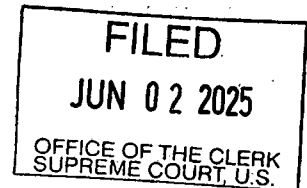


No. 25-5296

ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES



IN RE JOSHUA ISAAC MARTINEZ - PETITIONER

ON PETITION FOR A WRIT OF PROHIBITION TO

THE NORTHERN U.S. DISTRICT COURT, GAINESVILLE DIV.

PETITION FOR WRIT OF PROHIBITION

JOSHUA ISAAC MARTINEZ

TAYLOR CORRECTIONAL INSTITUTION

8501 HAMPTON SPRINGS RD.

PERRY, FLORIDA 32348

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

JOSHUA ISAAC MARTINEZ — PETITIONER
(Your Name)

vs.

THE UNITED STATES OF AMERICA — RESPONDENT(S)
PROHIBITION
ON PETITION FOR A WRIT OF **PROHIBITION** TO

THE NORTHERN U.S. DIST. COURT Gainesville Div. for the State of Florida
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PROHIBITION
PETITION FOR WRIT OF **PROHIBITION**

JOSHUA ISAAC MARTINEZ
(Your Name)

MALE CORRECTIONAL INSTITUTIONAL AREA
(Address)

MALE FL. 32066
(City, State, Zip Code)

(Phone Number)

QUESTIONS PRESENTED FOR REVIEW, Rule 14.1(a)

Petitioner is seeking Supreme Court Rule 18 Direct Appeal from a Dist. Court Decision, Feb 27th, 2025, dismissing his case "without prejudice for lack of jurisdiction, as frivolous, and as malicious based on (his) Failure to truthfully disclose litigation history;" and he believes that the United States Supreme Court should have jurisdiction pursuant to their Rule 11a

1. Does the U.S. Supreme Court have jurisdiction, pursuant 28 U.S.C. §1201(c), to review the District Court ruling finding petitioner's claim that he has had his right to engender children violated by Federal law and case law because of Roe v. Wade, 410 U.S. 113 and progeny relegating Federal lawmaking power to regulate abortion to the states as too far attenuated and thus fore without Art III standing?

2. Does the U.S. Supreme Court have jurisdiction, pursuant U.S.C. §1201(c), to review the District Court ruling finding that in regard to a father's right to engender children, the pursuit of happiness is not actionable in and of itself, when such finding is based on an antiquated ruling in Ex parte Barrell Cnty. Dep't of Human Res., 2015 WL 1387950, at *4-5 (M.D. Ala. Mar. 25, 2015) passed four years before Governor Kay Ivey signed House Bill 214 outlawing abortion in Alabama?

3. Does petitioner's Failure to truthfully disclose litigation history in the District Court foreclose him from petitioning for a writ of prohibition on direct appeal to the United States Supreme Court?

[illegible]

PARTIES TO PROCEEDING, Rule 14.1(b)(1)

Joshua Isaac Martinez (V44831), petitioner

The United States of America, respondent

CORPORATE DISCLOSURE STATEMENT, Rule 29.6 and 14.1(b)(1)

Nothing to disclose.

RELATED CASES, Rule 14.1(b)(1)(i)

Joshua Isaac Martinez v. The United States of America, No. 1:25-cv-3

-AW-HTC, U.S. District Court for the Middle District of

Florida. Judgment entered Feb. 19th, 2025.

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<u>Denton v. Hernandez</u> , 504 U.S. 75, 37-33 (1992)	10
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IN THE
SUPREME COURT OF THE UNITED STATES
JURISDICTIONAL STATEMENT

Petitioner respectfully prays that the U.S. Supreme Court will find that it has jurisdiction to review the judgment below.

OPINIONS BELOW

The opinion of the United States district court appears at Appendix B to the jurisdictional statement and has been designated for publication but is not yet reported.

[illegible]

JURISDICTIONAL STATEMENT

The jurisdiction of this court is invoked under 28 U.S.C. § 2101 (e).

The judgment petitioner seeks review of is Feb. 17th, 2025 judgment in the United States District Court for the Northern District of Florida, Gainesville Division, case no. 1:25-cv-3 AW/HTC, dismissing petitioner's complaint as without standing, frivolous, and malicious.

In petitioner's January 7th, 2025 filed complaint, he alleged that he is entitled as a potential father to the right to engender children, which he believes is protected by the inalienable right to pursue happiness, App. C, pg. 1 Jan. 30th, 2025 Report and Recommendations. Petitioner further alleged that by the passing of Roe v. Wade, 93 S.Ct. 705, 410 U.S. 113 (1993) and progeny, and by the passing of federal law and case law port the overturned decision of Roe v. Wade in May of 2022, that right has been impinged upon because the federal government has relegated law-making power to regulate abortion to the states.

