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IN THE
SUPREME COURT OF THE UNITED STATES

DARREN N. CLARK SR. - **PETITIONER**

VS.

SECRETARY Fla. DEPT. OF CORRECTIONS - **RESPONDENT(S)**

FLORIDA ATTORNEY GENERAL

ON PETITION FOR A WRIT OF CERTIORARI TO
U.S. District Court, N. D. of Florida-Gainesville

Division

PETITION FOR WRIT OF CERTIORARI

DARREN N. CLARK SR.

NORTHWEST FLORIDA RECEPTION CENTER (MAIN UNIT)

CHIPLEY, FLORIDA 32428

QUESTION(S) PRESENTED

- (1). Is a suspended attorney, a practicing attorney and if so, when was the constitution amended to allow suspended attorneys to engage in the legitimate practice of law?
- (2). Does State Court violate Defendant's constitutional rights when the courts fail to provide indigent defendant with transcripts for the prosecuting of his/her appeal?

LIST OF PARTIES

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

- 1). C.J. Benton, Appellate Judge, 1st District Court of Appeals, Tallahassee, Florida.
- 2). Rowe, Appellate Judge, 1st District Court of Appeals Tallahassee, Florida.
- 3). J.J. Marstiller, Appellate Judge, 1st District Court of Appeals Tallahassee, Florida.
- 4). Jennifer J. Moore, Asst. Attorney General, 1st District Court of Appeals Tallahassee, Florida.
- 5). Ralph D. Grabel, Asst. State attorney, 8th Judicial Circuit Court, Gainesville, Florida.
- 6). Mark W. Moseley, Circuit Judge, 8th Judicial Circuit Court, Gainesville, Florida.
- 7). Julie Jones, Secretary Fla. Dept. of Corrections, Tallahassee, Florida.
- 8). William T. Hodges, U.S. District Judge, Northern District of Florida, (Gainesville Division).
- 9). Stanley Marcus, US Circuit Judge, 11th Circuit (Atlanta, GA).

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

OPINIONS BELOW

Federal Court Cases:

The opinion of the United States Court of Appeal appears at Appendix A to the Petition and is unpublished. See, Clark v. Dept. of Corrections, 17-11331-B, Reconsideration denied, Motion to Supplement dismissed.

The opinion of the United States District Court appears at Appendix B to the Petition and is reported at Clark v. Dept of Corrections, 2017 U.S. Dist. Lexis 31482.

State Court Cases:

The opinion of the highest State Court to review the merits of direct appeal appears at Appendix C to the Petition and is reported at Clark v. State, 86 so. 3d 1117 (Fla. 1st DCA 2012).

The opinion of the highest State Court to review the merits of Postconviction Motion appears at Appendix D to the Petition and is reported at Clark v. State, 111 So. 3d 883 (Fla. 1st DCA 2103).

The opinion of the 8th Judicial Circuit Court on Postconviction Motion appears at Appendix E to the Petition and is unpublished at Clark v. State, 01-2009-CF-1097-A, Alachua County, Florida.

JURISDICTION

Cases from Federal Courts:

The date on which the United States Court of Appeals decided my case was September 27, 2017.

A timely Petition for Rehearing was denied by the United States Court of Appeal on the following date: November 8, 2017, and a copy of the order denying rehearing appears at Appendix A.

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

Cases from State Courts:

The date on which the highest State Court decided my case was February 21, 2013. A copy of that decision appears at Appendix E.

A timely Petition for Rehearing was denied on the following date: May 6, 2013, and a copy of the order denying rehearing appears at Appendix E.

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Question One: Petitioner deprived of his 5th, 6th, and 14th Constitutional Amendment Rights to fair impartial trial, equal protection, and due process of law when State allowed a suspended prosecutor to prosecute this criminal case.

Question Two: Petitioner deprived of his 5th, 6th, and 14th Constitutional Amendment Rights to fair impartial trial, equal protection, and due process of law when State denies the Petitioner the right to obtain transcripts of the proceeding where prosecutor admits on record that he was prosecuting while suspended.

