 of the docket sheet which show "filing fee paid". This court Knew that the appellant was not notified of the entry of the judgment when stated : "these entries, which were labeled as "court only". These entries simple show that two pieces of mail from the district court were returned as undeliverable" (see Doc. #13 and Doc. #14). The petitioner alleged that Fraud in the court was used to change the petitioner's address of her place of confinement (see Doc #9), which the petitioner was prejudiced depriving her right to appeal.

2.- The judgment of dismissal was not properly recorded on the clerk's docket; since that upon statements gave by U.S. District Court Southern District of Florida clearly stated: "Doc.# 13, Not Document attached", should demonstrated that part of the judgment was not properly recorded on the clerk's docket. This court knew that a judgment "in compliance with Fed. R. Civ. P. 58 and 79(a)", was not entered when stated: "these entries, which were labeled as "court only". These entries simple show that two pieces of mail from the district court were returned as undeliverable" (see Doc. #13 and Doc. #14).

3.- The appellee from the district court had not objected to perfecting the appeal from that order, which The opinion is in conflict with a decision of the United States Supreme Court as established in SHALALA v SCHAEFER 509 US 292, 125 L Ed 2d 239, 113 SCT 2625 (1993). The circuit court erred finding "the notice of appeal was untimely" where a judgment or order was not entered in compliance with Fed. R. Civ. P. 58 and 79(a) since that "the District Court failed to comply with Federal Rule of Civil Procedure 58 in entering its ..order... the 30-day time limit runs from the end of the period for appeal, and that period does not begin until a judgment is entered in compliance with the formalities of Rule 58. Because the District Court never entered formal judgment, neither the time for appeal nor ...30-day clock had run when (appellant) filed (her) application" SHALALA v SCHAEFER 509 US 292, 125 L Ed 2d 239, 113 SCT 2625 (1993).

Moreover, In *Hamer v. Neighborhood Housing Services of Chicago*, et al. 83 U.S. 17; 138 S. Ct. 13; 199 L. Ed. 2d 249 (2017). the Supreme Court made clear that "a provision governing the time to appeal in a civil action qualifies as jurisdictional only if Congress sets the time." If not prescribed by Congress, a time limit is simply a "mandatory claim-processing rule." And these types of rules "may be waived or forfeited." The Federal Rules of Appellate Procedure were promulgated by the Supreme Court, not by Congress. So the appellant's failure to file a timely notice of appeal does not affect an appellate jurisdiction under 28 U.S.C. 1291. "Current 28

U.S.C.S. 2107(c), like the provision as initially enacted, specifies the length of an extension for cases in which the appellant lacked notice of the entry of judgment. For other cases, the statute does not say how long an extension may run.... as 28 U.S.C.S. 2107 does not speak to extensions for reasons other than lack of notice of the entry of judgment" Hamer v. Neighborhood Housing Services Of Chicago, *83 U.S. 17; 138 S. Ct,* which this court erred finding "the notice of appeal was untimely".

There are times when it is important to emphasize the fact that an order denying a petition for a writ of certiorari is not a ruling on the merits of any question presented by the petition. See Singleton v Commissioner, 439 US 940, 942, 58 L Ed 2d 335, 99 S Ct 335 (1978) (Stevens, J., respecting denial of certiorari). "the accused's challenge, which would shorten the accused's term of incarceration if the accused proved unconstitutionality, implicated the core purpose of habeas corpus review.

Petitioner allege and demonstrate a concrete and continuing injury stemming from the sentence imposed as a 'collateral consequence' of the conviction, meaning some concrete and continuing injury other than the now-ended incarceration to establish a live case or controversy, since that actually is in custody in immigration detention. Which "the only appropriate remedy for this due process violation is release on conditions set by this Court. Absolute or unconditional grants of habeas corpus are "generally limited to situations where the nature of the error is simply incurable, such as a conviction under an unconstitutional statute" *See, e.g., Staley v. Jones*, 108 F. Supp. 2d 777, 788 (W.D. Mich. 2000), *rev'd on other grounds*, 239 F.3d 769 (6th Cir. 2001). (It is well-settled that a federal court should analyze a state statute that is challenged on vagueness grounds as it has been interpreted by the state's highest court.... Habeas petition was granted because the ...statute was unconstitutionally vague). Here, the nature of the error is simply incurable, since

that the Fla Supreme court found the petitioner's statute of conviction "unconstitutionally vague" in State v Cohen, 568 So.2d 49 (Fla. 1990).