The issue as to whether or not abortion is unconstitutionally affecting a father's right to engender children is one that must be decided immediately, for every day children are being aborted and it is imperative that this case be reviewed as soon as practicable in order to determine whether a writ of prohibition needs be issued in order to stop, cause to cease and desist the killing of unborn constituents who were contemplated when the founding father penned the phrase "We the people", even as we were contemplated, being yet unborn, and birth is inevitable goal, wherefore, we are people. Title 1 of U.S.C., § 8, defines a person as "born alive". Those yet-to-beborn are inevitably people, and therefore constituents.

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CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Preamble to Art. I, Cl. 1, U.S. Const., providing "We the people, in order to establish a more perfect union"

Amend. IX, U.S. Const. (1790), reserving all rights not enumerated in the U.S. Constitution to the States and the Citizens thereof.

Amend. XIV, U.S. Const. (1868), providing that no State shall deprive a person of life, liberty or happiness without Due Process of law.

Preamble of Declaration of Independence (1776), providing that "all men are created Equal and are endowed by their Creator with certain inalienable rights, among which are life, liberty, and the pursuit of happiness."

§ 782.09, Fla. Stat., killing of unborn child by injury to mother is murder or manslaughter.

§ 797.03, Fla. Stat., prohibition against unlicensed abortion practices, punishable as ~~felony~~ Wisdemeanor.

1 U.S.C. § 8(c), defining a person as "born alive"

18 U.S.C. § 1531, Forbidding partial-birth abortions

18 U.S.C. § 1841, protecting unborn children (except when mother consents or physician-intervenor intervenes)

42 U.S.C. 18113, proscription against discrimination on assisted suicide's barring abortion from proscription

42 U.S.C. § 289g-1, permitting unborn aborted babies for research with consenting mother

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CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED
(Cont.)

42 U.S.C. 300a-281 (repealed Aug. 13th, 1981), outlawing abortion

42 U.S.C. 300a-7(c), barring discrimination against anyone who
commit an abortion (d) against anyone who will not
support abortion

42 U.S.C. § 300a-8, penalty for coercion based on federal benefits

§ 390.01112, Fla. Stat., legalizing abortion in the State of Florida

Fed. R. Civ. P. 12(b) (1) "lack of standing has the same effect as dismissal"

28 U.S.C. 1915A(b), regarding prescreening for prisoner proceedings
in forma pauperis

28 U.S.C. 1915(e)(2), guarding against malicious complaints not truthfully
disclosing litigation history

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STATEMENT OF THE CASE

On Jan. 7th, 2025, appellant's complaint was filed in the United States District Court for the Northern District of Florida, Gainesville Division. On Jan. 30th, 2025, appellant's amended complaint was reported and recommended to be dismissed as without standing, frivolous and malicious pursuant §1915(A)(2), §1915(e)(2), and Fed. R. Civ. P. 12(b)(1) (28 U.S.C. and Fed. R. Civ. P.).

Appellant believes that the United States of America has violated her right as a potential father to engender children, a right established in Planned Parenthood of Central Missouri v. John C. Danforth, 428 U.S. 52 (1976), and he also believes that this right is protected by the Ninth Amendment of the U.S. Const., Amend. IX, U.S. Const., and made applicable by the Fourteenth Amendment of the same, Amend. XIV, U.S. Const.

In the original complaint, appellant brought up the fact that the United States of America, by and through the United States Supreme Court, after over-turning, Roe v. Wade, 93 S.Ct. 705, 410 U.S. 113, 35 L. Ed. 2d 147 (1973) in May of 2022 relegated law-making power to regulate abortion to the States. Appellant argued that this relegation of power is unconstitutional, in violation of his right to engender children found within his inalienable right to pursue happiness. And, in her Jan. 30th, 2025 Report and Recommendation, the Hon. Magistrate below explained that based on a 2015 Alabama ruling passed four years prior to Alabama outlawing abortion via House Bill 214, appellant, "has no basis in law" to pursue allegations because based on Ex parte Rurrel City Dept. of Human Res., 2015 WL 1387950, at *4-5 (M.D. Ala., Mar. 25, 2015), the pursuit of

[illegible]

STATEMENT OF THE CASE (CONT.)

happiness is not actionable in and of itself, and therefore appellant's complaint is frivolous, pursuant 28 U.S.C. § 1915 (A)(1), regarding pre-receiving for prisoner proceedings in forma pauperis, App. B, p. 7.