STATEMENT OF THE CASE

On November 30, 2010, Petitioner was tried and convicted in a court of law for the offense of Strong-arm Robbery. Petitioner was sentenced to (30) thirty years in the Florida department of Corrections.

In April of 2011, Stacy A. Scott, Public Defender for the Eight Judicial circuit, Alachua County, Florida by correspondence notified the Petitioner that the Assistant State Attorney on record, who prosecuted the instant cause, was suspended from the practice of law during trial proceedings. (See Appx. H). The issue was raised on direct appeal at Clark v. State, 86 So. 3d 1117 (Fla. 1st DCA 2012), which was per curiam affirmed (hereafter PCA) on May 14, 2012 (See Appx. C).

On December 3, 2012, (via mailbox rule), Petitioner filed a Rule 3.850 Motion for postconviction Relief. On December 12, 2012, the trial court summarily denied relief on all grounds without an evidentiary hearing. On February 21, 2013, the First District Court of Appeal per curiam affirmed trial court order without an opinion at Clark v. State, 111 So. 3d 883 (Fla. 1st DCA

2013). (See Appx. D). Rehearing denied, May 6, 2013.
(See Appx. D).

On December 3, via mailbox rule, Petitioner filed § 2254 Petition for Writ of Habeas Corpus to the United States District Court, Northern District, Gainesville Division, at Clark v. Secretary Dept. of Corr., 1:13-cv-251-WTH-GRJ. On June 14, 2014, the State of Florida responded to court's order to show cause. On December 13, 2016, the magistrate judge entered his report and recommendation and on March 6, 2017, the District Court Judge denied the Petition and Certificate of Appealability. at Clark v. Secretary, Dept. of Corr., 2017 U.S. Dist. Lexis 31482. (See Appx. B).

On or about March 17, 2017, the Petitioner filed his notice of appeal and certificate of appealability to the United States District Court, Northern District, Gainesville Division at Clark v. Secretary, Dept. of Corr., 17-11331-B.

On September 27, 2017, the United States 11th Circuit Court of Appeals denied the Certificate of

Appealability. (See Appx. A). reconsideration denied
November 8, 2017. (See Appx. A).

This timely Writ of Certiorari follows:

REASONS FOR GRANTING THE PETITION

QUESTION ONE

Defendant deprived of his rights to fair impartial trial, constitutional due process of law and equal protection pursuant to the 5th, 6th, and 14th Amendments in the State's failure to prosecute in accordance with constitutional law, violating Petitioner's rights to a fair trial resulting from a fraudulent conviction producing a manifest injustice.

On November 30, 2010, the Petitioner, Darren N. Clark Sr. was tried and convicted in a court of law by a prosecutor who denied and elected to deprive Clark of his rights secured under the Constitution or federal law and such deprivation occurred under State law, resulting in the denial of Clark's constitutional rights to a fair trial, due process of law and equal protection, pursuant to the 5th, 6th, and 14th Amendments U.S.C.A.

As a safeguard to Clark's actual claim of prosecutorial fraud upon the court, Clark incorporated Rule: 60(b)(3) as early as December 5, 2012 pursuant to post conviction proceeding. The rule mandates relief

based upon the elements of fraud, misrepresentation, or misconduct by an opposing party, "A catch all claim to support his argument of the prosecutor's suspension during trial proceedings admitting fraud upon the court." This Honorable Court has held, "misrepresentation that induce a guilty plea may be grounds to void prior guilty plea. Brady v. U.S., 397 U. S. at 755, 905 S.Ct. 1493. It should also be applied as misrepresentation that induced a guilty verdict and may be grounds to void a guilty verdict.