"The conviction violated due process because based upon a statute which failed to give petitioners adequate notice that their conduct was prohibited thereby" Wright v Georgia, 373 US 284, 291, 10 Led 2d 349, 354, 83 SCT 1240, In addition, "for some kinds of constitutional violations, irreparable harm is presumed." *Ezell v. City of Chi.* 651 F.3d 684, 699 (7th Cir. 2011), since that an "unconstitutional discrimination in violation of the Equal Protection Clause. Such an ongoing constitutional violation constitutes irreparable harm. *See Preston v. Thompson*, 589 F.2d 300, 303 n. 3 (7th Cir. 1978) ("The existence of a continuing constitutional violation constitutes proof of an irreparable harm."). which remains 'some concrete and continuing injury' despite the release.

Ground Five

The appellant allegations shall be accepted as true, if the government did not travesed the appellant allegation in the "Initial Brief" filed in this cause, where the.. refusal to docket an indigent prisoner's petition for a writ of habeas corpus without the payment of a statutory filing fee, denies the prisoner the equal protection of the laws guaranteed by the Fourteenth Amendment" Smith v Bennett, 365 US 708, 6 L Ed 2d 39, 81 SCT 895 (1961).

The State trial court entered an order granting appellant "leave to proceed in forma pauperis" (see Doc. #1) Motion and trial court order attached), hereafter, without any intervening proceedings the district court Middle District Orlando Division, dismissed the petition for writ of habeas corpus for failure to state a cause of action under the provisions of s. 28 USC 2241 on the ground that "petitioner did not paid the filing fee". The government did not travesed the appellant allegation in the "Initial Brief" filed in this cause, if not traversed, the appellant allegations shall be accepted as true except to the extent that the judge finds from the evidence that they are not true. Here the Circuit court judges can see in the Doc. No. 1 of this docket, that clearly said "filling fee paid". This court shall deem the appellant

allegations as true. Under the common law, as adopted by statute, 'The allegations of a return to the writ of habeas corpus or of an answer to an order to show cause in a habeas corpus proceeding, if not traversed, shall be accepted as true except to the extent that the judge finds from the evidence that they are not true.' 28 U.S.C.A. 2248. Here, "the allegations with reference to the ("filing fee paid") stand untraversed and unrebutted, and we think they must be taken as true...whether in obedience to the outstanding warrant or for some other reason, is immaterial to the question of his unlawful detention" Vitale v. Hunter, 206 F.2d 826, 1953 U.S. App. LEXIS 2803 (10th Cir. 1953).

On January 31, this Circuit court found: "the district court never granted Navarro-Martin permission to proceed in forma pauperis in this action, s. 2250 is inapplicable". The petitioner attached the trial court order declaring the appellant indigent for appeal purposes. (See Exhibit Attached in the Doc # 1 of the record transmitted in this cause).

Assignment of error:

Title 28 U.S.C.A. 2250 authorizes a court to order the Clerk to furnish "such documents or parts of the record on file" as may be required to consider a *pending* writ. The prerequisites are: (a) The pendency of a writ of habeas corpus. Here, the court Knew that at time of the request an "The pendency of a writ of habeas corpus" was pending upon the Case No. 6:23-CV-0014-RBD-EJK, (see Doc.# 20 filed May 23, 2023 and Doc.# 21 Filed May 25, 2023 under this court docket No. 23-13123).

The opinion is in conflict with a decision of the United States Supreme Court, and the conflict not addressed according to the following opinions:

Nothing contained herein contravenes the clear constitutional right of an indigent prisoner to have the same rights as non-indigent persons in connection with

transcripts when he has legal need of it. See Griffin v. People of State of Illinois, 351 U.S. 12, 76 S. Ct. 585, 100 L. Ed. 891.