REASONS FOR GRANTING THE PETITIONER JURISDICTION, Rule 20.1

In the instant case, the life of the unborn are at stake. These constituents and their father's happiness are presently debilitated by a policy allowing for that life and happiness to be trumped by a mother's freedom, so petitioner argues in his original complaint, below. And, moreover, because of the indirect effect of the policy causing there to be a significantly lesser chance of gestation coming to fruition in lesser situated societies, especially financial, which indeed pertain to class, such as black minority populated areas, petitioner argues in his original complaint in the U.S. District Court for the Northern District of Florida, Gainesville Division, that the policy is prejudicial and invidious in nature, knowingly and intentionally causing detriment in persons born in such societies, whom are inevitably people, and likewise in the father with whom is the potential to engender children within them, which petitioner has alleged is a direct violation of the Fourteenth Amendment's Equal Protection clause, Amend. XIV, U.S. Const., especially because by the policy (that is, the law and case-law by which the United States of America has relegated law-making power to re

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REASONS FOR GRANTING JURISDICTION (Cont.),
Rule 20.1
- regulate abortion to the States, a mother has been given an unfair advantage over her child's father and the child.

The United States, by and through the Honorable United States Supreme Court, should recognize the issue as to whether a father's right to happiness, that is, her right to engender children, is in and of itself actionable as one of Great Public Importance. That right was firmly established in Planned Parenthood of Central Missouri v. Danforth, 428 U.S. 52 (1976). However, after Roe v. Wade, 410 U.S. 113 (1973) was over-turned in May of 2022, rather than making abortion illegal the Federal government again relegated the law-making power to regulate abortion to the States, this when 1 U.S.C. § 8 defines a person as "born alive". Although "We the People" contemplate persons not yet born, and personhood is therefore inevitable. Wherefore, the unborn are constitutionally just as much as we. Yet, in her Report and Recommendation, the Hon. Magistrate opined on Jan. 30th, 2025, App. B, p. 45, "The allegation that some states may at some point deprive him of being a father because of the Supreme Court's reversal of the Roe decision is based purely on a speculative injury that is not fairly traceable to either of Defendant's conduct," with regard to petitioner's Art. III standing, we lack thereof citing to Lujan v. Defenders of

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REASONS FOR GRANTING JURISDICTION (Cont.),
^{Rule 20.1}
Wildlife, 504 U.S. 555, 560 (1992) ("the core component of standing is
an essential and unchanging part of the case-or-controversy requirement
of Article III). And per Fed. R. Civ. P. 12(b)(1), "lack of standing has the
same effect or dismissal. Yet, petitioner's allegation below is not far
off from potential personal damage when the State of Florida already
has passed a law prohibiting abortions at unlicensed facilities, implicitly
allowing them at licensed ones, § 797.03, Fla. Stat., a violation of which
is merely punishable as a misdemeanor. Yet, still, Florida law maintains that
to kill an unborn child by injury to the mother is a felony punishable in like
manner as though the mother had been killed, § 782.09, Fla. Stat. That
the Hon. Magistrate below has opined and recommended that petitioner's
standing is non-existent because of the attenuation of the alleged poten-
tial injury is a matter that this Honorable Court must review de
novo.

For, even when petitioner has sought preventative remedy for a potential
injury the attenuated nature of such injury should in no way bar him from per-
-suing relief when it has been held that "No right is held more sacred,
or is more carefully guarded by the common law, than the right of every individual
to be safe and secure in his own person, free from all restraint or interference of
others, unless by clear and unquestionable authority of law," Union Pac. Railroad v.
Burford, 141 U.S. 250, 115 S.Ct. 1000, 35 L.Ed. 734, at 737 (1891).