Prior to jury selection the Assistant State Attorney for the Eight Judicial Circuit Court, in and for Alachua county, Florida, Ralph D. Grabel, during a preliminary hearing, absent the presence of Clark's court appointed attorney, went off the record to discuss his bar status of his need to be reinstated to the bar because he was delinquent in completing and reporting his Continuing Legal Education (hereafter CLE) requirements and stating to the court that by time

of jury selection (November 29, 2010), that he would have the situation rectified.

The dates indicated here are preliminary hearings prior to jury selection, which includes: October 4, 2010, October 12, 2010, November 9, 2010 and November 16, 2010, (See Appx. K). The proceedings, thus being the subject matter of the prosecutor's awareness of his suspension. The actual court date of the proceeding in question is November 9, 2010. The Petitioner prays this Honorable Court deem the matter egregious enough to warrant further review and summon the record/transcripts of the proceedings indicated above.

On November 29, 2010, Ralph D. Grabel (ASA) appeared at jury selection and established himself on record as counsel representing the State of Florida in the Petitioner's criminal case. Mr. Grabel proceeded falsely representing that he had been reinstated to the Bar. It can only be assumed the trial court honored his integrity as an officer of the court to have rectified his suspension to practice law in the State of Florida.

However, without rectification, Mr. Grabel continued to select the jury, prosecuted the criminal case, and represent the State of Florida at sentencing as an imposter. Mr. Grabel's conduct amounted to dishonesty, deceit, fraud, and misrepresentation in violation of Fla. S. Ct. Rule 4-8.4(c) R. Prof. Conduct. See Fla. Bar v. Roberts, 789 So. 2d 284 (Fla. 2001); Mr. Grabel was an imposter masquerading as a lawful attorney in good standing with the Florida Bar. (See Hoffman v. U.S., 182 U.S. Dist. Lexis 11605), (See also In Re Husain, 866 F. 3d 832, (U.S. 7th Cir. 2017), which implements American Bar Association (hereafter ABA) Model Rule: 8.4(c) (2011).

In April of 2011, the Petitioner was contacted by Stacy Scott, Public Defender, Eight Judicial Circuit, Alachua County, Florida through written correspondence and notified that Mr. Grabel was practicing law while suspended during the entire trial proceedings. Ms. Scott advised Petitioner to inform appellate counsel of the new development. (See Appx. H). The issue was

raised on direct appeal as a fundamental error and due process violation, thus should result in a nullity. The issue was PCA by the Florida First District Court of Appeal (Appx. C) reported at Clark v. State, 86 So.3d 1117 (Fla. 1st DCA 2012).

In December of 2012, Clark submitted his 3.850 Motion for Postconviction Relief as ground one alleging fraud upon the court, which was denied December 12, 2012. (Appx. E). Clark then submitted his notice of appeal followed by his initial brief to the Florida First District Court of Appeal, who rendered a PCA order without a written opinion. (Appx. D); reported at Clark v. State, 111 So. 3d 883 (Fla. 1st DCA 2013). Rehearing denied.

In December of 2013, Clark filed his Title 28 U.S.C. § 2254 Petition for Writ of Habeas Corpus in the U.S. District Court, Northern District, Gainesville Division. The U.S. District Court issued an order denying relief on March 6, 2017. (Appx. B). The U.S. District Court's opinion mirrored that of the State

trial court. The case is reported at Clark v. Julie Jones, et-al, 2017 U.S. Dist. Lexis 31482.

In the trial court's denial, it cites Dolan v. State, 469 So. 2d 142 (Fla. 3rd DCA 1985); and White v. State, 464 So. 2d 185 (Fla. 3rd DCA 1985), where both Dolan and White claimed ineffective assistance of counsel because both attorneys were suspended from practice of law for failure to pay Bar dues. Both cases ended in denials with the courts opining that the suspensions were purely ministerial and not related to any disciplinary proceeding. The courts also opined that the suspensions did not affect the attorneys' ability to try cases and there was no showing of prejudice nor did their performance violate any constitutional right.