> "A Federal District Court sitting in habeas corpus proceedings instituted by a state prisoner has the power to compel production of the complete state court record or, where more convenient, to hold an evidentiary hearing forthwith without compelling production of the record... A District Court sitting in habeas corpus clearly has the power to compel production of the complete state-court record. Ordinarily such a record-including the transcript of testimony (or if unavailable some adequate substitute, such as a narrative record), the pleadings, court opinions, and other pertinent documents-is indispensable to determining whether the habeas applicant received a full and fair state-court evidentiary hearing resulting in reliable findings. See United States ex rel. Jennings v Ragan, 358 US 276, 3 L ed 2d 296, 79 S Ct 321; Townsend v Sain, 359 US 64, 3 L ed 2d 634, 79 S Ct 655. Of course, if because no record can be obtained the district judge has no way of determining whether a full and fair hearing which resulted in findings of relevant fact was vouchsafed, he must hold one. So also, there may be cases in which it is more convenient for the district judge to hold an evidentiary hearing forthwith rather than compel production of the record. It is clear that he has the power to do so" Townsend v Sain, 372 US 293, 317, 9 L Ed 2d 770, 83 S Ct 745 (1963).

It was a Duty of the District Court, that *If an appeal has been lodged*, transcripts may be made available to the prisoner or to his counsel, even before it has been allowed in forma pauperis or any determination made as to whether it is "in good faith" or "frivolous". This for the obvious reason that it may be necessary for the determination of its nature, i.e. "taken in good faith", by the trial or appellate courts or by court-appointed counsel, particularly if he was not the trial counsel. See Hardy v. United States, 375 U.S. 277, 84 S. Ct. 424, 11 L. Ed. 2d 331 (1964); Coppedge v. United States, 369 U.S. 438, 82 S. Ct. 917, 8 L. Ed. 2d 21 (1962).

Under the section 28 U.S.C. 2250 (If on any application for a writ of habeas corpus an order has been made permitting the petitioner to prosecute the application in forma pauperis, the clerk of any court of the United States shall furnish to the petitioner without cost certified copies of such documents or parts of the record on file in his office as may be required by order of the judge before whom

the application is pending.); Townsend v. Sain, 372 U.S. 293, 319 (1963); United States v. Connors, 904 F.2d 535, 536 (9th Cir. 1990) (after filing petition, prisoner proceeding in forma pauperis on a habeas corpus petition is entitled to receive at government expense copies of court documents including trial transcript). Although the Habeas Rules only explicitly provide for a court order requiring the production of portions of the record *following* the states compliance with a directive to answer the petition, *see* Rule 5(a) of the Rules Governing Section 2254 Cases in the United States District Courts (answer not required except upon order of court); *see also* Rule 4 of *id.*, Habeas Rule 4 gives the court the power not only to choose between summarily dismissing the petition or ordering an answer but also to take other [intermediate] action. *Id. See supra* 15.2a. This latter provision apparently authorizes actions focused, *inter alia*, on the availability of transcripts. Advisory Committee Note to *id.* The rules thus give the court ample authority to require the state, even before answering (or in lieu of immediately answering), to produce all or portions of the record, which an indigent petitioner then could obtain free of charge under section 2250 if so ordered by the court.

The petitioner requested a "final order" of the entry of the judgment that was "mandatory" be served in the petitioner's place of confinement (see Doc. # 15). which deprived the petitioner's constitutional rights to the due process by the lack of service in her place of confinement due that her place of confinement was changed upon fraud practice in the court, (see Doc. # 9), which was necessary to proceed in appeal proceedings)."the.. refusal to docket an indigent prisoner's petition for a writ of habeas corpus without the payment of a statutory filing fee, denies the prisoner the equal protection of the laws guaranteed by the Fourteenth Amendment" Smith v Bennett, 365 US 708, 6 L Ed 2d 39, 81 SCT 895 (1961).