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REASONS FOR GRANTING JURISDICTION (Cont), R/g 201

Yet, "Even assuming Martinez could establish standing, her claims are utterly frivolous," as applied by the Hon. Magistrate below, App. B, p. 8, and thus she recommended to dismiss petitioner's claim pursuant 28 U.S.C. § 1915A(b) and 1915(e)(2)(B), which recommendation the Hon. Chief Judge adopted Feb. 29th, 2025, App. A, p. 1-2. A frivolous action under the Prisoner Litigation and Reform Act (PLRA) "is one lacking an arguable basis either in law or in fact," Neitzke v. Williams, 490 U.S. 319, 325 (1989), (internal citation omitted). A frivolous action also might "describe fantastic or delusional scenarios," Bisler v. Delver, 251 F.3d 1346, 1349 (11th Cir. 2001). Yet, in ascertaining whether or not petitioner's claim is frivolous based on these definitions the Hon. Magistrate relied on an antiquated ruling in Epps v. Burrell City. Dept. of Human Res., 2015 WL 13879508 (M.D. Ala. Mar. 25, 2015), wherein it was found, "Nowhere is 'the pursuit of happiness', without more, or belated as an independently actionable federal right in and of itself," and "[A] claim for deprivation of the right to pursue happiness... has no basis in law... is due to be dismissed as frivolous pursuant to 28 U.S.C. § 1915(e)(2)(B)(i)." However, in 2019 Governor Kay Ivey signed House Bill 214 outlawing abortion in Alabama. Wherefore since abortion has been outlawed in Alabama since the ruling in Epps, the action in the original proceeding warrants sua sponte review in this Honorable Court.

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REASONS FOR GRANTING JURISDICTION (Cont.), July 2011

Furthermore, the case, Rehberger v. Henry Cnty. Gen., 577 F. App'x 737/11th Cir., Aug. 18th, 2024) sets an example of how a district court's dismissal was affirmed when the plaintiff's claims were ~~found~~ frivolous because they consisted of conclusory allegations untied to the specific parties, lacked factual support, and were without arguable merit. Petitioner herein, however, has named the United States of America as the defendant because he believes that the Republic as a whole is responsible for the laws passed relegating lawmaking power to the States to regulate abortion rather than protecting a father's right to engender children by keeping the decision of the legality of abortion within the federal government when Roe v. Wade was overturned in May of 2022 just as it was before; see 42 U.S.C. 300a281 (repealed Aug. 13th, 1981), (presently, the only protection offered by the federal government are those forbidding post-birth abortions, 18 U.S.C. § 1531 and those protecting unborn children except when a mother consents or a physician-intervenor intervenes, 18 U.S.C. § 1841). And, petitioner has named the Surgeon General of the United States as a defendant because he seeks to hold the Surgeon General accountable for not objecting to the laws passed relegating abortion decisions to the states though fully aware that 1 U.S.C. § 8 defines a person as "born alive" and present medical knowledge concludes that an unborn child can be preserved outside the womb by artificial means from Day One of conception. And, if the ruling in Epps v. Rural Cnty. Dept. of Human Res., 2015 WL 1387950 at 4-5 (M.P. Ala. Mar. 25, 2018) is correctly deemed antiquated in regard to its use in evaluating a parent of happiness claim as it pertains to abortion then the allegations petitioner has made against the defendants might

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REASONS FOR GRANTING JURISDICTION (CONT.), Rule 20.1

indeed be construed to relate factual support and simultaneously arguably merit. And, certainly, the allegation that the United States of America and Surgeon General had impinged on petitioner's inalienable right to pursue happiness would, in the event the pursuit of happiness was in and of itself actionable, not be "clearly baseless," (as defined in Denton v. Hernandez, 504 U.S. 75, 32-33 (1992) as "fantiful", "fantastic", and "delusional", or "vise to the level of irrational or... wholly incredible.") App. Bp. 7.

The concept of fundamental error is rooted in notions of Due Process, U.S.C.A. Const. Amend. 14. Petitioner believes that by citing to a case, Egan v. Rural Cnty. Bd. of Human Res., 2015 WL 1387950 at 4-5 (M.D. Ala. Mar. 25, 2015) that was ruled on four years prior to abortion becoming illegal in Alabama that the District Court, ~~by~~ and through the Hon. Hope Thai Cannon, U.S. Magistrate, and the Hon. Chief Judge, Allen Winsor, have committed such error and that such error, as well as the Great Public Importance attached to a father's right to engender child-~~ren~~, constitutes sufficient basis ^{to warrant} for the Honorable United States Supreme Court to have jurisdiction.