As the issue before this Honorable Court is similar, the roles of the attorneys are distinctive in office. The instant case involves a State prosecutor who was suspended from the practice of law for failure to complete CLE requirements, which are mandatory for

recertification and reinstatement to the Bar upon completion. Deemed a delinquent member of the Bar in accordance with Rule: 6-10.5(a)-Rules Regulating the Florida Bar, Bar Rules 1-3.4(a) and 1-3.6, provide that "A delinquent member [shall] not engage in the practice of law in Florida." Fla. Bar v. Roberts, 789 So. 2d 284 (Fla. 2001). In contrast to the lower court's opinions Clark, however, throughout the appellate process has relied upon the Roberts case which is controlling precedent regarding CLE requirements and its status descriptions and as explicit as to what this case law and its rule implies, the State courts ignored the Roberts case, relying upon (1985)cases decided out of the Florida Third District Court of Appeal, that are in direct conflict with the Florida Supreme Court's decision in Roberts. Even the U.S. District Court, Judge, Honorable W. T. Hodges in his adoption of the magistrate's report and recommendation , (at Appx. M) relies upon a case originated out of North Carolina, providing that, "a criminal defendant doesn't have a

constitutional right to a properly licensed prosecutor or the prosecution by an unlicensed prosecutor does not automatically violate a defendant's right and there must be a showing of prejudice." United States v. Wyatt, 2014 U.S. Dist. Lexis 41884 (M.D. N.C. March 28, 2014).

In respect to these Honorable courts opinions, their decisions are in contrast with state and federal law as well as the constitution. In the lower court's reliance upon Dolan and white, and the District Court's reliance upon Wyatt, the constitution and other federal divisions have ruled otherwise. These unethical and unconstitutional opinions have been allowed to supersede binding precedent which is well established and long standing. The 5th and 14th Amendments U.S.C. provides that "No person shall suffer the loss of life, liberty, or property without first receiving due process of law." Constitutional Law at § 514.786 demonstrates the elements of due process as notice and hearing, together with a legally competent tribunal

having jurisdiction over a case, constituting the basic elements of due process under the constitution" therefore, a legally suspended prosecutor does not constitute a legally competent tribunal.

The status of violation (s) indicated herein are constitutional in nature under clear and fraudulent conduct of the State's prosecution to where in the constitution provides; Due process requires the appointment of practicing attorneys which is contrary to the lower court's and the District Court's ruling. Wherefore, the question at Bar is as follows:

"Is a suspended attorney a practicing attorney, and if so, when was the constitution as well as State Law amended to allow suspended attorneys to continue to lawfully practice law in the criminal State trial courts."

In the U.S. Ct. App. (11th Cir)denial of Clark's request for COA, and his motion requesting leave to proceed in forma pauperis, also rendering his motion for appointment of counsel and his motion to compel as

moot, (at Appx. A) (reconsideration denied). That honorable Court's opinion is that, "Clark failed to make a substantial showing of the denial of a constitutional right." However, contrary to all the decisions and opinions rendered in Clark's cause. Earlier Courts have ruled that "representation by unlicensed counsel was held to deny constitutional rights." See, Jones v. State, 57 Ga. App. 344, 195 S.E. 316 (1938); Achtien v. Dowd, 117 F. 2d 989 (7th Cir. 1941); Smith v. Buchanan, 291 Ky. 44163 S.W. 25.5 (1942), Jackson v. State, 316 P. 2d 213 (Okla. 1957); McKinzie v. Ellis, 287 So. 2d 549, U.S. Ct. App. (5th Cir. 1961) and also, Harrison v. U.S., 387 F. 2d 203 (1966). The courts however may argue that representation on Clark's behalf is not on appeal, which it is not, but representation for the State of Florida is the heart of the Clark issue. This Honorable Court views counsel as "any persons who are authorized to practice law." United States v. Cooper, 493 F. 2d 473 (5th Cir. 1974). Therefore, an Assistant Attorney

although employed by the State, in his/her individual capacity is also considered counsel, when eligible to practice.