The "Fed. R. Civ. P. 5(a) generally requires service of papers filed with the court on all parties... R. Governing 2254 Cases U.S. Dist. Cts. requires the government to serve documents..., failure to serve the documents ..disadvantages petitioner's

ability to rebut the arguments raised in the answer.... To the extent that 28 U.S.C.S. 2250 conflicts with court rules requiring service of an answer and papers filed with the court, the statute is of no force or effect... In any event, to the extent that 2250 conflicts with court rules requiring service of an answer and papers filed with the Court, the statute is of no force or effect... *See, infra.* Section 2072 of Title 28, which authorizes the Supreme Court to prescribe rules for cases in the United States district courts, provides that "all laws in conflict with such rules shall be of no further force or effect after such rules have taken effect." 28 U.S.C. 2072" Pindale v. Nunn, 248 F. Supp. 2d 361; 2003 U.S. Dist. LEXIS 3166 (D.C. NJ. 2003), which the circuit court rule on the merits of the appeal departed of the essential requirements of the law knowing that the petitioner was deprived of her constitutional rights of appeal were the copy of the necessary to show that the underlying judgment was void.

REASONS FOR GRANTING THE WRIT

"Extraordinary circumstances exist, as a "systematic and persistent abuse of power" required for this Court to exercise its supervisory power, "such as proceedings pursuant to a flagrantly and patently unconstitutional state statute" Younger v. Harris, 401 U.S. 37, 44, 27 L. Ed. 2d 669, 91 S. Ct. 746 (1971), at 753-755, which the federal court need not abstain. In Zwickler v Koota, 389 US 241, 252, 19 L Ed 2d 444, 88 S Ct 391 (1967), it was held that "since the statute was not susceptible to a construction by the state courts which could avoid or modify the federal constitutional questions involving overbreadth, and no special circumstances prerequisite to application of the doctrine of abstention were present, it was error to refuse to pass on the plaintiff's claim for a declaratory judgment, and the District Court had the duty to decide the appropriateness and the merits of that claim irrespective of its conclusion as to the propriety of issuing an injunction...Congress imposed the duty upon all levels of the federal judiciary to

give due respect to a suitor's choice of a federal forum for the hearing and decision of his federal constitutional claims. Plainly, escape from that duty is not permissible merely because state courts also have the solemn responsibility, equally with the federal courts, '... to guard, enforce, and protect every right granted or secured by the Constitution of the United States ...,' Robb v. Connolly, 111 U.S. 624, 637 [28 L Ed 542, 546, 4 S Ct 544]"

1. Exceptional Circumstances:

Here, "The petitioner has demonstrated the type of rare and exceptional circumstances... Because the state law has been declared unconstitutional, (Petitioner) is by necessity actually innocent of a violation of the law. "It is well settled that if the statute under which appellant has been convicted is unconstitutional, (she) has not in the contemplation of the law engaged in criminal activity; for an unconstitutional statute in the criminal area is to be considered no statute at all." *Hiett v. United States,* 415 F.2d 664, 666 (5th Cir. 1969), *cert. denied,* 397 U.S. 936, 25 L. Ed. 2d 117, 90 S. Ct. 941 (1970). Although "courts have framed the actual innocence factor differently, . . . the core idea is that the petitioner may have been imprisoned for conduct that was not prohibited by law." *Reyes-Requena v. United States,* 243 F.3d 893, 903 (5th Cir. 2001).

Here, (petitioner) had made a showing of actual innocence, because (she) cannot be held to have violated the facially unconstitutional statute upon which the (habeas proceeding) was based. *See Hiett,* 415 F.2d at 666; *Reyes,* 753 S.W.2d at 383-84; *Jefferson v. State,* 751 S.W.2d 502, 502-03 (Tex. Crim. App. 1988); *Cartier,* 2001 Tex. App. LEXIS 2828, 2001 WL 454532, at *2. Having been declared unconstitutional, the (Witness Tampering) statute was "void from its inception and conferred no right or benefit." *Reyes,* 753 S.W.2d at 384. Clearly, "the incarceration of one whose conduct is not criminal 'inherently results in complete miscarriage of justice.'" *Reyes-Requena,* 243 F.3d at 904 (quoting *Davis v. United States,* 417 U.S.

