

UNITED STATES SUPREME COURT

CASE NO: _____

STATE COURT NO: F98-552

ROOSEVELT JEANLOUIS

Petitioner

V

STATE OF FLORIDA

Respondent

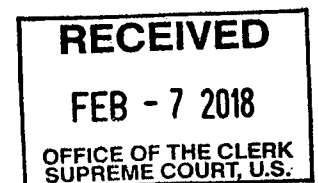
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PETITION FOR WRIT OF HABEAS CORPUS

BY A STATE PRISONER

PROVIDED TO
SOUTH BAY CORRECTIONAL FACILITY
ON 1-30-18 JLR FOR MAILING

Roosevelt JeanLouis #M22366
South Bay Corr. Facility
P.O. Box 7171
South Bay, Florida 33493



QUESTIONS PRESENTED

1. Whether the Petitioner has been denied the right to due process by the State Court not granting the same relief as others that are similarly situated under the same set of facts as applied to the law?
2. Whether the Petitioner has been rightfully denied relief on jury instructions that have been found to constitute reversible error which others have obtained relief from?

EXCEPTIONAL CIRCUMSTANCES WARRANTING REVIEW

The Petitioner, Jeanlouis Roosevelt avers that this Court's review is needed as he has filed this claim in the State Court and that Court has denied him the same relief as others that are similarly situated and that in and of itself, should warrant review before this Court.

Discretionary review cannot be obtained in the State of Florida as the *silent per curiam* affirmed opinion of the State Appellate Court is not a decision that the State Supreme Court will accept jurisdiction on. Therefore, the Petitioner has attempted to file and seek relief with due diligence in the State Court but to no avail.

The decision of this Court, were it to accept jurisdiction, would control on similar sets of facts when applying the same law to those facts, an essential quality to establish continuity in the Court's decisions.

The Appellant cannot make the claim presentable to the United States District Court or the Eleventh Circuit Court of Appeals as that would require filing a §2244 and he does not have a claim of newly discovered evidence that is required to present the claim to them before presenting the claim to this court. Additionally, the Petitioner has already filed a 28 U.S.C. §2254 and according to the rules, he is not entitled to file an additional petition in the District court.

Petitioner is serving an *informa pauperis* claim for this Court's determination of his inability to pay the filing fee and allow this case to move forward.

Accordingly, the Petitioner serves this Petition in the hopes the Court accepts review and that he obtains the same relief as those that have prevailed before him.

The Petitioner makes the claim that any and all interested parties are listed in the header (the State of Florida) which would encompass the State Attorney and the Attorney General of the State of Florida.

TABLE OF AUTHORITIES

CASES

<i>Betts v. State</i> 792 So.2d 589 (Fla. 1 st DCA 2001).....	9
<i>Giles v. State</i> 831 So.2d 1263 (Fla. 4 th DCA 2002).....	9
<i>Corn v. Kemp</i> 837 F.2d 1474 (11 th . Cir. 1988)	8
<i>Gill v. State</i> 586 So.2d 471 (Fla. 4 th DCA 1991)	6
<i>Hankerson v. State</i> 831 So.2d 235,237 (Fla. 1 st DCA 2002)	7
<i>Montgomery v. State</i> 70 So.3d 603 (Fla. 1 st DCA 2009)	8
<i>Sandstrom v. Montana</i> 99 S.Ct 2450 (1979).....	10
<i>Smith v. Horn</i> 120 F.3d 400 (3 rd Cir. 1997)	9
<i>Smith v. State</i> 76 So.3d 379 (Fla. 1 st DCA 2011).....	6
<i>Stanley v. State</i> 560 So.2d 1269 (Fla. 3 rd DCA 1990).....	6
<i>Ulster County Court v. Allen</i> 99 S. Ct. 2213 (1979).....	10
<i>Zeno v. State</i> 910 So.2d 394 (Fla. 2 nd DCA 2005).....	8

STATEMENT OF THE CASE AND FACTS

This case is from Miami-Dade County, Florida, arising in 1998. The Petitioner brings this claim as a manifest injustice resulting in a miscarriage of justice; that he is entitled to the same relief as those others that are similarly situated under similar sets of facts as applied to the law.

In 1998, the Petitioner was charged with and tried for the stabbing death of his then girlfriend. After dating for a period of time, the couple decided to break off their relationship and Maria (the girlfriend) ultimately moved out of the house that the two of them shared together.

Prior to the devastating evening, the two had been parked at a motel and were sitting there talking to each other when a security guard informed them that they had to move due to them being parked in a spot where there was no long term parking as they were parked on a ramp and had to move.

Upon confronting the couple, Maria did not tell the security guard that she needed help, was scared of the Petitioner or that she felt she was in any type of danger. In fact, the Petitioner had to run to the room, which left Maria and the security guard alone for a short time, and even then, Maria did not tell the security guard that she needed help or that she was scared or that she was in danger of the Petitioner to the point of her needing any assistance.