In reliance upon the application set forth in McKinzie v. Ellis, Clark established the constitutional violation(s) from the very beginning of the appellate stages in his Rule 3.850 Motion through the filing of his § 2254 Petition. However, the trial court and the District court opined that Clark's claims were without merit and blatantly ignored the case law and rules of court that Clark relied upon and based their decision outside of controlling precedent and the U.S. constitution, thus denying Clark's motion and petition reasoning that prejudice was never established. The 5th Circuit Court of Appeals noted in McKinzie that even without the establishing of prejudice in the District Court's denial of the petitioner's habeas corpus the proceedings still established a violation of due process of law because McKinzie's court appointed attorney while occupying the status of a delinquent

member of the Bar, he was not qualified to practice law in Texas. McKinzie v. Ellis, 287 So. 2d 549, U.S. Ct. App. (5th Cir. 1961)

Pursuant to the constitution, due process requires that a defendant be represented by counsel who must be authorized to practice law in the court where the trial will occur. This is even deeper rooted when it comes to prosecutors given their status as officers of the court, bound by special rules of conduct where life and liberty can be as much endangered from illegal methods used to obtain convictions. (emphasis added). See, U.S. v. Bowen, 969 F. Supp. 2d 546 (2013). "just as a police officer must obey the law while enforcing the law citing. Spano v. New York, 360 U.S. 315, 320-21, 79 S. Ct. 1202(1959). A prosecutor (State) must prosecute according to the law.

At Baldwin v. Adams, U.S. Dist. Ct. No. C09-4749(Cal. 2012) that court held "A criminal defendant's due process rights are violated fundamentally when a prosecutor's misconduct renders the trial proceedings

fundamentally unfair." Pursuant to the instant cause, unfairness as well as prejudice was established in the prosecutor's allowing Clark, to take the stand, being a party to the testimony given by Clark thus incriminating himself in order to receive the lesser-included offense. Knowing of his suspension and failure to give notice to the opposing party as required by law, in accordance to Fla. S.Ct. Rules, particularly Bar Rule 3-5.1(h) "which requires a suspended attorney to give notice of the suspension by furnishing a copy of the suspension order." Fla. Bar v. Norkin, 183 So. 3d 1018 (Fla. 2015), constitutes a Brady violation, and pursuant to the instant cause the suspension order is a certified letter of noncompliance from the Fla. Bar.(at Appx. G).(Citing Bar Rule , 1-3.4(a) "Any member who is suspended by reason of failure to complete continuing legal education requirements shall not engage in the practice of law in this State." (etc) (cited in part).

Due process was violated in the prosecutor's withholding credible information, which could have, had him impeached for the misconduct of practicing law while under suspension. See Brady v. Maryland, 373 U.S. 83, 87, 83 S.Ct. 1194 (1963) and Fla. Bar v. Bratton, 413 So. 2d 754 (Fla. 1982) which provides that "practicing law while suspended is misconduct or wrong doing." In violation of constitutional law and State law while in his (Grabel) delinquency Grabel elected to deprive Clark of his right to a fair trial, this Honorable Court has held that "fair Play is the essence of due process. Graham v. Press, 437 U.S. 522, 530, 74 S. Ct. 911 (1954); See Also Crow v. City of Colorado, 2014 U.S. Dist. Lexis 61805, and Patrick v. Miller, 953 F. 2d 1240 (10th Cir. 1992). In spite of these court denials and decisions, the courts have ignored Florida rules of court regarding an attorneys disqualification from the practice of law., but the courts have held that, "any court, State or otherwise, that go behind a State Bar act and renders an opinion or decision

contrary to the policies and penalties underlying the grounds for disqualification to practice law in the State in which the violations occurred abuses its discretion-citing McKinzie, (emphasis added); and usurps its authority over the highest court of that State who establishes standing precedents governing that State. This Honorable Court has held that District and trial court rulings, constitute abuse of discretion if it is based on an erroneous view of law." See, Coulter & Cull v. Hartmax Corp., 110 S. Ct. 2447 (1990); See also Johnson v. State, 969 So. 2d 938, 949 (Fla. 2007). And again, "a familiar rule of administrative law is that every agency must abide by its own regulations." Vitrarelli v. Seaton, 359 U.S. 535, 547, 79 S. Ct. (1959); and "any court's failure to abide by its own rules or procedures renders the provisions invalid." Martin v. Ruiz, 94 S. Ct. 1055 (1974).