333, 346, 41 L. Ed. 2d 109, 94 S. Ct. 2298 (1974)). Consequently, to preclude (petitioner) from pursuing federal habeas corpus relief would, in this context, effect a fundamental miscarriage of justice" ALEXANDER v. JOHNSON, 217 F. Supp. 2d 780; (S.D. Tex. 2001).

The Supreme Court's intervening decisions which this "Federal courts are vested with a virtual 'unflagging obligation' to exercise the jurisdiction given them." *McCarthy v. Madigan,* 503 U.S. 140, 146, 117 L. Ed. 2d 291, 112 S. Ct. 1081 (1992).

2. Adequate relief cannot be obtained in any other form or from any other court, as follows:

BACKGROUND IN SCHEME OF FRAUD ON THE COURT(S):

(a) Upon the case No. 6:22-CV-01691-PGB-DCI: On September 12, 2022, the Middle District Ocala Division changed the respondent's address of confinement upon fraud practiced in the court, stating that petitioner was confined in Hernando Correctional, an institution closed at time for women population.(See Doc # 9). The U.S. District Court Southern District of Florida clearly stated: "Doc.# 13, Not Document attached", which the Doc # 13 and Doc # 14 were deleted of the records on Appeal. "The district court abused its discretion by denying the inmate's motion to reconsider the denial of his ...petition because the State was procedurally required, by R. Governing ... Cases U.S. Dist. Cts. 5 and Fed. R. Civ. P. 10(c), to serve the inmate with the exhibits included in the appendix and referenced in its answer to the petition and it failed to do so" Rodriguez v. Fla. Dep't of Corr. 748 F.3d 1073 (11th Cir 2014) cert. denied 574 US 1122, 135 S Ct 1170, 190 L Ed 2d 913(2015).(See pag 47-51)

(b) Upon the case No. 6:24-CV-1056-JSS-RMN, the clerk of court changed the proper respondent in immigration proceedings, which was not stated in the Notice of Appeal and deprived the petitioner of judicial review. According to the Section 8 U.S.C.S. 1252(b)(3)(A), is establish that: "The respondent is the Attorney General. The petition shall be served on the Attorney General". And according to USCIS Policy Manual: (See Appendices Attach - Part 9 Special Alert Adjudicators Field Manual Incorporated in USCIS Policy Manual, CHAPTER 104, Judicial Review *, 104.04 Habeas Corpus, [5] Jurisdiction, [b] Determining the Proper Custodian, [iii]

Attorney General/DHS is the Proper Custodian). Which according to case law precedents; "The proper respondent for habeas petition must be someone who has authority over the detention of the prisoner, and in the immigration context, this authority often lies with the U.S. Attorney General or the Secretary of the Department of Homeland Security" Farez-Espinoza v. Chertoff, 600 F. Supp. 2d 488 (S.D.N.Y. 2009) (Attorney General and DHS Secretary are proper respondents (citing Rumsfeld v. Padilla, 542 U.S. 426, 436 n.8 (2004)); Somir v. United States, 354 F. Supp. 2d 215 (E.D.N.Y. 2005) (Attorney General remains proper custodian post-*Padilla*); Mandarino v. Ashcroft, 318 F. Supp. 2d 13 (D. Conn. 2003) (Attorney General is proper custodian). Which the clerk of court upon fraud on the court, changed the proper respondent in immigration proceedings, which was not stated in the Notice of Appeal and deprived the petitioner of judicial review.

(c) Upon the Case No.: 2017-CF-0001585-B-O: The Trial Court order in the "official proceeding" allow access to all discovery executed after the trail, (See transcripts pag. 18, L.20), The trial Court also ordered the defendant be transported to a Court hearing on the Motion to Compel. A "False report" **related to "another person" named " LARAVUSO CHRISTINE"** to her transportation to court which was filed in the "Official Proceeding", prejudicing the outcome of the Defendant's Motion to Compel, which was denied upon the use of perjured testimony, after the "official proceedings" were found "Nolle Prosequi". (See Appendices Attached). Which the clerk of court upon fraud on the court, filed a false report in trial court proceedings, and deprived the petitioner of judicial review. Which plaintiff's alleges that exist an unconscionable plan or scheme which [was] designed to improperly influence the court in its decision engaged in an "*intentional*, material misrepresentation". (see pag.52-56)