Shortly thereafter, the two went their separate ways and went to their respective places to sleep and the night ended with no trouble between the two of them.

Maria went to her residence where she stayed with her sister. The next morning, without informing her sister that she was leaving, left the house and was on her way to work. A witness, who was unable to testify to the series of events of that morning with any accuracy, thought she

heard someone screaming, but assumed that it was a cat fight, and continued on with what she was doing.

Shortly thereafter, she heard the screaming again and realized that it was Maria screaming, so she went out to check and Maria was staggering up to her front door with blood all over her shirt. She, the witness, called 911 and while she was doing that her husband was applying pressure to the wound.

The paramedics arrived and transported Maria to the hospital and when asked by one of the paramedics "who did this to you", Maria stated that it was JeanLouis Roosevelt.

Maria, at the time of that alleged statement, was in a state of shock and unable to clearly state what had happened and by whom, except that she was stabbed by someone unknown.

Shortly thereafter, the police arrived at the scene of the crime to begin an investigation into who stabbed Maria to death. The police did not detect any footprints at the scene, no discernable fingerprints at the scene and there was no DNA left at the scene, as well as no weapon was found, at the scene or ever. In essence, the police found nothing of evidentiary value to point them to a suspect in this case.

The State ultimately decided that it was the Petitioner that committed the crime and the investigation centered on only him. Neither the State, nor the police had any evidence that pointed to the Petitioner as the one who committed the crime, nor did they have any witnesses to support heir theory of the Petitioner being the one who stabbed Maria.

Although the evidence lacked any significant value, the State charged the Petitioner with the murder in which he eventually went to trial on the charges.

The Petitioner went to trial and lost and was then sentenced to life imprisonment.

Prior to deliberations in this case, the jury was instructed that in order to convict the Petitioner of manslaughter, a lesser included offense, they were required to find that the Petitioner “intended to kill” the victim (Maria).

This jury instruction with the “intent to kill” element under the manslaughter jury instruction has been found to violate due process, not fundamentally fair, and denies a defendant a fair trial.

Furthermore, the “intent to kill” element is actually not an element of the offense, and to have instructed on that, under erroneous instructions, denied the Petitioner his right to due process and a fair trial.

ARGUMENT

A jury is deemed to adhere to the law of a particular case, when instructed on that law, via jury instructions, prior to their deliberations. See, *Smith v. State* 76 So.3d 379 (Fla. 1st DCA 2011) (juries are presumed to have followed the instructions given them by the Court).

Here, the jury instructions constituted fundamental error that not only required reversal due to the substantial error of those instructions, *Montgomery*, *Zeno* and *Hankerson*, *infra*, but reversal is required even in the absence of a specific objection. *Gill v. State* 586 So.2d 471 (Fla. 4th DCA 1991) (fundamental error in jury instructions; reversal was required even in absence of specific objection by defense counsel).

See, also *Stanley v. State* 560 So.2d 1269 (Fla. 3rd DCA 1990) (generally, objection to erroneous language in jury instructions is required to preserve the error; however, exception to the general rule is that if the error is fundamental, objection is not required to preserve it).

Although this fundamental error has been raised in State Court proceedings, those same State Courts have consistently denied the adequate and required relief to the Petitioner on the instructions that were given in this case.

GROUND ONE

FUNDAMENTAL ERROR OCCURRED BY GIVING ERRONEOUS JURY INSTRUCTIONS GIVEN RESULTING IN A DENIAL OF DUE PROCESS

The jury in this case was instructed on the lesser included offense of manslaughter. Those erroneous instructions included “intent to kill”, that, as a matter of law, is not an element of the offense of manslaughter.

These instructions inferred that the State was required to prove intent to kill to prove the crime of manslaughter.

Here, the Trial Court instructed the jury that to prove the crime of manslaughter, the State had to prove that the victim was dead and that the defendant intentionally caused her death.

Accordingly, the jury instruction as given improperly imposed an additional element on the lesser included offense of manslaughter.

The Petitioner avers that the giving of these instructions constituted fundamental error and also a denial of due process of the United States Constitution; that the giving of the instructions tainted the underlying fairness of the entire proceeding.

Such was the case in *Hankerson v. State* 831 So.2d 235,237 (Fla. 1st DCA 2002) (finding that intent to kill is not an element of manslaughter by act and that the trial court fundamentally erred in giving instructions that suggested the State was required to prove intent to prove the crime of manslaughter).

The Petitioner contends that the average juror would likely interpret the instruction as requiring an intent to kill; that the word “intentionally” in the instruction modifies the word “caused”. Thus, the instruction given here would be naturally understood as requiring a finding that the defendant intended for the victim to die.

Also, unlike the instructions for second-degree murder, there is not any language in the instruction for manslaughter focusing on a defendant’s intent to do the act that caused the victims death. See, *Montgomery v. State* 70 So.3d 603 (Fla. 1st DCA 2009) (reversing the conviction and sentence on the same erroneous “intent to kill” element of the manslaughter jury instruction).