Ralph D. Grabel, Assistant State Attorney on record, who at the time and at all times material to the case

was not an active member of the State Bar of Florida, having been suspended from the practice of law for failure to timely complete and report his CLE requirements and hours to the Bar. His continued practice constitutes a grave injustice and deprivation of Clark's rights to a fair trial. Fla. S. Ct., Fla. Stat. Ann., *id.* at 916 So. 2d 655-56 holds that "while occupying the status of a delinquent member [no] persons shall engage in the practice of law in Florida." Grabel's prosecution while knowing under suspension was dishonest, deceitful, fraudulent and he intentionally misrepresented his bar status constituting fraud upon the court in violation of § 454.31, Fla. Stat. (2004). Practicing while disbarred or knowingly under suspension." State v. Foster, 674 So. 2d 747 (1996) and "the unauthorized practice of law." § 454.23, Fla. Stat. (2001); State v. Palmer, 491 So. 2d 1181 (2001).

Grabel also resigned soon after an inquiry was filed against him. (See Appx. N). The courts have held that a

suspended attorney or delinquent member of the Bar does not satisfy the status of a practicing attorney, deemed unqualified to practice law. As in McKinzie the 5th Circuit Court of Appeals U.S. held that "A. A. McDaniel was unqualified to practice law in Texas because he was not an active member of the Bar and his practicing established a violation of due process; Asst. State Attorney Ralph Grabel prosecutor in the instant cause was also unqualified to practice law in Florida because he was not an active member of the Bar, thus violating Clark's constitutional rights to due process of law and equal protection in accordance to the 5th and 14th Amend. U.S. C. A. Thus is the issue before this honorable Court, and the Supreme Court must not allow the State of Florida to deprive any of its United States citizens of their blood bought rights to constitutional protections. Therefore, my command is that this Honorable Court exercise its grace and grant certiorari on this issue.

QUESTION TWO

Defendant deprived of his rights to fair impartial trial, constitutional due process of law and equal protection pursuant to the 5th, 6th, and 14th Amendments in the State's failure to provide and produce transcripts to the defendant for the prosecuting of his appeal because of his status as a pauper.

On question two, due process and equal protection review in criminal cases provide that, "due process and equal protection clauses are violated where a statute providing for writs of error in all criminal cases as a matter of right is so administered as to deny full appellate review in a non-capital felony case to an indigent defendant solely because of his inability to pay for transcripts of the record, while granting such review to other defendants. Griffin v. Illinois, 351 U.S. 100, 76 S. Ct. 558, and that, "the State must provide a full verbatim record, where that is necessary to assure the indigent has an effective appeal as would be available to the defendant with resources to pay his own way." Mayer v. City of Chicago, 404 U.S. 189, 195,

92 S. Ct. 410 (1971); also Maine v. State, 899 So. 2d 1217 (Fla. 2005).

The issue before this Honorable Court is Petitioner Clark's inability to prepare an adequate presentation for this Honorable Court's consideration in granting Clark's petition for writ of certiorari. Clark has on several occasions by motions and records requests sought the transcripts regarding a court proceeding that would conclusively support his allegation of fraud upon the court, in the prosecutor Grabel standing before the court as a licensed practitioner of the law qualified to practice law. Mr. Grabel stood knowing he was an imposter and forbidden to practice law in the State of Florida.