(d) Upon the Case No.: 2017-CF-010498-A-O: The Jury Instructions and Charging Documents were base in an "official proceeding" presented to the jury, which was found "Nolle Prosequi" by the prosecution after the trail, which the conviction was obtained upon the use of perjured evidence were the State's witness had been paid by the State, without be disclosed this payments the defense. And being the judges in appeal the same judges that rendered the judgment in the trial court. (See Pag. 57-63).

(e) Upon the Case RE: 204-984-846: filed in the Board of Immigration Appeals Date: 04/29/2025, the application was filed on February 14, 2025, and was returned by the Board because the envelope was not submitted until April 10, 2025, and received in the Board until April 15, 2025. This Denial of the justice by delay, is

depriving the petitioner of judicial review with the finality of execute her deportation before present denounces by this violations of the plaintiff's civil and human rights.(See 64-67)

(f) Upon the D.C. 24-60355-CV-SMITH: 1) On April 28, 2025 the Eleventh Circuit Court of Appeals, and transferred the case on appeal related to the D.C. 24-60355-CV-SMITH, to the "District Court Southern District of Florida. The case transferred was not filed in the Southern District Court of Florida. and a letter related to "another person" was submitted to the plaintiff. 2) The letter was submitted by an officer of the court, without a signature of the official. 3) The letter requested a response which is directed at the court itself, "if you wish to appeal, you may submit your notice in writing". 4) That "in fact deceives the court", because stated the case No. #24-CV-60355-RS was a case "forwarded to our court on 4/28/2025 by the US court of Appeals for the Eleventh Circuit". However, perjury may constitute fraud on the court if it involves, or is suborned by, an officer of the court since that this case is **related to "another person" named "Richard Gomez"**. The Procedural Due Process was violated by the refusal of the District Court to receive the pleas, the complainants were precluded from a just defense, and it is also a sufficient ground of relief. (See 68-70)

(g) Upon D.C. case No. 25-1228 (SLS): were filed all the documents related to the bribery of the State's witness that were paid according to trial transcripts filed, and all the scheme related to the prosecution by the Former Attorney General Pam Bondi to the Medicaid Providers, the case was transferred to the District Court and not filed upon Fraud on the Court. "By the refusal of the court to receive the pleas, the complainants were precluded from a just defense. This court has decided... it is a ground for relief in equity. It is also a sufficient ground of relief" Marine Insurance Company of Alexandria v. Hodgson. 7 CRANCH 332 3 LED 362. The petitioner "has been prevented from exhibiting fully her case", this court "had both the duty and the power to protect its appellate jurisdiction from fraud practiced on it" Cf. United States v. Throckmorton, 98 US 61, 25 L ed 93; Marshall v. Holmes, 141 US 589, 35 L ed 870, 12 S Ct 62. (See Pleading and Motions for reconsideration filed in the case Pag. 71). Petitioner contend reference to underlying action the trial judge was without authority granted to her by law rendered a judgment against her when she was never afforded the requirements of a final notice as guaranteed to her by the Due Process Clauses of the 5th and 14th Amendments to the Const. of the United States.

3. The petitioner is facing immigration proceedings which is "Irrational that it is arbitrary rather than the result of any perceptible rational approach"

8 U.S.C.S. 1227(a)(2)(A)(iii) makes aliens removable based on the nature of their convictions, not based on their actual conduct. Accordingly, to determine whether an alien's conviction qualifies as an aggravated felony under that section, a court employs a categorical approach by looking to the statute of conviction, rather than to the specific facts underlying the crime. Under that approach, the Immigration Court applied a categorical approach by looking to the statute of conviction § 914.22(1)(a) Fla. Sta. which could operate to render valid a previous void issue. Having section § 914.22(1)(a) Fla. Sta been found "the portions of the statute at issue today violate due process. Art I, 9 Fla. Cons. Accord U.S. Const. amend. XIV...and **is unconstitutionally vague** because it fails to distinguish lawful from unlawful conduct in a way adequate to give notice as to the requirements of the law" State v. Cohen, 5685 So.2d 49 (Fl. 1990), "was not a law; that it was inoperative, conferring no rights and imposing no duties, and hence affording no basis for the challenged decree. Norton v. Shelby County, 118 US 425, 442, 30 L ed 178, 186, 6 S Ct 1121; Chicago, I. & L. R. Co. v. Hackett, 228 US 559, 566, 57 L ed 966, 969, 33 S Ct 581.