As *Montgomery*, supra, obtained relief on the same erroneous jury instruction with the “intent to kill” element, the Petitioner here should be afforded the same relief; reversal with remand for a new trial.

Likewise, in *Zeno v. State* 910 So.2d 394 (Fla. 2nd DCA 2005) the Second District Court of Appeal found that erroneous jury instructions constituted fundamental error. Comparing *Zeno’s* jury instruction to that of a co-defendant (*Zeno’s*) who was tried separately but the instructions were identical, the same error was made in both sets of instructions and the Court found that *Zeno* was entitled to a new trial as was accorded his co-defendant.

The Court found that not to extend the rule would lead to incongruent, manifestly unfair results; that the defect would inherently result in a miscarriage of justice. Hence, the *Zeno* Court reversed finding that *Zeno* should be provided the same relief for the fundamentally wrong jury instructions.

Additionally, various Federal Courts have addressed the issue of erroneous jury instructions and the degree of error attached to it. *Corn v. Kemp* 837 F.2d 1474 (11th. Cir. 1988)

found that burden-shifting instructions given by the trial court in murder case, was not mere harmless error.

Also found in *Corn v. Kemp*, is the evaluations of the weight of the evidence in a particular case when compared to the erroneous jury instructions and the prejudice that they inflicted on that particular case.

Here, the evidence presented by the State was far from overwhelming; in fact applying the label of circumstantial evidence was stretching the actual weakness of the evidentiary value of the State's case-in-chief.

As previously stated and presumed to be an accurate description of a jury's interpretation of instructions given them, absent the knowledge of the applicable law as instructed, a jury may and very well could have been confused with the instructions given in this case. See, *Betts v. State* 792 So.2d 589 (Fla. 1st DCA 2001) even though defense counsel failed to object to the jury instructions on the lesser included offense, the First District Court of Appeal found that the error still required reversal as there was a remaining distinct possibility that the jurors became confused on the misleading instructions and therefore, required reversal on that fact.

In the instant case, with the misleading "intent to kill" instructions presented to them, there is a reasonable probability that the juror's followed those instructions, *Smith*, supra, and as a result of the misunderstood instructions, pursuant to *Smith v. Horn* 120 F.3d 400 (3rd Cir. 1997) where the Third Circuit found a reasonable likelihood existed that jury improperly understood jury instructions as permitting it to convict defendant of first degree murder without first finding that the defendant intended that the victim be killed.

With the weak evidence in this case, and the fact that the question of guilt or innocence went to the jury, it was at least required that the proper jury instructions to be given. *Giles v.*

State 831 So.2d 1263 (Fla. 4th DCA 2002) where the Fourth District Court of Appeal explained that if a case should go to the jury at all, it should go under the proper instructions, correctly declaring the legal principles involved.

The Supreme Court in *Sandstrom v. Montana* 99 S.Ct 2450 (1979) found unconstitutional jury instructions to be reversible error. Also in *Sandstrom*, an instruction that was found to be found as error and detailed by the Court:

“a reasonable juror could easily have viewed as mandatory the trial court’s instruction that the law presumes a person intends the ordinary consequences of his voluntary acts, notwithstanding State’s argument that the instruction merely described a permissive inference, i.e. allowed but did not require the jury to draw conclusions about defendant’s intent from his actions.”

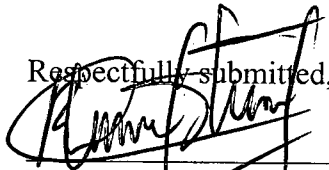
Whether or not a defendant has been accorded his constitutional rights depends upon the way in which a reasonable juror could have interpreted the jury instructions, and if the proper jury instructions were given them See, *Ulster County Court v. Allen* 99 S. Ct. 2213 (1979).

In the instant case, the instructions with the “intent to kill” element has been found to be unconstitutional; a violation of due process and creates a fundamentally unfair proceeding resulting in a miscarriage of justice that warrants reversal of the conviction, especially in light of the weak evidence that the State presented in this case.

WHEREFORE, the Petitioner, Roosevelt JeanLouis respectfully requests this Honorable Court to vacate judgment and sentence in this case due to the violation of due

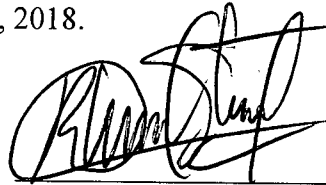
process and the denial of a fair trial on the fundamentally unfair jury instructions that have been deemed unconstitutional, and where the same relief has been accorded other defendants under similar sets of facts as applied to the law.

Respectfully submitted,


Roosevelt JeanLouis #M22366

CERTIFICATE OF SERVICE

A true and correct copy of the Petition for Writ of Habeas Corpus has been placed in the hands of South Bay Officials for mailing to: Attorney Generals' Office 444 Brickell Ave. Suite 650, Miami, Florida 33131 on this 30 day of January, 2018.



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