In the trial court's denial of Clark's Rule 3.850 Motion for Postconviction Relief and in the Florida U.S. District Court's denial of Clark's § 2254 Petition for writ of habeas corpus (Appx. E, & B), both courts issued opinions that Clark's allegation of the prosecutor's awareness of his suspension during Clark's

trial proceedings does not corroborate with the record. Here, however, Clark risks the penalty of perjury in this Honorable Court subpoenaing the transcripts of the dated court proceedings implemented in question one. Also upon further review of the transcripts, this Honorable Court would discover that Clark's allegation of the prosecutors knowing of his suspension prior to trial proceedings and before the November 23, 2010 letter of noncompliance (Appx. G), is in fact valid, constituting fraud upon the court, in his failure to inform the court of his Bar status as he had done previously on the un transcribed records.

The lower courts denials of Clark's repeated requests for transcripts, (Appx. E), for the prosecuting of his appeal prevents Clark's preparation of an effective appeal, thus denying Clark the right to present evidence in conclusive support of his issues before this Honorable Court, based upon his inability to pay for transcript. As Florida Administrative Code, Rule 33-210.102(6)(b) provides "County Clerks of Court

is required to provide a paper copy of the record to..." "other pro se indigent defendants in criminal matter, even though no rule, statute, or controlling case law yet requires that practice. Florida Courts have held that "such practice was the best use of public funds, as it resulted in the record being prepared in a form an incarcerated defendant could receive and use," (ect)(cited in part). Lewis v. State, 142 So. 3d 879 (Fla. 1st DCA 2014). The courts have also held that, "an indigent defendant is entitled to his/her own copy of the record in proceedings in which he/she is proceeding pro se, such as in Anders appeal." Baptiste v. Guffanti, 943 So. 2d 303, 304 (Fla. 2006); See also Anders v. California, 386 U.S. 738, 87 S. Ct. 1396 (1967).

Also in the courts denials of Clark's repeated requests for transcripts, the courts relies upon sworn affidavits (Appx. I), claiming that the prosecutor was unaware of his suspension from September of 2010 to February 8, 2011. However, in contrast to the sworn

affidavits, Grabel himself, for the record never provides this argument in his own defense, but does provide his immediate resignation on February 6, 2013, following an inquiry filed against him with the Florida Bar and swoon after the renewing of his appointment and oath of office, (Appx. M). This however is evident of Clark's allegation of fraud upon the court and of his awareness of his suspension prior to and during trial proceedings as well as misconduct pursuant to R. Prf. Cond. Bar Rule 4-8.4(c), Rule Regulating the Florida Bar and ABA Model Rule 8.4(c) which provides "no lawyer shall engage in conduct involving dishonesty, deceit, fraud, or misrepresentation." And because of this fact, Grabel's resignation should be viewed as an act to avoid disciplinary action or even disbarment by the Florida Supreme Court. See, Fla. Bar v. Brown, 635 So. 2d 13 (Fla. 1994); Fla. Bar v. D'Ambrosio, 25 So. 2d 1209 (Fla. 2004); Fla. Bar v. Roberts, 789 So. 2d 284 (2001); Fla. Bar v. Green, 589 So. 2d 281 (Fla. 1991); and Fla. Bar v. Weil, 575 So. 2d 202 (Fla. 1991).

Grabel's resignation should also be viewed as an act to avoid criminal charges for practicing law while disbarred or knowingly under suspension as per § 454.31 Fla. Stat. (2004), State v. Foster, 674 So. 2d 747 (1996).and F.S. 454.23 (2001). The unauthorized practice of law. State v. Palmer, 491 So. 2d 1181 (2001) and the penalties thereof constitutes a felony of the third degree in the State of Florida, and as previously argued, " Any court, State or otherwise that goes behind a State Bar Act and renders an opinion or decision contrary to the policies and penalties underlying the grounds for disqualification to practice law in the State in which the violation(s) occurred abuse its discretion." (cited in part and emphasis added). McKinzie v. Ellis, 287 So.2d 549 U.S. Dist. Ct. App. (5th Cir. 1961). See also, Coutter & Cull v. Hartmax Corp., 496 U.S. 384, 405, 1105 S.Ct. 2447 (1970); and again, "a court's failure to abide by its own rules and procedures renders the provisions invalid." Motin v. Ruiz, 945 S.Ct. 1055 (1974).