The Florida Supreme court declaring the statute "**unconstitutionally vague**", is also "unconstitutionally vague in the immigration context" *Cf. Sessions v. Dimaya*, 138 S. Ct. 1204, 121516, 200 L. Ed. 2d 549 (2018). Which "The Attorney General has no authority to demand compliance with Section..., hereby deemed unconstitutional... "Attorney General did not have authority to impose immigration notice, access, and compliance reporting conditions" City of Chicago v. Barr, 961 F.3d 882, 2020 U.S. App. LEXIS 13882 (7th Cir. Ill., Apr. 30, 2020). The Attorney General authority to demand compliance with Section hereby deemed unconstitutional was "irrational that it is arbitrary rather than the result of any perceptible rational approach".

This honorable Supreme Court held: "Vague laws invite arbitrary power... The requirement of fair notice applied to statutes too... Vagueness doctrine represents a procedural, not a substantive, demand. It does not forbid the legislature from acting toward any end it wishes, but only requires it to act with enough clarity that reasonable people can know what is required of them and judges can apply the law consistent with their limited office... no one should be surprised that the Constitution looks unkindly on any law so vague that reasonable people cannot understand its terms and judges do not know where to begin in applying it. A government of laws and not of men can never tolerate that arbitrary power" Sessions v. Dimaya, 584 U.S. 148, 176, 138 S. Ct. 1204, 200 L. Ed. 2d 549 (2018) (Gorsuch, J.,concurring in part and concurring in judgment) (internal quotation marks omitted).

WHEREFORE, the appellant Maria Navarro Martin, pro se, and respectfully request to this honorable court find as a matter of law and of rights in the above-styled cause since that:

1) In remanded the judgment of the District Court in the petition for Writ of habeas corpus should be Vacate and/or Reversed as a "Void" order, due that was rendered by a court which lacked jurisdiction and/or remanded to the entry of a judgment in compliance with Fed.R.Civ.P. 58 and 79(a).

2) The judgment of the Circuit Court rendered by this court on January 31, 2025, should Vacate and/or Reversed.

3) Any all the appropriate relief that this honorable court deem just and proper.

CONCLUSION

This petition for a Writ of Certiorari should be granted.

No._____

_____

IN THE

SUPREME COURT OF THE UNITED STATES

MARIA NAVARRO MARTIN - Petitioner

v.

STATE OF FLORIDA - Respondent

PROOF OF SERVICE

I, Maria Dolores Navarro Martin, do swear or declare that on this date, June 10, 2025, as required by the Supreme Court Rule 29 I have served the enclosed MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS and MOTION TO TAKE JUDICIAL NOTICE, on each party to the above proceeding or that party's counsel, and on every other person required to be served, by depositing an envelope containing the above documents in the United States mail properly addressed to each of them and with first-class postage prepaid, or by delivery to a third-party commercial carrier for delivery within 3 calendar days.

The Names and address of those served are as follow:

To The Clerk of the U.S. Supreme court. I Further Certify that the clerk can e-serve a copy of this document to Solicitor General, U.S. Dpt. of Justice, 950 Pennsylvania Av. NW. Office of the Attorney General, Room 5114, Washington DC. 20530-0001, to State of Florida, Office of the Attorney General, 444 Seabreeze Blvd. Daytona Beach Fl. 32118

Executed on June 10, 2025

Maria Dolores Navarro Martin
Pro se – Petitioner
3455 W. 10 Ave. Apt. 208
Hialeah - Florida
33012