Finally, as to the third part of the dismissal dismissing petitioner's complaint for failure to truthfully disclose litigation history, the issue of potential prejudice against inmates was discussed in Haines v. Kerner, 404 U.S. 519, 92 S.Ct. 594, 30 L.Ed. 2d (1972); to wit, the Haines doctrine provides that pro se pleadings should be held to a less stringent standard than a formal pleading

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REASONS FOR GRANTING JURISDICTION (Cont'd), Rule 20.1 drafted by an attorney and should be reasonably read to state a valid claim for relief despite the failure to cite proper legal authority or confusion as to various legal theories of the pleading requirement. Yet, the Hon. Magistrate has held pro se petitioner to a stringent standard, recommending that his case be dismissed as frivolous and now malicious for failure to identify a ~~two~~ cases in Section III A. of the 1985 Civil Right complaint form, Martinez v. Sec'y, Dep't of Corr., 6:15cv-2018-ORL-28 PAB, Doc. 2 (M.D. Fla. Dec. 2, 2015), and Martinez v. Kanner, et al., 2:22cv-972-JLB-MM, Doc. 17 (M.D. Fla. Jan. 24, 2022), and for failure to identify one case in Section III C., Martinez v. Sec'y Dep't of Corr., 2:24-cv-76-SPC-KCD, Doc. 4 (M.D. Fla. Jan. 25, 2024), although he did identify it in Section III A.. The Hon. Magistrate reasons that ~~when~~ the omissions were made under penalty of perjury "His pro se status does not excuse him from conforming to acceptable standards - namely, veracity," App. B.jp. 10, concerning petitioners. She continues, "This Court will not tolerate false responses or statements in any pleading or motion as such responses threaten the quality of justice." Furthermore, she surmises, "Without penalty, Martinez would have little disincentive for malfeasance," referencing Bratton v. Sec'y DOC, 2012 WL 291371, at *1 (M.D. Fla. July 16, 2012) (dismissing the case without prejudice when prisoner failed to disclose one prior Federal case that was dismissed under 28 U.S.C. § 1915(c)(2) and Ealy v. CCA, 2015 WL 9647546, at *1 (M.D. Fla. Dec. 18, 2015) (collecting Eleventh Circuit cases affirming dismissals without prejudice when plaintiffs failed to

[illegible]

REASONS FOR GRANTING JURISDICTION (Cont.), Rule 20.1

disclose their prior litigation history. But this failure on petitioner's part was not intentional, and definitely not malicious, for merely two months and ten days prior to the Hon. Magistrate Jan. 30th, 2025 Report and Recommendation it had been found in Marquez v. Sec'y Dep't of Corrections, 1:24-cv-00021-MW-MAF, Doc. 29, p. 2 (N.D. Fla., Nov. 20, 2024) that the same Honorable District Court, the Honorable District Court for the Northern District of Florida, Gainesville Division "conclud(ed) that reasonable jurists could disagree as to whether Plaintiff failed to state a claim upon which relief may be granted," (pertaining to the principle of good-faith outlined in Burgerr v. United States, no. 4:11-cv-76, 2011 WL 1740504, 1 (S.D. Ga. May 5th, 2011), wherein "good faith means that an issue exists on appeal which is not frivolous when judged by an objective standard.")¹⁰ Petitioner prays the Hon. U.S. Supreme Court will find the same instantly.

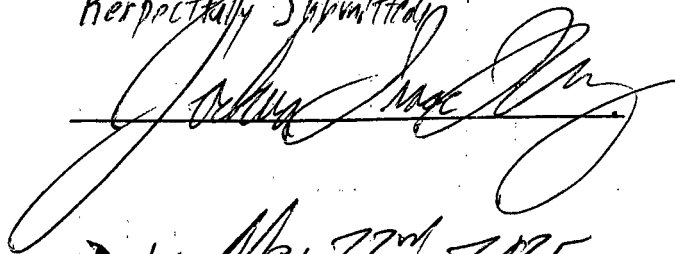
It is of note that the United States Supreme Court pointed out in Ree v. Wade, 410 U.S. 113, 93 S.Ct. 705 (1973) that they would have preferred that defendant, Wade, the then District Attorney for the Northern District of Texas, would have filed under United States Supreme Court Rule 20, or Mr. Justice Blackman had said, "It might have been preferable if the defendant, pursuant to our Rule 20, had presented to us a petition for certiorari before judgment in the Court of appeals with respect to the granting plaintiff's prayer for declaratory relief." Herein instant petition petitioner does beg the Hon. Supreme Court to grant Rule 18, Rule 18 and Rule 20 jurisdiction in order that he may petition for a writ of prohibition prohibiting the enforcement of the Feb. 17th, 2025 District Court Judgment, below, in order that he may seek the declaratory relief he believes he is entitled to as a prospective father of a prospective child who will inevitably be a person.

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CONCLUSION

The Honorable United States Supreme Court should find that it
has jurisdiction.

Respectfully Submitted,

A large, stylized handwritten signature in cursive script, appearing to read "Johnnie Mae Ray". The signature is written over a horizontal line.

Date: May 22nd, 2005

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