In accordance to Clark's issue(s) before this Honorable Court a county pays the loss of the transcripts" and under the provisions of Fla.R.Crim.P. defendants are entitled to have a state furnish a transcripts of the portion of the proceeding to which his motion is directed or concerned in the event he seeks on appeal from adverse rulings. (emphasis added). See Cassaday v. State, 237 So.2d 146, 147 (Fla.1970); and Hall v. State, 165 So.2d 428 (Fla.1st DCA 1964).

Therefore, Clark has been unable to provide transcripts with Appellate petitions thus to present an adequate and complete presentation in the prosecuting of his appeal. And he has on several occasions submitted motions and request ,at Appendix F for transcripts indicated in question One, and in the lower court's failure to provide and produce relevant material at public expense, violates Clark's constitutional rights to Due Process of Law and Equal Protection pursuant to the 5th and 14th Amendments of

the United States Constitution. See Griffin v. State, 351 U.S. 12, 76 S.Ct. 858 (1956).

CONCLUSION

As in other cases where attorneys are suspended and deemed delinquent members of the Bar for failure to pay dues and are yet considered practicing attorneys. This case however, before this Honorable Court is distinctive in comparison, which involves a prosecuting attorney, not in good standing with the Bar, not in compliance with CLE requirements, (at Appendix G) deemed a delinquent member of the Bar, rendering him nor Bar certified, to where in CLE requirements are mandatory regarding an attorney's recertification(s) to the Bar. As provided in Fla.Stat.(s) Ann., Id. at 916 So.2d 655, 56, "While occupying the status of a delinquent member of the Bar, no persons shall engage in the practice of law in Florida." The Assistant State Attorney on record, Ralph D. Grabel was suspended from the practice of Law and deemed a delinquent member of the Bar. While occupying the status of delinquency, he was unqualified

to practice and did not satisfy the status of a practicing attorney as required by state law and the constitution.

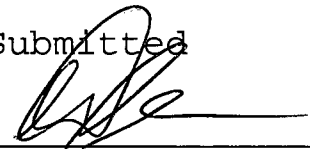
The State courts in this case have ignored this constitutional travesty and upheld their decisions based on comity. The lower Federal courts have opted to consider finality more precious than justice. The only hope this U.S. Citizen has now is that this Honorable Court of the United States would summons and review the transcripts of the court proceedings listed by date argued in question one and discover the injustice the State of Florida has done to a United States Citizen, then exercise its inherent grace and grant review of at least one question raised herein. Each question raised has been supported by record facts and a justified review will absolutely show that the petitioner was maliciously prosecuted by an imposter acting on behalf of the State of Florida, and therefore Clark's conviction and sentence was fraudulently obtained rendering Clark's sentence and detention illegal,

producing a manifest injustice, in violation of Clark's constitutional rights to due process of law and equal protection pursuant to the 5th, 6th, and 14th Amendments of the United States Constitution. The Petitioner at this point in time prays for grace and Godlike mercy to have review of our case by certiorari.

The Petition for Writ of Certiorari should so be granted.

Respectfully Submitted

/s/



Darren N. Clark Sr. pro se

Date:

2-6-18

CERTIFICATE OF COMPLIANCE

NO. _____

DARREN N. CLARK SR. -**PETITIONER**

VS.

SECRETARY Fla. DEPT. OF CORRECTIONS-**RESPONDENT(S)**

FLORIDA ATTORNEY GENERAL

As required by Supreme Court Rule 33.1 (h), I certify that the Petition for Writ of certiorari contains words, excluding the parts of the petition exempted by Supreme Court Rule 33.1(a).

I declare under the penalty of perjury that the foregoing is true and correct.

Executed on February 6, 2018.

/s/  _____

Darren N. Clark Sr. pro se